Mauritius-India Double Taxation Avoidance Agreement (DTAA) Amendment

By iastoppers | 2024-02-28 15:45:00

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The Cabinet has approved the signing of a Protocol to amend the Double Taxation Avoidance Convention (DTAC) between the Mauritius and India.

- This amendment aims to comply with the **Base Erosion and Profit Shifting (BEPS) minimum standards of the Organisation for Economic Co-operation and Development (OECD).**

[ref- tpci]

Key Amendments and Implications:

BEPS Minimum Standards Compliance:

- The amendment aligns with the **BEPS minimum standards**, focusing on **preventing tax avoidance** and minimizing opportunities for non-taxation or **reduced taxation through exploitative tactics.**
- The minimum standard necessitates the **inclusion of rules in bilateral tax treaties** to effectively **address treaty shopping**.
- This involves **clear statements in the title** and **preamble of the treaties**, indicating the **intent to prevent non-taxation** or reduced taxation through tax evasion or avoidance, including treaty shopping.
- It brings the **India-Mauritius tax treaty** under the **BEPS Multilateral Instrument (MLI),** introducing **anti-abuse measures**, limitation of benefit rules, **principal-purpose tests**, and arbitration in the mutual agreement procedure.

Impact on Multinationals:

- Experts suggest that multinational corporations with entities in both India and Mauritius may **face more challenging treaty rules**, leading to **enhanced anti-abuse measures**.
- The modification introduces **limitation-on-benefits (LOB) rules**, principal-purpose tests (PPT), and addresses conduit arrangements, signaling a shift in the tax landscape for companies with investments in these countries.

Background and Significance:

Historical Significance of DTAA:

- Mauritius has historically been a preferred channel for **foreign portfolio and direct investors** due to tax advantages stemming from the **DTAA with India**.
- The DTAA facilitated capital gains **tax exemptions for investors based in Mauritius**, making it an attractive route for foreign investments into India.
- The agreement laid down that **capital gains tax** had **to be paid** in the country where the **foreign investor was based**.
- Since the **rate of capital gains tax in Mauritius was zero**, investors from this country paid no capital gains tax.

Changes in Capital Gains Taxation:

- Changes in 2016 linked to **shares purchased after April 1, 2017**, altered the taxation of capital gains from investments in Indian companies, impacting the tax advantage previously enjoyed.
    - Capital gains arising from an investment in an Indian company will be **taxed in India**.
- The amendment addresses the capital gains tax implications and aligns with evolving international tax norms.

Economic Impact:

- Mauritius contributed $161 billion in cumulative FDI to India from 2000-2022, making up 26% of total FDI inflows, primarily facilitated by the DTAA.
- Since the signing of the DTAC amendment in 2016, FDI inflows from Mauritius have dropped from $15.72 bn in 2016-17 to $6.13 bn in 2022-23, with **Mauritius becoming India's third largest source of FDI.**

About Base erosion and profit shifting (BEPS):

- BEPS involves **tax planning strategies** used by **multinational enterprises to exploit gaps** and **mismatches in tax rules** to **make profits "disappear" for tax purposes** or to shift profits to locations where there is **little or no real activity but the taxes are low**.
- **Developing countries**, with a higher reliance on corporate income tax, are **disproportionately affected by BEPS practices**, leading to an annual loss of USD 100-240 billion in revenue.
- To address this issue OECD/G20 Inclusive Framework on BEPS provides 15 measures to **tackle tax avoidance**, enhance the coherence of international tax rules, and promote a more transparent tax environment.

About Double Taxation Avoidance Agreement (DTAA):

- A DTAA is a bilateral agreement between two countries with the aim of preventing individuals and companies from **being taxed on the same income** in **both countries**.
- The purpose of such agreements is to **promote international trade** and investment by providing clarity on the taxing rights of each country.

