RAMA UNIVERSITY

www.ramauniversity.ac.in

FACULTY OF COMMERCE AND MANAGEMENT

COURSE: B.COM VI SEM.

SUBJECT: Corporate Tax Planning

SUBJECT CODE: BCH 403

LECTURE: 40

NAME OF FACULTY: DR. PALASH BAIRAGI

LECTURE-40

AVOIDANCE OF DOUBLE TAXATION AGREEMENTS

What is double taxation?

Double taxation is the levy of tax by two or more countries on the same income, asset or financial transaction. This double liability is mitigated in many ways, one of them being a tax treaty between the countries in question. Let us try and answer some important queries you might have about such agreements/treaties.

What is DTAA?

A tax treaty between two or more countries to avoid taxing the same income twice is known as Double Taxation Avoidance Agreement (DTAA). This means that there are agreed rates of tax and jurisdiction on specified types of income arising in a country. When a tax-payer resides in one country and earns income in another country, he is covered under DTAA, if those two countries have one in place. DTAAs can be either comprehensive, i.e. covering all types of income or specifically target certain types of income. This depends on the types of businesses/holdings of citizens of one country in another. Some of the common categories covered under DTAAs are services, salary, property, capital gains, savings/fixed deposit accounts, etc.

Does India have DTAAs too?

Yes. Being a hub for international investment and also forming a large number of emigrants, India has understood the importance of DTAAs and has actively pursued this matter. For instance, our country has 85 active agreements of this kind. Apart from these separate international agreements, the Income Tax Act in itself provides relief from double taxation. This is covered under Sections 90 and 91. In case of any conflict, the provisions of DTAA will be binding.

Can you provide an example?

Let us take the DTAA between India and Singapore for example. Under this, capital gains of shares in company are taxed based on residence. It helps in curbing revenue loss, avoiding double taxation and streamline the flow of investments.

So, what are the advantages of having such an agreement?

Since there is no dual taxation, countries having DTAAs tend to become lucrative investment hubs. This helps in attracting foreign investment into a country and its subsequent development.

DTAAs are beneficial for NRIs too. If they earn income both in India and the country of current residence, the income earned in India would be taxed both in India and the country of

residence. If India has a DTAA in place with the said country, NRIs can either avoid paying tax twice or pay a lower rate of tax.
On a more non-tangible front, DTAAs provide both formal and informal trust between countries, which translates into diplomatic benefits and cordial relationships.

Is it a perfect measure?

Though DTAAs are charted out with the intention of easing tax matters and promoting investment, there can be certain side effects which may emanate from such agreements. 'Double taxation' under tax treaties usually means juridical double taxation (circumstances where a taxpayer is taxed on the same income in more than one jurisdiction). There is another type of double taxation – economic double taxation. This is related to taxation of two and more taxes from one tax basis.
DTAAs are sometimes used by unscrupulous entities to pay very less tax or no tax, by impersonating as companies or entities in one of the countries party to the agreement. This leads to revenue leakage. To prevent this, countries usually include a Limitation of Benefits (LoB) clause in their DTAAs.

*****