May 13, 2013 Judgment Declaration

Heisei 20 (Boeko) No. 347 Income tax rebuttal disposition etc. Cancellation case appeal case

Suddenly

dismiss this appeal.

2 The appeal fee shall be borne by the appellant.

Facts and reasons

Purpose of the first appeal

(subjective)

1 Revoke the original judgment.

2 Reject any appeal by the appellant.

(Preliminary 1)

Change the main judgment main sentences 1 to 4 as follows.

1 disposal administrative agency 1997 of the appellant was the June 29, 2004 with respect to the appellant correction of income tax for the year up to March 31, 1998 from April 1(However,2007 July 9, dated objection decision by those after some cancellation. Hereinafter"the referred to as matter rehabilitation 1".) tax 50.8 billion 72,110,000 than 9300 yen should be paid out of the more part and underreporting addition tax imposition decision (However,taken part by the objectionthose after erasing decision.hereinafter referred to as "the present imposition determination 1", in conjunction with the present rehabilitation "this matter further 1.referred to as Tadashito 1") too small additional tax out of Tax amount 249,772,500 yen exceeding will be canceled.

2 disposal administrative agency 1998 of the appellant was the June 29, 2004 with respect to the appellant correction of income tax for the year up to March 31, 1999 from April 1( Hereinafter referred to as "Reimbursement 2"), the 48,584,144,44 to be paid Payment portion exceeding 800 yen and the declaration for imposing an undeclared additional tax (hereinafter referred to as "Determination 2", together with this Revision 2 " Refund 2, etc. ")under-declared additional, cancel the part of the tax that exceeds 16,353,900 yen.

3 disposal administrative agency 2000 of the appellant was the June 29, 2004 with respect to the appellant correction of income tax for the year up to March 31, 2001 from April 1( Hereinafter referred to as "Refund 3") which is less than the amount minus the tax amount to be paid (tax amount the amount refund of tax of 1.612752821 yen equivalent to of) and the declared addition of excessive return tax (hereinafter " , And in conjunction with Revision 3 of this case, "Refund,etc. 3")overdelivery additional tax that exceeds 1462 million yen, cancel the portion of the.

4 disposal administrative agency 2001 of the appellant was the June 29, 2004 with respect to the appellant correction of income tax for the year up to March 31, 2002 from April 1( Hereinafter referred to as "Refund 4") which exceeded the tax amount of 6,665 million 8100 to be paid yen and the declaration of excessive declaration addition tax (hereinafter referred to as "this charge determination 4", together with this Revision 4 " Refund 4 etc. ")under-declared additional tax, cancel the portion of the exceeding the tax amount of 1,750,000 yen.

(Preliminary part 2) The

original judgment main sentences 1, 2, and 4 are changed as follows.

1partsmore than the tax 49.9 billion 68,925,500 yen should be paid out of the present correction tax 100 million 59.4 million 6000 yen of underreporting additional tax of worth and present imposition determine

1 cancel the portion of more than 1.

Part exceeds the amount of tax 47.8 billion 01,840,700 yen should be paid out of the two present rehabilitation 2Theminute and 85,309,000 yen tax of underreporting additional tax out of this matter imposition decision

2 supercancel the El part.

4 Part of Reimbursement that exceeds the tax amount to be paid of 6,666,499,000 yen and the excess exceeding 1,966,000 yen in 4 tax return addition tax this assessment decision

4shall be canceled.

(Mainly, common preliminary)

Legal expenses shall be borne by the appellee through the first and second trials.

