"You cannot treat me like this" Double Taxation Avoidance Agreement and Non-Discrimination Rule

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If you define treaty in layman's language, it is a document/agreement formally concluded between two or more nations. DTAA's squarely fall under the category of bilateral treaty. The basic objective is to promote and foster economic trade and investment between two countries by avoiding double taxation. Double taxation means taxing the same income twice, once in the home country and again in host country. Section 90 and Section 91 of Income Tax Act, 1961 provide specific relief to taxpayers to save them from double taxation. One of the most important clauses of DTAA is the clause of non-discrimination. In simple words it means that neither of the contracting countries gives any preferential treatment in taxing its own residents or citizens vis-à-vis foreign persons i.e. there is no discrimination between the local assesses and foreign assesses as far as taxation is concerned. This paper deals with the standards of non discrimination and case laws explaning the same.

Part I: Introduction - Meaning

Meaning of treaty: If you define treaty in layman's language, it is a document/ agreement formally concluded between two or more nations. 'Treaty' means an international agreement concluded between States in written form and governed by international law[1], whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.[2]

***The Double Tax Avoidance Agreement* (DTAA): DTAA's are bilateral treaties[3] between two sovereign states.[4]** The basic objective is to promote and foster economic trade and investment between two Countries by avoiding double taxation. Double taxation means taxing the same income twice, once in the home country and again in host country.[5] It is of relevance to mention here *"No rules of international law prohibit international double taxation."* So it is for the countries in the international arena to solve double taxation problems.[6] Double taxation of income is a great disincentive as it hampers free flow of capital and becomes a prohibitive burden on taxpayers leading to decline in foreign investments.[7] **Generally it arises because of connections of the assessee[8] to multiple jurisdictions and overlap of their laws. The assessee has to pay tax not only in the country where he is the resident but also where the income generates, popularly known as the source country.[9] To avoid this hardship of double taxation, DTAAs provide for the provisions like reduced rates of tax on dividend, etc., received by residents of one country from those in the other.[10]**

Where tax relief has been given by one country the country of residence generally allows credit for the tax so spared, to avoid nullifying the relief.[11] In the remaining

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cases, the country where the gain arises deducts taxation at source and the taxpayer receives a compensating foreign tax credit in the country of residence to reflect the fact that tax has already been paid.[12] Thus in order to avail the benefits of DTAA, an NRI should be resident of one country and be paying taxes in that country of residence.[13] These treaties are based on the general principles laid down in the model draft of the Organisation for Economic Cooperation and Development with suitable modifications as agreed to by the other contracting countries.

Section 90[14] and Section 91[15] of Income Tax Act 1961 provide specific relief to taxpayers to save them from double taxation. Section 90 is for taxpayers who have paid the tax to a country with which India has signed DTAA, while Section 91 provides relief to tax payers who have paid tax to a country with which India has not signed a DTAA. Thus, India gives relief to both kind of taxpayers.[16]

Part III: Application of the Principle

Non discrimination rule: One of the most important clauses of DTAA is the clause of non-discrimination. In simple words it means that neither of the contracting countries gives any preferential treatment in taxing its own residents or citizens vis-à-vis foreign persons i.e. there is no discrimination between the local assesses and foreign assesses as far as taxation is concerned.[17] Most international tax treaties provide that there will not be any discrimination in taxation between locals and foreigners. The domestic tax law of India provides that charging a higher rate of tax to a foreign company as compared to a domestic company is not to be regarded as discrimination.[18] In fact, if there is any discrimination, it will be a positive one and in favours the foreigners. This may be for several reasons such as incentive for foreign investment in the country, globalization etc. This can be seen in the model OECD 1977 and U.N Model 1981.[19] Article 24 deals with non-discrimination provisions; nationality non-discrimination, permanent establishment non-discrimination, and, deduction and ownership non-discrimination.[20] It endeavors to prevent discrimination of the 'nationals', 'residents' of other Contracting States ("CS") carrying on business and 'enterprises' owned by the treaty partners.[21] It aims at ensuring to nationals of another CS, residents of any third state, stateless persons, equality of treatment with the nationals of the contracting state with regard to taxation and any requirement connected therewith[22]. Discrimination is also sought to be prevented with regard to taxation on the permanent establishment, related and controlled companies, and deductibility of expenses by way of interest, royalties and other disbursements for determination of taxable profits of an enterprise.[23] It is merely a specific enunciation of the general principle of equality.[24] This principle requires that similar situations shall not be treated differently unless differentiation is objectively justified. Differentiation does not mean discrimination, if there is justification.[25] Article 24 does not militate against justified differentiation.[26] What it holds is that similar situations should not be treated differently unless on justification.[27] Different treatment constitutes no discrimination when it is objectively justified or at least in economic matters not arbitrary.[28]

