



## Global Tax Update

India

Deloitte Tohmatsu Tax Co.

November 2014

### Indian Supreme Court (SC) affirmed the High Court (HC) ruling on Centrica PE matter<sup>1</sup>

[In our June 2014 edition of this newsletter](#) we discussed the Delhi HC ruling in the case of Centrica wherein the HC held that the reimbursement of the seconded expatriate employees amounts to fees for technical services (FTS) under the Indian tax treaties with UK and Canada. The HC further rejected the arguments of Centrica that the secondment does not give rise to Service Permanent Establishment (PE) under these treaties, which could be seen as indirectly concluding that secondment creates a Service PE for the overseas entities. To arrive at its conclusion, the HC placed significant weightage on overseas employment of the expatriates despite the Indian entity having operational control over the expatriates.

Centrica filed an appeal before the SC against the above order of the HC. After hearing the arguments put forth by Centrica, the SC dismissed the appeal.

With the dismissal of the appeal by the SC the order passed by the HC has become final. This reiterates the need for companies to review the

secondment model to determine the true nature of the arrangement.

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<sup>1</sup> Source: Centrica India Offshore (P) Ltd. – Order of the Supreme Court dated 10 October 2014

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