

INTERNATIONAL TAX UPDATE

Supreme Court has stayed order passed by Delhi High Court in case of Tiger Global International Holdings



Supreme Court has put stay on order passed by Delhi High Court in case of Tiger Global International Holdings

The matter decided by Hon'ble Delhi High Court in the case of *Tiger Global International III Holdings versus The Authority for Advance Ruling* dated 28.08.2024 was brought up in appeal by Revenue before Hon'ble Supreme Court. The Apex court heard the contentions of both parties and observed that the issues raised require thorough consideration. Further, the Court vide order dated 24.01.2025 has stayed the operation, implementation and execution of the captioned High Court judgement.

Details of judgement by Delhi High Court are produced below: -

In the landmark ruling, the Hon'ble Court after considering the peculiar facts of the case, held in favour of assessee and laid down the following ratio:

- TRC issued by Mauritius Revenue Authorities should be sufficient to claim the beneficial provisions of Tax Treaty unless it is established that corporate structuring is designed to obtain illegitimate or illegal gains, abuse the underlying objective of conventions
- Provisions of Article 13 of the Treaty is very clear under which shares of Indian company acquired before 01 April 2017 has been grandfathered. Further, Rule 10U(1)(d) read with Rule 10(2) of Income Tax Rules has clearly exempted the provisions of GAAR on the said grandfathering provisions.

- Economic substance principles can be tested, inter alia, on the basis of following:
 - quantum of investment,
 - period of holding investment,
 - expenditure incurred in Mauritius,
 - holding a valid TRC and GBL
 - satisfying LOB conditions as applicable.
- Revenue would not be justified in doubting the presumption of validity attached to the TRC as it would inevitably result in an erosion of faith and trust reposed by Contracting States in each other.
- Merely because the parent may exercise shareholder influence over its subsidiary would not lead one to draw an adverse inference of the latter being a mere puppet. Further, merely because two of the members of the Board also happened to be connected with the larger conglomerate would not

convince us to hold that the Mauritius entities were reduced to mere puppets.

- It would be impermissible for the Revenue to manufacture additional roadblocks or standards that parties would be required to meet in order to avail of DTAA benefits, subject to caveats of illegality, fraud and the transaction being in contravention of the underlying object and purpose of the treaty

This judgment of the Delhi HC has been stayed from operation, implementation and execution by the Hon'ble Supreme Court of India.

For complete details, please refer to the Supreme Court Judgement dated 24/01/2025 passed in the case of *Tiger Global International II Holdings* Special Leave Petition (Civil) Diary No.1251/2025

https://api.sci.gov.in/supremecourt/2025/1251/1251_2025_14_34_58767_Order_24-Jan-2025.pdf

Further, for complete details of the Delhi High Court's ruling in the case of Tiger Global International III Holdings vs The Authority for Advance Rulings (Income tax) & Ors (W.P.(C) 6764/65/66 /2020) please refer the order dated 28.08.2024.

DISCLAIMER: - The summary information herein is based on SC's ruling dated 24/01/2025 in case of Tiger Global International II Holdings Special Leave Petition (Civil) Diary No.1251/2025 and Delhi High Court's ruling in the case of Tiger Global International III Holdings vs The Authority for Advance Rulings (Income tax) & Ors dated 28.08.2024. While the information is believed to be accurate, we make no representations or warranties, express or implied, as to the accuracy or completeness of it. Readers should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This note is not an offer, advice or solicitation. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.