such as overview of the 2

1 cases gist the

this matter cases,domestic corporation for the production and sale of motorcycles and four-wheeled vehicles and mainthe appellant, which is abusinessis its indirect subsidiary, the Federative Republic of Brazil (hereinafter referred to as"Brazil"referred to.) State of Amazonas to set up the Manaus free trade area (hereinafter referred to as" MaNow scan free zone "that.)doing the production and sales of the motorcycle in a foreign corporation that is thata Ltda. (hereinafter referred to as" a company "with its subsidiary, and(Hereinafter referred to as the "foreign affiliate sales and technical support of motorcycle parts, etc.transactions") for the amount of consideration paid by such transaction is revenue In the year ended March 31, 1998 the from April 1,March 31,(meaning business year 1997 to 1998. The same applies to the other business years hereinafter), 1999 ended March 31, 2001 ended March 31, 2002 ended March 31, and the year ended March 31, 2003 (hereinafter,these Together each fiscal year referred to as a "matter of each fiscal year."definite monkey of corporation Was atelltax),from the disposal of an administrative agency, the amount of the compensation has received the payment is the Special Taxation Measures Law (1998 For the fiscal year ended March 31, 1999 and 1999, those before the revision by law No. 7 of 2001, those for the fiscal year ended March 2002 were before the revision by law No. 79 of 2002 For the fiscal year ended March 2003, those before the amendment by Act No. 10 of 1998. Hereinafter, those before these revisions are collectively referred toas "Measures Law".) Article 66-4 Items 1 and 2 and item 2 of the Taxation Special Measures Law Enforcement Order (for the years ended March 31, 1998, 1999 and 1999 pursuant to 2001, those before the revision Cabinet Order No. 141 of,Those for the fiscal year ended March 2002 and those for the fiscal year ended March 2003 are those prior to the revision by the Cabinet Order No. 105. Hereinafter,those prior to the revision are collectively referred to as the "Measures Law Enforcement Order". Article 39 of 12 Chapter 8 The method (hereinafter "Profit segmentation method" hereinafter.) Arm's length calculated by Specified price(hereinafter referred to as "inter matter arm's price".)inless than reason, themeasuresLaw 66 Article 4 of paragraph 1 taxation of special provisions transactions with foreign related parties (hereinafter,this special the tax system based on called "transfer pricing.") pursuant to the provisions of,that matter foreign-related and the things transactions were made between this matter independent companies Price Assuming the income amount each business yearthat the difference between the Independent Intercompany Price and the consideration for the foreign affiliated transaction should be added to for, the Refunds 1 to 4 and June 29, 2004 appointed in accordance with of fiscal year from April 1, 2002 to March 31, 2003 of the appellee Correction corporate tax for the amendment (however, after partial revocation due to revision as of April 27, 2005 thing. Hereinafter referred to as "Reform 5-1". ) And underreporting additional tax levy decision(but,that after some cancellation by the same date change decision. Below to as "the present imposition decision referred 5",in conjunction with the present correction 5-1, "this matter rehabilitation, such as 5-1" ), Further from April 1, 2002 toby the appellee appointed on March 28, 2006 amendment of corporate tax for the fiscal year March 31, 2003(hereinafter referred to as "Refurbishment 5 -2 "called.)

for receiving the as defendant belongs national disposal administrative agency present rehabilitation etc. 1 to this matter retreaded like 5-1 and present correction 5-2 (hereinafter referred to as" present the rehabilitation, etc. ".) ofpartor cases for obtaining all the revocation. However, the appelleethis Revision 5 -selectively requests cancellation of 1 and this Revision 5 - 2.

Appellant (in the present case,benefits Calculation of present arm's length price disposal administrative agency uses residual profit split method of thedivision method.)did was,a company and its (subsidiaries"a company Etc ")doing business activities in Manaus Free Zone enjoy the tax benefits enjoyed by(hereinafter referred to as" Manaus Tax benefit income ", the underlying tax system is called" Manaus tax benefit ") Is originally which a company etc. conduct business activities so that based on the conditions of the market init should belong to company a etc.,on the premise that it should also be allocated to appelleeal ready accidentally in that are,has also, the other,overestimation the present independent companies have to the contribution of the appellant as such as the calculation of the between price overly expensive, the present each correction, etc. is that it is illegal claiming There.

Summary of the parties or the like and present foreign affiliated transaction of this matter original judgment by diagram (b (Ltd.) trading relationship isas diagram), also sac abbreviations used in the text and the attached sheet of the major ones Chiruling, The original judgment Annex 1 (abbreviation list).