Application of the principle: The normal rule is that the provisions of a DTAA apply to persons who are residents of one or both of the contracting states. Thus, "to enter" the portals of the treaty a person must show that he is a resident of at least one of the states.[29] Generally, a person is regarded as a resident of a contracting state if he is liable to taxation therein by reason of certain prescribed tests, for example, domicile, residence, place of management etc.[30] The application of this principle extends all

nationals of a contracting State. They are entitled to invoke the benefit of this provision as against the other contracting State.[31] This does not necessarily mean that the nationals of a contracting State have a right to be treated tax-wise in the other State in absolutely the same way as nationals of that latter State, because only nationals living in the same circumstances are entitled to equal treatment. The expression in the same circumstances refers to taxpayers placed from the point of view of the application of the ordinary taxation laws and regulations, in substantially similar circumstances, both in fact and in law.

Part IV: Case Studies

(A) A couple of recent decisions of the Mumbai ITAT, merit a discussion. The first one is in the case of ***Credit Llyonnais* v. *Deputy Commissioner of IT***.[32] The main dispute in this case was assessee's grievance against CIT confirming the disallowance of deduction u/s 80M. Indian Act is clear to the effect that deduction u/s 80M is available only to the domestic companies. As far as the provisions of the IT Act are concerned, the assessee-company being admittedly a foreign company within meanings of that expression u/s 2(23A) of the Act is not eligible for deduction u/s 80M. The assessee was French Bank. The same was challenged on two. *Firstly*, it was discriminatory in nature. *Secondly*, it violated the provisions of Article XXI of the India France Double Taxation Avoidance Agreement.[33] The observations and conclusion of the ITAT in this case were as under:

1. A plain reading of the above tax treaty provision[34] makes it clear that it deals with discrimination on the ground of nationality alone. To put it in simple words, it provides that nationals of France in India will not be subjected to any taxation or any requirement connected with such taxation which is more burdensome than similar taxation or requirement in connection therewith on an Indian national in India. The same principle would naturally also apply on Indian nationals in France vis-à-vis French nationals in France.

2. The non-discrimination clause seeks to ensure that contracting States do not decline any allowance only on the ground of the taxpayer's nationality.

3. In applying the non-discrimination clause what is to be seen is whether two persons who are residents of the same State are being treated differently solely by reason of having a different nationality because differential tax status on the ground of residence of the taxpayer, cannot be construed as non-discrimination.[35]

4. The question then is as to on what basis is a company classified as a domestic company and a foreign company under the Income-tax Act. Is it based on nationality, or is it based on some other criterion? Does this classification depend on requirements connected with residence or is it the nationality of a company which decides such company being classified as a domestic company or a foreign company?

5. Section 2(22A)[36] and Section 2(23A)[37] defines domestic and foreign company. The very definition of domestic company admits non-Indian companies to be treated as domestic companies. Therefore the crucial factor for deciding whether a company is a domestic company or a foreign company is certainly not the nationality. Even a French company which has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividend on preference shares) payable out of such income can be treated as a domestic

company under the Indian Income-tax Act and deduction under section 80M will be available to it.

This kind of classification under the scheme of non-discrimination clause in the applicable India French **DTAA** cannot be considered as discrimination on the ground of nationality. Thus the non-discrimination clause cannot be invoked in such a case.

(B) In ***Chohung Bank* v. *Dy. Commissioner of IT***[38]**,** the assessee here was a banking company based at Korea having a branch in India. Appellant's claim was for the benefit of the non-discrimination clause of the India-Korea DTAA[39] and taxing the appellant's income at the rate of 48% instead of at the rate applicable to a domestic company i.e., 35%. The AO rejected the claim of the assessee arguing that: The matter reached the ITAT was considered by it, which adjudicated as under:

(1) The **DTAA** gets the trade off only with the provisions of the IT Act and unless so specifically provided in a particular **DTAA**, the rate of tax which is prescribed in the annual Finance Act, cannot give way to the **DTAA**.

(2) It cannot be said that a Korean Bank is working in the same circumstances as the Indian banks, because the former has no constraints as an Indian bank has and it is free to operate its profit making apparatus to the maximum possible extent.

