



Hon'ble ITAT Delhi Bench held that the Tie-Breaker questionnaire is important but not the sole basis while deciding residency under India-Singapore DTAA.

Sameer Malhotra Versus ACIT [TS-1010-ITAT-2022(DEL)]

New Delhi, January 4, 2022

The assessee worked in India from April to November 2014 and worked in Singapore from December 2014 to March 2015. The assessee was a resident for tax purposes of both countries in India as well as Singapore, as he was a resident for tax purposes in India also the income tax department of India imposed income tax on income earned in Singapore.

India and Singapore have signed the DTTA agreement to avoid double taxation on income and article 4 of that agreement clarifies the situation where a person may be the tax resident of both countries i.e., a case of a tie, in case of a tie the following condition given in Article 4(2) will be used to solve the situation

- a) -Where is the permanent home of the assessee
- where are personal and economic relation
- b) State where is habitual adobe
- c) Where is the nationality
- d) In case all above condition fails by mutual agreement by the authorities

The Hon'ble ITAT Delhi bench held that the conditions mentioned in article 4(2) of the DTAA agreement between India and Singapore are important but cannot be the sole basis of determining the residential. As in this case the permanent home of the assessee was in India but the assessee was living with family in Singapore in a rented apartment and the residential property in India was let out by him. The Hon'ble ITAT held the permanent home of the assessee for the purpose of article 4(2) DTAA agreement is Singapore and not in India considering the fact that the person was settled with family in Singapore. Therefore, held him liable to pay tax on income earned in India only and not on the income earned in Singapore.

**DTAA (Double taxation avoidance agreement) is an agreement signed between the two nations to avoid the double tax on income earned by the assessee in both nations in a year*