Original ruling, the present each correction, etc., Manaus tax benefit income impact of the things that belong to a company, etc.based on this matter arm's length price, which was calculated by applying the residual profit split method without considering the but rather Since there is the consideration of this foreign affiliated deal is not less than the inter-company price,no proof that there is a proof that there is no need to make a judgment about the remaining points and it is said that it is illegal and each request of the appellant since were all acceptable,you dissatisfied this appellant to cancel the original decision seek reject all the claims

hasappealedtoappellee.Incidentally, appellant, in The Board,in the application of the residual profit split when such conduct the necessary reconciliation method, would be canceled partially present each correction,thanetc.,to change the way the original sentence Preliminary claim 1 and 2 of asking for is added.

2 Definition of laws and ordinances, premises facts, grounds for tax disposition, points of dispute and summary of claims by parties The provisions of laws and ordinances, premise facts, grounds for tax disposition, points of dispute, and gist of the parties' claim sare amended as follows and, following the third in the two of as appellant the Board of replenishment claims and preliminary claims as well as the addition to defamation of the objections of the appellant with respect to these,"the second cases in the" facts and reason "of the original decision as described in 5 from 1 Overview since it is cage"of,reference thereto.

(Correction of original judgment)

(1) 16 page 17 line, the line 18,the 170 page 17 line and the 18 line "over has been amended to any of small monkey additional tax", "under-additional tax" .

(2)"Not in ordinary business situation" on line 5 on page 324 to "proportion of transactions with affiliated companies ReviseLarge".

Third determination of Court 1 Court likewise each claim of appellee and original decision is determined that there is reason

You none.The reason is that replenishing claims and preliminary mainin The Board of appellant as follows 2additionto defamation the objections appellees forZhang and these adds these pairs as follows the a determination that 3,original decision Since it is as described in "The Third Court"Facts and Reasons" of the Council 's Judgment" in, this is quoted.

replenishing claims and preliminary claims and appellees to these in The Board of 2 appellant objections of supplementation claims in The Board (1) appellant A verification target corporation incalculation of the amount of the basic benefits of 1 residual profit split method comparison versus market of the similarity of the decision to carry out business activities between the elephant corporation,total expenses operating profit when it should be done, based on the margin,the presence or absence of enjoyment of Manaus tax benefit income,the total cost important to for the operating margin It does not have any influence. Even if given, it is largely due to the contribution of important intangible assets. Accordingly,enjoyment of Manaus tax benefit income,a company or the like and the present Brazilian side in this does not deny the market of similarity between comparisons the companies matter.

A. The original judgment shall be stated as outlined below.

Enjoy the Manaus tax benefit profit corporation, the import tax (federal tax) and I burden of CMS (state tax) is reduction of taxes, thereby cost of sales is reduced,profit.it is possible to increase the Then verification target corporation enjoying Manaus Tax benefit income and the comparison target not enjoying the benefits of Manaus tax benefits there is no market similarity between the corporation.

Even in this matter,the enjoyment of Manaus tax benefit income significant on operating profit of a company as that had a impact such contrast is clear,that appellant Brazil-side comparison versus the Brazilian side comparable companies was the elephant corporation, both Manaus free have been the business outside the zone,it is not not enjoy the Manaus tax benefits ince income,rather than similarity of the market between them, lack of comparability with a company like.

appellantany differences calculated Brazilian basic profit based on the Brazilian comparable company without calculating on that matter and calculated this independent company It is wrong that the price.

However, there is an error in the above judgment.

First, since the residual profit split method is the to be applied when the basic three laws can not be used last resort (last resort)(Article 66-4, Paragraph 2, Items 1, 2,of the Measure Lawand 2), its basic in calculation of benefits,prompted to Compare the degree of comparability is corporation, it more gentle in the basic three all SANYO laws,denying market of similarity between the compared corporation verified corporation reason to the difference as a should objectively obvious have a significant impact on the reliability of thebe limited tokana difference comparison.

C basic income on the calculation of the amount, the determination of the similarity of the markets in which the business activities,Ma rather than as a percentage of the amount and operating profit of profit of Nausu tax benefits,the total cost operating should be determined by income margin is there. And, for the following reasons, Manaus tax favor Scripture, given a significant impact on the total cost operating profit rate of the Brazilian side comparable the Rukoto not be said that it is clearcompanies.

