

DOUBLE TAX AVOIDANCE AGREEMENTS (DTAA)

The Government of India has entered into double taxation avoidance agreements (tax treaties) with several countries with the principal objective of evolving a system for the respective countries to allocate the right to tax different types of income on an equitable basis. Tax treaties serve the purpose of providing full protection to taxpayers against double taxation and also aim at preventing discrimination between the taxpayers in the international field. The NRIs/PIO would, therefore, be well advised to take advantage of such treaties in tax planning for their investments in India.

DTAA can be defined as an “international agreement between two sovereign States reaching an understanding as to how their residents will be taxed in respect of cross order transactions in order to avoid double taxation on the same income”.

In yet another way, DTAA can be defined as “an agreement of compromise between two

contracting States whereby each country agrees to give up something in consideration of the other country giving up something in its favour”.

It may sometime happen that owing to reduction in tax rates under the domestic law-taking place after coming into existence of the treaty, the domestic rates become more favorable to the NRIs/PIO. Since the object of the tax treaties is to benefit the NRIs/PIO, they have, under such circumstances, the option to be assessed either as per the provisions of the treaty or the domestic law of the land.

In order to avoid any demand or refund consequent to assessment and to facilitate the process of assessment, the concerned authorities in India have provided that tax shall be deducted at source out of payments to NRIs/PIO at the prevailing rates at which the particular income is made taxable under the tax treaties.