

Tax Hotline

December 03, 2008

THE VODAFONE TAX CONTROVERSY BOMBAY HIGH COURT DISMISSES VODAFONE PETITION*

The Hon'ble Bombay High Court has finally pronounced its verdict in what is one of the most intriguing tax controversies in recent times – the Vodafone Tax Controversy. The writ petition filed by Vodafone International Holdings BV (“**Vodafone**”) has been dismissed. Justice S. Radhakrishnan pronounced the Order and stated that there were about five grounds on which the writ petition had been dismissed. The judge however did not elaborate on what these grounds were and one will have to wait for the Order, which is yet to be signed by Justice A. V. Nigude, the other judge on the Division Bench that heard the case, to be published.

The Income Tax Authorities (“**Revenue**”) had served a show cause notice to Vodafone, contending that the latter was liable to deduct tax at source from the payment made to a Cayman Islands company for the acquisition of another Cayman Islands company, which indirectly holds shares in an Indian company. Through this show cause notice the Revenue had raised a tax demand of approximately US\$ 2.1 billion from Vodafone. It was this show cause notice, which was challenged by Vodafone in the said writ petition. The scope of the writ petition was further expanded to challenge the retrospective amendments made to Section 201 of the Income Tax Act, 2008 (“**ITA**”), pursuant to the Finance Act, 2008. Section 201 provides for penal consequences for the failure to withhold taxes.

While the writ petition has been dismissed, it appears that the controversy is far from settled. The stay on the Revenue for not proceeding against Vodafone, which was originally granted on October 31, 2007, has been extended by eight weeks, starting today. It is expected that Vodafone will appeal against today's order before the Supreme Court of India within this period.

As always, we shall attempt to bring you accurate updates and analysis of the Vodafone Controversy as it continues to unfold.

- **International Tax Team**

* We had published our daily commentaries on the Vodafone Controversy as it had unfolded in the courtroom. These commentaries can be accessed here: [June 27, 2008](#), [June 30, 2008](#) [July 2, 2008](#), [July 8, 2008](#), [July 9, 2008](#), [July 10, 2008](#)

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

Structuring Platform Investments in India For Foreign Investors

March 31, 2025

India's Oil & Gas Sector– at a Glance?

March 27, 2025

Artificial Intelligence in Healthcare

March 27, 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

**Vaibhav Parikh, Partner, Nishith
Desai Associate on Tech, M&A, and
Ease of Doing Business**

March 19, 2025

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

February 18, 2025