(A) Manaus tax benefit,reduction of cost of sales by the reduction and exemption of import tax andwhile results in aICMS,the reduction amount, import proportion of and the amount of parts,Amazonas purchases of parts and raw materials from the state other than the eggplant State business forms,such as ait is different greatly depending on such as hawk.

(A) Manaus tax benefits are accompanied by expenditures such as various contributions.

Also, Manaus is located in the outback of the Amazon in the northern part of major Brazil, in the southeastern part of Brazil where the metropolises concentrate, as well the third largest population in Brazilas in remote areas from the northeastern part of the city with, Manaus zone distribution costs and insurance (distribution costs, etc.)by operating in overincreaseis effec te demissions.This reduces the total cost operating margin.

Even if the ratio of logistics costs etc. of a company etc. is not scale of business high, because theis large, cost efficiency is increased by mass transit, and important corporations that do not have intangible assets and can not achieve a certain business scale is applied isin.not Mara

(C) Manaus tax benefit profit to enjoy company, from a medium- to long-term point of view, usually,for the purpose of aiming the expansion and maintenance of market share,itthe of sales price it is reasonably expected to usetoreduction. In other words, Manaus tax benefit income would be transferred to the consumer, which also reduce the total cost of operating is an element to margin.In fact, the companies that enjoy the benefits of Manaus Tax benefits final products of are said to be about 30% cheaper than the products of companies that are not.

Thing or Manaus tax benefit income is to increase depending on the business we scale,also currently a company, etc.,location laid the selling prices that inflationandKunadoprogresses,the business strategy to increase the sales level of the present products I have adopted it.

According to the (d) where the appellant has been investigated in reality,the Manaus Free even in the corporation, located in Zone,its total expenses Operating profit margin,Manausufur it here is an example that is always lower than that of the corporation outside the Zon It has been found.

Also, for each corporation located within the Manaus Free Zone corporation or, the gross cost operating profit margin varies widely for each business year, and there was regular effect no.

In addition, a corporation located in the Manaus Free Zone,legalis not the between the person case,also slightly hidden in the median value of each of the total expenses Operating profit was margin.

D if,Manaus tax benefits have a significant impact on the total cost operating profit if we margin,it is due to the contribution of important intangible assets,basic compared to the target corporation verified corporation in the calculation ofprofitItthe market similarity betweendoes not deny.

In other words, the amount of the benefits of Manaus Tax benefits the scale of the project from that mechanism, where as is positively correlated with products of corporations without important intangible assets will support long-term support from the market, regardless of short term I received scale of the business it is not possible to maintain and expand is.Only important intangible assets,scale of to expand maintain the business,enjoy Manaus tax benefit profit total cost have.

increase,but a significant impact on the improvement of the for the operating margin

In fact, conduct business in the motorcycle market in response to the Manaus tax benefit income, or One one of the key does not have the intangible asset companies,sales及from but was extended rapidly the beauty market share 2005,Heisei 21 significantly sales in the is fell (However, this year the total production volume of the motorcycle are greatly

youreduced.)year,the company even after the total production volume of the motorcycle was on the increase is unit sales the number of Has been reduced.

As described above, the presence of important intangible assets, expansion of the Manaus tax benefit profits,more than has given a significant impact on the improvement of the thus total expenses Operating profit margin, Manamortar tax benefit income, the nature of the residual profit split method be idea as above residual should returns,on the other hand, the Manaus tax benefits benefit consider in arriving at basic to benefits,to deny the market similarities between the compared corporation verified corporation corresponds able Not.

2 Preliminary Claims in Inquiry 1 and 2As stated in 1 above,whether or enjoy the benefits of Manaus Tax benefits in this case there is no need to adjust for differences on not to.

However, appellant, preliminarily,difference Nitsu of the total cost operating margin as described in after having such a difference adjusted have below,the claims of some cancellation of this matter each correction, and thetolike.

A Preliminary claim 1(a) Total expenses of Manaus such as Manaus Tax benefits From the operating expenses ratio (X) and the total operating expenses ratio (Y) in a state that is not soWe calculate the degree of influence benefits of tax benefits are given to the total cost of operating income margin of company a etc.(Z) that the

X isthe operating profit (= sales - total cost) of a company etc. by the total cost (= cost +a value obtained by dividing selling and administrative expenses).

