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The Supreme Court Accepts CA Software Israel's Appeal and Remands the Case to the District Court for the Appointment of an Expert

Client Updates

On July 30, 2026, the Supreme Court issued a decision on the appeal filed by our firm on behalf of CA Software Israel Ltd. against the judgment of the Tel Aviv District Court, in a matter concerning the valuation of intellectual property sold to a related foreign affiliate. The Supreme Court held that the District Court was under no obligation to adopt a binary decision rule under which rejection of the Company's expert opinion necessarily compels adoption of the respondent's expert opinion as is. Accordingly, the Supreme Court ordered that the case be remanded to the District Court to appoint its own expert to assess the value of the intellectual property sold and address the core elements of the valuation, such as the IP's lifespan and growth rates.

The facts of the case, in a nutshell: Memco Ltd. was established in 1990 and developed access-control products that entered the market in the mid-1990s. It was later acquired and ultimately became part of the CA group and was renamed CA Software Israel Ltd. (the "**Company**"). In 2010, the Company sold intellectual property it owned to a related foreign affiliate for NIS 111 million. The assessing officer disputed the Company's reporting and argued that the Company had sold FAR (**F**unctions, **A**ssets, and **R**isks), and that the value was NIS 667 million. Accordingly, an assessment was issued attributing income to the Company based on the Tax Authority's aforesaid valuation.

The Company appealed this assessment to the Tel Aviv-Jaffa District Court, and the dispute largely centered on the valuation of the intellectual property sold between related parties within the CA group. The Company argued that the useful life of the intellectual property was limited and that the revenues expected from it were likely to decline, and these assumptions based the transaction's compensation. By contrast, the Tax Authority argued that the useful life of the intellectual property was indefinite and that the expected revenues were likely to increase, and hence the tax assessor's high valuation.

The District Court's judgment dismissed the Company's tax appeal. The court held, **inter alia**, that the valuation submitted by the Company was unacceptable, and therefore adopted the Tax Authority's valuation as is, even though the court acknowledged that the market growth forecasts on which the Tax Authority relied were "optimistic," **inter alia**, in light of the age of the IP and the commercial stage of the technology. The District Court explained its ruling on the basis that it regarded itself as obliged to choose between the parties' two expert opinions under a binary decision rule and therefore adopted the respondent's expert opinion in full.

The Company appealed the judgment to the Supreme Court. The Company argued, **inter alia**, that there is no binary decision rule requiring a court to adopt one of the expert opinions in its entirety (as is). It was argued that in complex valuation cases, the court is required to delve into the expert opinions submitted by the parties and, to the extent necessary, even to appoint an expert on the court's own behalf; and where the court finds that the parties' valuations do not reflect the true value, the assessment therefore constitute an "excessive assessment," and should not be left in place.

The Supreme Court accepted the appeal. In its decision, the Court held that there is no binary decision rule requiring acceptance of one of the expert opinions as is. The Supreme Court therefore ordered that the case be remanded to the District Court to appoint its own expert to assess the value of the intellectual property sold and address the core elements underlying the expert opinions, including the useful lifespan of the intellectual property and the applicable growth rates.

This is an important decision with broad significance extending beyond the parties' specific dispute. The decision makes clear that even in disputes involving economic issues and valuations, where the court is presented with two diametrically opposed expert opinions, it is not required to choose one of them "as is." Where the valuation question depends on complex professional assumptions, and the court believes it lacks a sufficient basis either to adopt one position in full or to determine a different position from those presented by the parties' experts based on the credible evidence before it, the court may appoint its own expert in order to reach a more accurate and well-founded result.

The Supreme Court's decision raises some key issues. Even taking into account the burden of proof borne by one of the parties, rejection of one expert opinion does not automatically require full adoption of the opposing expert opinion. The court may choose an intermediate procedural and substantive course where necessary to ensure that fair and true conclusions are reached.

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