(3) The provision of non-discrimination has nothing to do with the rate of tax, which is dealt with separately by other articles of the **DTAA**.[40]

(4) The **DTAA** in general does not prevail over the Finance Act and hence over tax rates. Section 90 does not provide so. However, wherever the **DTAA** has provided the taxation of a particular category of income at certain rates, then charging of that income at different rates as per the Act, may come in conflict with the **DTAA** and hence, the taxes over that category of income will be levied at that rates, so provided in the **DTAA**. But where no such rates on an income or a category of income on the status of an assessee has been prescribed in the **DTAA**, then there cannot be any conflict with the Act. The **DTAA** will therefore not prevail over the Finance Act and hence the rates of tax applicable to domestic companies cannot be applied to non-domestic companies.

(5) A domestic banking company and a non-resident banking company do not function under the same circumstances and hence the discrimination clause in Article 25 of the Indo Korean **DTAA** is not applicable.

(C) *In the case of* ***Rolls Royce Industrial Power Limited* v. *ACIT***[41], the Hon'ble Delhi ITAT commented on the scope of Article 26(2) of the Indo-UK DTAA (which deals with the PE of a non-resident not being treated less favourably than a resident).[42]As per the observations of the Delhi ITAT, to attract the non-discrimination clause, it must be shown: *Firstly*, the non-resident company is taxed in a manner that is more burdensome vis-à-vis in Indian company; and *secondly*, the resident company being compared to must be in an identical business as the non-resident company.[43]

(D) In *Rajeev Sureshbhai Gajwani* v. *ACIT*[44] it was held that despite bar in Section 80HHE, non-Residents are eligible for deduction in view of non-discrimination clause in DTAA. The assessee, a *citizen of America and a non-resident*, exported software from a PE in India and claimed *deduction u/s 80HHE* in respect of the profits earned from export of computer software by invoking the provisions of Article 26(2) of the

India-USA DTAA. *He claimed that in view of Article 26(2), he could not be treated less favourably than a resident assessee*. Section 80HHE is available only to domestic companies. HELD by the Special Bench: *"Article 26(2) of the India-USA DTAA provides that the taxation of a PE of an enterprise of a Contracting State in the other Contracting State shall not be less favorably levied in that other State than the tax levied on enterprises of that other Contracting State carrying on the same activities. In simple language,* ***Article 26(2) means that taxation of a PE of a USA resident shall not be less favorable than the taxation of a resident enterprise carrying on the same activities****. The result is that the* ***exemptions and deductions available to Indian enterprises would also be granted to the US enterprises if they are carrying on the same activities****. As the assessee was carrying on the "same activities" of export of software as done by residents it was entitled to Section 80HHE deduction as admissible to a resident assessee*

Thus, as per this Ruling:

(1) If there are certain exemptions and deductions that are not available to a non-resident and would have been available to the non-resident had it been an Indian company then it can be held that it is less favourably treated.

(2) For the application of Article 26(2), it is sufficient to show that the non-resident is engaged in the same business as the resident it is treated less favourably to. The different circumstances in which the business may be being performed is not to be considered.

(3) There is no scope of reasonable differentiation.

(E) In the case of ***Metchem Canada* v. *DCIT***[45] the issue was whether restrictions on the deduction of head office expenditure of non-residents under Section 44C would attract the non-discrimination clause under the Indo-Canada DTAA. While holding that Section 44C would attract the non-discrimination clause the court laid out the scope of application of the non-discrimination clause as follows with reference to Metchem Canada Rules: **"**In any event on a plain reading of the provisions of the Article 24(2) we are of the considered view that a restriction on admissibility of head office overheads of permanent establishment of a Canadian company constitutes discrimination against such a PE vis-à-vis a domestic Indian entity because no such restriction is applicable for deduction of head office or controlling office overheads of an Indian entity. It puts PE of a Canadian company **to an unfair disadvantage** inasmuch as even legitimate business expenses attributable to the PE and deductible under Section 37(1) cannot be allowed as a deduction in the light of restriction placed under Section 44C of the Act whereas all the legitimate business expenses of the Indian entity operating in India will be allowed as a deduction.