Y is, of the above -"(Operating income = gross cost) / (total cost = cost +in the formula sales and administrative expenses)", in relation to sales,as the increase there is ICMS tax exemption and ICMS tax reduction and exemption factor,various bases as reducing factors There are withdrawal such(FMPE etc.), and in cost,as its increasing there are logistics costs such factor,ICMS deemed input tax as reduction factor because there is deductions and import duty relief,number calculated by eliminating these the value impacts.

Z is a numeric value obtained by dividing X by Y.

The Z,present of the is a state not receiving Manaus tax benefit when multiplied to theBrazilianside basic margin income,undergoing Manaus tax benefit the Brazilian side basic margin condition profit.If Brazil's after this difference adjustment basic profit margin by the total cost of company a, etc.an index of the value of important intangible asset you multiply deducting the amount of expenses which is,The amount of basic profit is calculated.

(A) If calculated based on the above, items 1 to 4 of the original judgment main text should be changed according to the first "preliminary part 1".

(The calculation process is as Exhibit 1-1 and the 1-2)Lee preliminary claim that 2if, the appellant argues in the court of prior instance, the full amount of Manaus tax benefit profits,Brazil the amount of the side basic benefits how to add (Note that this the residual profit split is one that does not match the laws defined as reconciliation of method.)adopted to,even if as the first of the "preliminary Part 2", original decision partially Will be changed.

(Calculation process is in accordance with Attachments 2-1 and 2-2.)

Replaying Refutation of Referee's Appeals Preliminary claims 1 and 2 of the appellant do not fall under illegal reasons.

Proceedings of tax assessments revocation proceedings are illegal general disposition,the tax assessments finalized tax by(tax liability) by the tax substantive laws in total whether does not exceed the tax that definite objectively Whether the appellant asserts a reason different from that at the time of disposition, the identity the disposition of is not lost, and for seeking the addition of the reason for the correction to the blue filerthe law(corporation tax Law 130, paragraph 2, income tax Law 155, paragraph 2)such contrary to the spirit of replacement of reason have is permitted.

In this case as well, we are adopting the residual profit split method, as a comparable corporation,the we are still using same Brazilian side comparable company,preliminary and the factual relationship claimed by the appellant inclaims 1 and 2 isat present the correction or the directly related with the fact (calculation of the amount of the basic benefit of Brazilian side comparable companies)it like,so to speak is on this matter extension of the correction, and the like. Both are related overseas affiliates to the that "the amount of consideration for payment from is less than the inter independency enterprise price"same taxation requirement fact. In addition, preliminary arguments 1 and 2 correspond to each appellant's claim that differences should be adjusted.

Therefore, the preliminary argument 1 and 2 of the appellant the purpose the law seeking the reason appended should be allowed as a replacement of legitimate reasons without prejudice toof.

(2)rebuttal of the

replenishment claims ofA appellant of the oneappellant,beto generally repetition of the claim was the original there is no Gizu, reason decision.

(A) The preliminary argument of the appellant 1 and 2 corresponds to replacement of illegal reasons andis not permitted.

In the residual profit split method,there is difference between the compared transactions verified claims and claims that no transaction,and can but differences exist adjusted different are those relating to the fact tax requirements ,identity thereof fact the basic taxation there is no Rutowaie requirements.

The appellant is a juridical person who has been approved for declaration by the blue declaration form and is tax disposition procedural receive convenience of appeal by receiving the specific basis of guaranteed right to, Replacement of these reasons procedural above should not be permitted, as it will disappear the purpose of guaranteeing rights.

(C) Difference adjustment relating to preliminary claim 1 is inappropriate. In other words, the appellant difference between claims of the adjustment, for total expenses and operating income for the whole of a company, etc.,ie,important was calculated, including those relating to the remaining gains on the contribution of intangible a company assets,etc. Total cost of operating income margin is calculated. With this, it is important the appropriate on the basic interests of Brazilian comparable companies that do not have intangible assets impossible to adjust differences.

