

## TAX FLASH NEWS

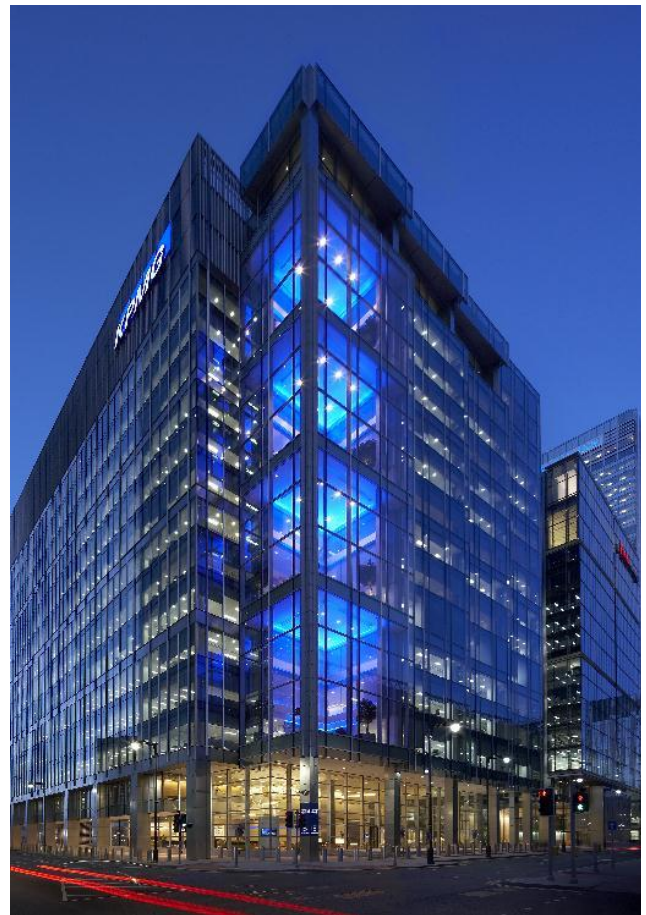
### India signs one of the first APAs in the IT – ITES industry

The Advance Pricing Agreement (APA) program was introduced in India through the Finance Act, 2012 as a method of proactive dispute resolution, which came into effect on 1 July 2012. Although the introduction of APA was perceived as a positive step taken by the Government of India as a measure to curb unprecedented litigation that had greatly affected investor sentiment, the taxpayers were apprehensive of the practical challenges associated with its actual implementation. Amidst the prevailing uncertainty, Indian taxpayers have filed over 550 APA applications till date<sup>1</sup>; of which majority of the applications seem to be in the services sector, more so in the Information Technology (IT) – Information Technology Enabled Services (ITES) sector.

The Indian economy's phenomenal growth in recent past has been significantly fuelled by the services sector, mainly comprising of IT – ITES players. However, the IT – ITES industry has always been under constant pressure from the Transfer Pricing (TP) authorities with expectations of high margins, resulting in huge transfer pricing adjustments and leading to endless litigation. Even the Safe Harbour rates notified by the Central Board of Direct Taxes (CBDT) were perceived as high and did not prove appealing to the taxpayers.

Opening a new and much awaited chapter in tackling ever-increasing transfer pricing disputes in the IT–ITES industry, KPMG in India assisted one of the prominent IT-ITES industry players in signing an APA with the CBDT, Government of India. This being one of the first APAs in the IT-ITES industry in India should pave the way for signing many other such APAs in due course, thereby improving the currently aggressive transfer pricing environment.

This positive development is also likely to encourage many others in the industry to consider the APA route in achieving certainty and reducing the Transfer Pricing disputes.... a very positive message to the tax payer community; especially to the players in IT and ITES industry!!



<sup>1</sup> 386 APA applications were filed till 24 December 2014 as per CBDT Annual Report 2014-15 and further over 150 APA applications have been till 31 March 2015

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