In a somewhat surprising Indian case the permanent establishment non discrimination provision was found to override domestic law restrictions on the deduction of head office expenses even though there was specific wording in the business profits article to preserve those domestic restrictions. The non discrimination article was characterized as a special provision which overrode the business profits article. While one of the fundamental principles for operation and interpretation of treaties continuous to be *pacta sunt servanda* as mentioned in the Vienna Convention on the Law of Treaties which means that every treaty in force is binding upon the parties to it and must be performed by them in good faith one needs to watch for the reaction of the International tax community to the present decision which can be termed as progressive in many ways.

(F) In ***Automated Securities clearance Inc.* v. *Income Tax Officer***[46], the question was whether a non-resident company could be given the benefit under Section 80 HHE on the basis of the non-discriminatory clause under Article 26(2) of the Indo-US DTAA. Rejecting the claim of the assessee the Hon'ble ITAT held that Section 80HHE did not attract the non-discrimination clause under Article 26(2) of the Indo-US DTAA. The ITAT held: "*It is thus clear that in order to establish discrimination not only that a taxpayer has to demonstrate that he has been subjected to different treatment vis-à-vis other taxpayers but also that the ground for this differentiation in treatment is unreasonable, arbitrary or irrelevant… In our considered view irrespective of whether at the end of the day such a differentiation turns out to be a very wise and pragmatic differentiation or not there is a reasonable basis of this approach of granting tax incentives to exporters only in the cases where exports are made by the resident taxpayers.*".

According to this Ruling for the non-discrimination clause is attracted on the following criteria must be fulfilled: *Firstly*, the non-resident has to show that its PE has been subjected to a less favourable tax treatment compared to a resident company and *secondly* the ground for differential treatment is unreasonable. Thus the Automated Securities case laid down certain criteria for the application of the non-discrimination clause under Article 26(2) which would ensure that the differential tax treatment of foreign residents and companies vis-à-vis Indian residents and companies was not totally ruled out while at the same time ensuring that the foreign residents/companies were not unjustly discriminated against.

Part V: Conclusion

While the law on interpretation of treaties is evolving with times and it is a recognized fact that the Indian courts have been making a fair contribution to this progress it may be worth considering following aspects.

(*a*) Whether a very broad meaning is required to be attributed to the non-discrimination clause as has been sought to be done or a more contextual meaning needs to be placed while interpreting the non-discrimination clause so as to ensure that the results fall within the overall backdrop of the negotiations of the particular treaty.

(*b*) Whether the interpretation of non-discrimination clause has to be in the overall context of the other clauses of the treaty as each treaty is a result of protracted negotiations between the countries. This aspect is relevant as a reference to the article dealing with relief from double taxation to be granted to tax payers of the two countries as existing in the Belgium, Denmark, France, Indonesia, Ireland, Korea and Japan DTAA's would show that during the negotiation of such treaties a clear understanding is reached on how the two countries would like to deal with incentives granted by one of the countries to further its economic development. For example a reference to clause 23(3)(*d*)(1) of the Denmark treaty would show that there was specific discussion about incentives granted under the Indian Income Tax Act under Sections 80HH, 80I and 80J etc.

(*c*) Whether the principle that all the clauses of an agreement will have to be harmoniously read to understand the intention of the negotiators of any agreement equally applies in the case of sovereign agreements.

As international taxation increasingly becomes widespread and routine there will be more and more cases of alleged discrimination between local assessees and foreign

assessees resident in India. Double taxation is an evolving field and the resolution of each dispute will perhaps add to further clarity on the subject.

Endnotes

1. *See*, Rajkumar Adukia, '*Double Taxation Avoidance Agreement and Taxation*', available on www.carajkumarradukia.com/articles/dtaa.doc *as referred on 6th Sept, 2011.*
2. *See,* www.ilsa.org/jessup/jessup06/basicmats/vclt.doc *as referred on 6th Sept, 2011.*
3. Vinod Singhania & Monica Singhania, 'Corporate Tax Planning and business Tax Procedure' 205 (Taxmann, 1th Edn 2010).
4. *See,* http://www.itatonline.org/interpretation/interpretation17.php *as referred on 2 Sept, 2011.*
5. *See,* http://www.cainindia.org/news/9_2008/double_taxation_avoidance_agreement_.html *as referred on 6 Sept, 2011*
6. *Id.* Government of India has entered into Double Taxation Avoidance Agreements (DTAAs) with various countries.
7. *See,* icai.org/resource_file/10941p1123-30.pdf *as referred on 1 Sept, 2011*
8. Section 2(7) of the Income Tax Act.
9. *Supra* note 6.
10. *Supra* note 4.
11. *Id.*
12. *Id.*
13. *Id.*
14. **(1)** The Central Government may enter into an agreement with the Government of any country outside India - (*a*) For the granting of relief in respect of income on which have been paid both income-tax under this Act and income-tax in that country, or (*b*) For the avoidance of double taxation of income under this Act and under the corresponding law in force in that country, or (*c*) For exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance, or (*d*) For recovery of income-tax under this Act and under the corresponding law in force in that country, and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement. **(2)** Where the Central Government has entered into an agreement with the Government of any country outside India under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.
15. **(1)** If any person who is resident in India in any previous year proves that, in respect of his income which accrued or arose during that previous year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 90 for the relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal. **(2)** If any person who is resident in India in any previous year proves that in respect of his income which accrued or arose to him during that previous year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income-tax payable by him - (*a*) Of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also; or (*b*) Of a sum calculated on that income at the Indian rate of tax; whichever is less. **(3)** If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any previous year and such share includes any income accruing or arising outside India during that previous year (and which is not deemed to accrue or arise in India) in a country with