In addition, the cost of evidence of logistics costs, such as the appellant was used (instep 133), the distribution prove that the effect is greater in Manaus tax benefits profits even taking into account the impact of such costs conservative (to be in order to It is of a content calculated based on disadvantage to the appellant and it is not as precise as it can be used for appropriate difference adjustment.

As for preliminary claim 2, the argument on the original appeal by the appellant Manaus tax demonstration that the benefits of benefits deny comparability of Brazilian side comparable companies is just for. In addition, the appellant appellant appeared in the above argument does not make an appropriate difference adjustment on the difference in distribution cost and personnel cost that the.

3 Judgment of the Court with respect to each of the claims in paragraph 2

(1) About claim 1 aboveA. In the residual profit split method, compared with the three basic laws,required corporations is considered to the degree of comparability for comparable be moderate also, also,total cost of operating even if the similarity of the judgment of the market by the margin,Manaus tax benefit income,this have a material effect on the comparability of the Brazil side comparable companies of matter and as a company, etc.and a be intended, present the rehabilitation or the like made without proper reconciliation illegalit should be canceled be Setsuji and below of original judgment according to the areas Setsuji inthe Board citation.

Be operating in the stomach Manaus free cod also increase, such as distribution zone,costs,also, supposed to bear the various contributions, etc., which total cost operating may result in a reduction of the margin,the appellant It is as claimed. However,below,as discussed even considering this, Manaus tax benefit income,of a company or the like significantly increase the operating marginis as original judgment is Setsuji.

(A) The amount of the various contributions, etc., ICMS tax reduce the amount of 6% (small and medium-sized enterprises recommend励金, FMPE),1 percent andof ICMS deemed input tax deduction 2% of the FOB price of imports(tourism, rural development projects fund, FTI)as well as ICMS considers purchase 10% of the tax deduction (Amazonas State University incentives, a UEA), these roughly of the Manaus tax benefit profit are estimated to be only about 10%.

The increase in (b) distribution costs and the like, in a company or the like,Manaumostcan be presumed to be less than one third of thescan tax incentives benefit(upper 133,253), the total of Manaus tax benefits nota significant impact on expenses operating profit it can not be said to constant margin.

It should be noted that the appellant, and the business scale is increased,infrastructure such as distribution but it is possible to reduce logistics costs, such as by providing the facilities centers,business because it is not the case when the scale small, generally speaking,away from the logistics costs, etc. of companies operating in the Manaus free zone, which is big cities,total cost claiming that more to reduce the for the operating margin.

However, distribution costs, etc., generally be proportional to the flow rate isa clear,in this matter,is not so and business scale of large companies (a company,in that it enterprises etc.),the total cost operating profit by distribution costs, etc.to significant difference in the rate, and even There is no sufficient evidence acknowledge that there is a if the scale of the project is small,that the distribution cost of greatly diminish effect of boosting the total expenses operating profit ratio Manaus Tax benefit income it can be inferred does not the it can. Further,to assertion if even though there are so that tendency appellant,even in the residual profit split method,compared method similar business scale humans is one of the important selection factors,for that matter the difference(if possible) since adjustment is to be achieved,real of a company or theas one indirect fact theinformationlike,logistics of it operating in Manaus free zone the proportion of the total cost operating margin of costs and the like is greater The that it can be certified that conclusion it is absent is not influenced.

(C) the appellant is, usually, for the operators to maintain and expand market share,selling to adopt the business strategy of reduced prices,Manaus tax benefits income use for the since the is need total expenses Operating profit margin Which will not result in an increase in the number of people.

However, businesses are trying to pursue profits and increase it as much as possible, and as long as products are maintaining their competitiveness in the market, they always say that they prices lower can not adopt a business strategy of setting, Also,Manaus Tax benefits there is no sufficient evidence to admit that all of are used to lower selling prices.this,The point of even in the revised transfer pricing guidelines (Otsu 70),into "a certain taxpayers who are trying to stretch or market share are trying to penetrate market,temporarily a lower price than comparable products of the same market It may be set. "It is low-cost strategies are considered to be temporary recognized that. In addition,by the business operator by enjoying the benefits of Manaus Tax benefits the view that the price of the final product produced is about 3% less than that of products that are not

(Koshi 255, Yu 28) was that of 2003 and ,target there is no limit of the products,not admitted to apply to the present product.

a company or the like,that has kept the selling prices that inflation even if progresses,1997 or later, generally selling price to match the rate of inflation are is raised (Otsu 27), each of a company, etc. During the year, manamortar tax benefit profits largely recognized weand have been used to lower selling price are not of,on the other hand, it can be said to contribute to the improvement of the total expenses operating profit margin.

