



Global Business Tax Alert Sharp Insights

Gujarat High Court holds that 'international traffic' includes the journey of a vessel operating within Indian ports if it forms part of a larger international voyage

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The Gujarat High Court, in the case of CIT v. Taurus Shipping Services (64 taxmann.com 64), held that the journey of a vessel between two Indian ports is 'international traffic' under Article 8 of India-Singapore Tax Treaty if the same is part of a larger journey between two foreign ports.

The assessee was an agent of three vessels which had transported goods from Kandla Port to Visag in India. The vessels had undertaken such freight transportation during the journey from Singapore to Dubai. The beneficiary of the freight income, a resident of Singapore, claimed benefits under the Tax Treaty on the basis that the ship operated in international waters. The Assessing Officer came to the conclusion that such transportation between Kandla to Visag cannot be considered as international traffic as defined in the Tax Treaty. The Tribunal, relying on Mumbai Tribunal decisions of Essar Oil Ltd. v DCIT and DCIT v Safmarine Container Lines NV considered the voyage as international traffic.

The Gujarat High Court upheld the order of the Tribunal and noted that the term 'international traffic', is defined to mean any transport by a ship or aircraft operated by an enterprise by a contracting state. This definition, however, had an exception clause which excluded the transport when the ship or aircraft is operated solely between the places in the other contracting state.

The High Court held that the word 'solely' is all important. It was noted that if the ships in question, had operated solely between Kandla and Visag, such transport would be excluded from the definition of term 'international traffic'. However, the transportation was undertaken during a larger journey of the vessels from Singapore to Dubai. Under such circumstances, the requirement of the journey being solely between places in the other contracting state was not satisfied. The High Court accordingly concluded that the journey in question constitutes 'international traffic' under the Tax Treaty and was taxable only in Singapore.

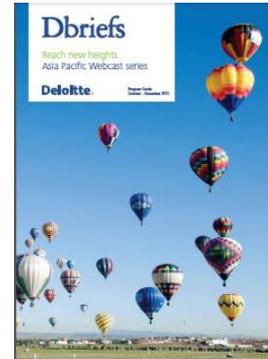
The above decision of the Gujarat High Court is in line with the OECD Model Commentary and the Madras High Court decision of Poompuhar Shipping Corporation Ltd.

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