which there is no agreement under section 90 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income so included at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

16. *Supra* note 11.

17. *See,* International Taxation available at http://icai.org/resource_file/10941p1123-30.pdf *as referred on 1 Sept, 2011*

18. Section 90 of the Act.

19. "**1.** Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. **2.** Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. **3.** The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relief's and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. **4.** Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. **5.** Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. **6.** The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description..

20. *See,* http://www.nishithdesai.com/Research-Papers/Discrimination-IFA(AHD)-SG.pdf *as referred on 3 Sept, 2011*

21. *Id.*

22. D.P.Mittal, 'Indian Double taxation Agreements & Tax Laws' p. 1.453

23. *Supra* note 17.

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. *Ruckdescel v hauptzollamy hamburg –St.Annen* 1979 2 C.M.L R 445

29. *See,* http://www.itatonline.org/interpretation/interpretation17.php *as referred on 1 Sept, 2011.*

30. *Id.*

31. *See,*http://articles.manupatra.com/PopOpenArticle.aspx?ID=e014070e-9c64-4ef0-b5e9b62130153ba9&txtsearch=DTAA *as referred on 1 Sept, 2011.*

32. 2005 94 ITD 401 Mum

33. Article 21 "The nationals of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected. In particular, the citizens of one Contracting State who are subjected to tax in the other Contracting State shall be entitled to the same extent as the citizens of that other Contracting State, to any exemption, deduction, credit or other allowance accorded in consideration of the family circumstances."

34. Article 21

35. *CIT* v. *Visakhapatnam Port Trust* (1983) 144 ITR 146 (AP) and Tribunal decisions in the cases of *Graphite India Ltd.* v. *Dy. CIT* (2003) 78 TTJ (Cal) 418 : (2003) 86 ITD 384 (Cal) *and Dy. CIT* v. *ITC Ltd.* (2003) 83 TTJ (Cal) 798 : (2003) 85 ITD 162 (Cal).

36. Section 2(22A) of the Act describes a domestic company as an Indian company or any other company which in respect of its income liable to tax under the Act, has made the prescribed arrangements for the declaration and payment within India, of the dividends (including dividends on preference shares) payable out of such income.

37. Section 2(23A) on the other hand defines a foreign company, as a company which is not a domestic company

38. (6 SOT 144)

39. To press for its arguments, the assessee relied upon article 25 of the DTAA between India and Korea.

40. In the *Bank of Tokyo Mitsubishi* case, the ITAT Calcutta has held that non-discrimination clause is not applicable to differential rate treatment. This is also confirmed by the CBDT Circular No. 333, dated 2-4-1982.

41. *[*2010-TII-139-ITAT-DEL-INTL

42. *[*2010-TII-139-ITAT-DEL-INTL "*In view of the above provision taxing of a non-resident U.K. company in a manner which is more burdensome vis-a-vis an Indian company would lead to discrimination. This would also amount to unfavourable treatment being meted out to a U.K. company vis-a-vis the Indian company doing identical business in India*".

43. *[*2010-TII-139-ITAT-DEL-INTL

44. *Rajeev Sureshbhai Gajwani* v. *ACIT* (ITAT Ahmedabad – Special Bench) [2011-TII-38-ITAT-AHM-SB-INTL]

45. [2006-TII-06-ITAT-MUM-INTL]

46. [2008-TII-78-ITAT-PUNE-INTL]