(D) the appellant is, the presence or absence of Manaus tax benefit income, generally total cost of operating insisted that it will not affect the margin,as is the evidence along to this,Manausufua total of several companies within Rizonas evidence on cost operating margin Submit Party 169.

However, companies listed in the same evidence have diverse business fields,and their scale and financial contents are not necessarily clear. As the appellant himself insists, the amount of manaus tax benefits of imports of parts and the such as the amount of purchase of parts and raw materials from states other than State of Amazonas greatly varies depending on the typeform of business there is because, even in this matter,which the appellant der should be discussed with a mean value of the company and the business scale and business form is I similar,with a analysis results based on article (Otsu 169) is not the case,on this matter Manaus tax benefits profit definitive Can not be admitted that it does not have a material impact on total cost operating profit margin.  
(C) The appellant should be conceived as a residual benefit, as the benefits of Manaus Tax benefits significantly influence the gross cost operating profit margin, as it is due to the contribution of material intangible assets, We do not deny the comparability (market similarity) between the verification target corporation and the comparative target corporation in calculating the profit.

Indeed, due to the structure of Manaus Tax Benefit, correlations such as the increase in the amount of benefits of Manaus Tax benefits are generally recognized as the scale of the project grows, and maintaining the expansion of sales volume is simply a low price It is recognized that there is a case that it can be greatly influenced by the quality of products, the degree of recognition (high evaluation in the market), etc., (see Part 171), Manaus Tax benefit income includes sales volume It may be said that there may be cases in which the contribution of important intangible assets contributing to the maintenance and expansion of the company is included. On the other hand, however, it is essential to maintain and expand the scale of the business, management decisions such as investment of human and material capital necessary for it and expansion of the business are essential, and themselves are hardly an important intangible asset. Then it is also clear that Manaus Tax benefits include a portion that is not a residual benefit due to the contribution of important intangible assets, that is, contains a lot of fundamental interests.  
Then, even if there can be a part contributing to important intangible assets among the benefits of Manaus tax benefits, it is not difficult to directly grasp that part

In fact, it is practically impossible and, in the first place, the portion related to basic profit should be considered for the distribution of basic profit, so even in this case, according to the residual profit split method, We should calculate the interindustry enterprise price by dividing the residual profit by deducting the Brazilian side basic profit and the Japanese side basic profit which selected and calculated the Brazilian side comparative company not having important intangible assets respectively . By doing so, by selecting a comparable Brazilian targeted company and adjusting appropriate differences, the contribution of the appellant to the benefits of Manaus Tax benefits and the significant intangible assets of company a etc. , The operating profit of the Brazilian comparable company that does not have important intangible assets will be calculated to be low, the basic profit of a company etc. will be calculated small, and the residual profit As the amount increases, the portion relating to the contribution of important intangible assets of the benefits of Manaus Tax benefits can be properly divided into appellee and a company etc. as residual income,It is conceivable that results conforming to the purpose of the Residual Income Splitting Act will be brought to the contrary. (However, in this case, it can not be said that appropriate differences have been adjusted, as described above. On the contrary, it is not appropriate to consider Manaus Tax benefit income as residual profit and not considering it in the selection of the comparable corporation because it would mistake the allocation of the portion related to the basic interest included in the benefits of Manaus Tax benefits.  
D. Since it is exactly as above, the appellant's claim 1 above has no reason and can not be hired.  
(2) About the above claim 2  
A. On the legitimacy of each preliminary claim of the appellant (falling under the replacement of legitimate reasons).

