

Tax Hotline

April 26, 2002

INDIAN TRIBUNAL RULES ON AVAILABILITY OF TREATY TAX RATES UPON FILING OF TAX RETURNS

In a recent judgement, the Mumbai Income Tax Appellate Tribunal (“**Tribunal**”) has held that in order that a foreign company can claim the benefit of tax rates prescribed in the Double Taxation Avoidance Agreement (“**DTAA**”) between its country of residence and India, it must file a tax return in India and get itself assessed by the Indian Income Tax department (“**I-T department**”). The Indian resident, making remittance to the foreign company cannot apply the treaty tax rates for withholding tax at source.

In a case between I-T Department and Poysha Industrial, Mumbai (“**taxpayer**”), the taxpayer made an interest payment to a German company and two UK based companies, deducting tax at the rate of 15% and 10% respectively, being the tax rates under the respective DTAA. The assessing officer disputed the rate and observed that the appropriate rate for deduction of tax would be 30%. The assessing officer was of the view that the provisions of the tax treaty would come into play later and not when tax is deducted at source. He therefore directed the taxpayer to pay the shortfall. The Tribunal agreed with the assessing officer’s views and ordered the taxpayer to pay the shortfall.

Source: *The Economic Times*, April 26, 2002.

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Fintech

May 05, 2025

Medical Device Industry in India

April 28, 2025

Clinical Trials and Biomedical Research in India

April 22, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against “Unfiltered” Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

April 01, 2025

**SIAC 2025 Rules: Key changes &
Implications**

February 18, 2025