The appellant initially claimed that there is no need to make a difference adjustment on the fact that the Brazilian comparable companies did not enjoy the benefits of Manaus tax benefits in each case in this case.  
On the other hand, the preliminary claim 1 by the appellant in the trial is to make this difference adjustment. However, even though it belongs to the same taxation requirement fact that "the consideration of this foreign affiliated transaction is less than the inter-company price" and is directly related to the calculation of the basic profit of the Brazilian comparable company, Manaus In the case where it is assumed that the tax benefit does not require the difference adjustment and the case where the difference adjustment is carried out, since facts to be verified will vary considerably, as a taxpayer, It is to be told that we are obliged to do all kinds of attack defense and that the burden is not light.

Also for preliminary assertion 2, the appellant will be forced to newly defend against logistics costs and labor cost difference. Therefore, in light of the purpose of the law seeking the reason appendix, it should be understood that preliminary claims 1 and 2 fall under the illegal reason for replacement and are not permitted.  
Even if preliminary claims 1 and 2 of the appellant are allowed as a replacement of legitimate reasons, it is as shown in the following (a) and (c) that there is no reason for either.  
A preliminary claim 1  
The preliminary claim 1 claimed by the appellant calculates the degree of influence of enjoyment of the benefits of Manaus Tax benefits by total profit margin including the residual profit in a company etc. and the cost related to it, The basic profit ratio of Brazil side in case of enjoying the difference is adjusted, basic profit of a company etc. is calculated.

However, this difference adjustment has the following problems.  
(A) According to the residual profit divestiture law, fundamental interests of a company etc. should be calculated from the basic profit of Brazilian side comparable companies without important intangible assets.  
However, in the preliminary claim 1 of the appellant, the total cost of operating income margin is calculated collectively for the total expenses of a company etc. including the residual profit and the operating profit, and the total expenses According to the figures, the residual profit which should not be included in the calculation of the basic profit and the cost related to the occurrence are mixed in the calculation formula, There is no guarantee that it will be the difference within the allowable range as adjustment of the basic profit difference.

A) There is also a problem on the premise that the degree of influence of enjoyment of the benefits of Manaus Tax benefits at company a etc. can be applied as it is to Brazilian side comparable companies. As the appellant asserts, the amount of Manaus Tax benefits greatly varies depending on the type of imports of parts and the type of business, such as the amount of purchase of parts and raw materials from states other than State of Amazonas There is no sufficient evidence to admit that the degree of influence at company a etc. applies as it is to Brazilian comparable companies in this case.  
From the above, the difference adjustment adopted by the appellant in the preliminary claim 1 is not appropriate and can not be adopted.

C For preliminary claim 2 with respect to preliminary claim 2, even if the appellant adjusts the differences according to the appellant's argument (difference adjustment) in the first instance, each correction of this case is partially canceled  
It will insist that it will stay.  
However, the appellant's argument at the original appeal pointed out by the appellant is that the existence of the benefits of Manaus Tax benefits is a market condition that greatly affects the degree of basic profit, which is not comparable to Brazilian comparable companies In order to point out that there is no possibility or at least an appropriate difference adjustment is necessary, the difference adjustment was made as an attempt, and its content is not necessarily accurate.

In addition, the in-house production rate of parts such as company a is not low, and logistics cost is not high in procurement, and the demand for motorcycles in northern Brazil is not low, and when shipping there, Because logistics costs are rather advantageous than companies in the southeastern part of Brazil, there is a possibility that it is necessary to adjust the differences on the influence of distribution cost etc. based on them. Furthermore, personnel costs may be lower in Manaus than in the southeastern part of Brazil where there are many large cities. It can not be concluded that there is no need to adjust the differences on them. And the method and contents of these differences adjustment are not necessarily clear.  
As described above, the difference adjustment adopted in the preliminary claim 2 of the appellant is not appropriate and can not be adopted.

4 In addition, the place where the appellant asserts everything does not affect the conclusion of the foregoing judgment and the judgment of the judgment.  
According to the fourth and above, judgment of the original judgment can be approved as justified. Therefore, since there is no reason for this appeal, we decide to dismiss it and decide as the main sentence.  
Tokyo High Court Section 12 Civil Affairs Department  
Justice presiding judge Norihiko Sugihara