CHAPTER 22

DOUBLE TAXATION RELIEF

LEARNING OUTCOMES

After studying this chapter, you would be able to -

- **appreciate** the need for double taxation relief;
- **appreciate** the types of double taxation relief available;
- **comprehend and apply** the provisions relating to double taxation relief contained in the Income-tax Act, 1961 and Income-tax Rules, 1962 in problem solving and addressing related issues;
- **comprehend** the procedure for claiming deduction where there is no double taxation avoidance agreement between India and the other country where the income has been taxed and **compute** the amount of deduction;
- **appreciate** the concept of Permanent Establishment under double taxation avoidance agreements and its relevance.

22.1 CONCEPT OF DOUBLE TAXATION RELIEF

In the present era of cross-border transactions across the globe, the effect of taxation is one of the important considerations for any trade and investment decision in other countries. One of the most significant results of globalisation is the visible impact of one country's domestic tax policies on the economy of another country. This has led to the need for continuously assessing the tax regimes of various countries and bringing about necessary reforms.

Where a taxpayer is resident in one country but has a source of income situated in another country it gives rise to possible double taxation. This arises from the two basic rules that enables the country of residence as well as the country where the source of income exists to impose tax namely, (i) the source rule and (ii) the residence rule.

Source rule of taxation

The source rule holds that income is to be taxed in the country in which it originates irrespective of whether the income accrues to a resident or a non-resident.

Residence rule of taxation

The residence rule stipulates that the power to tax should rest with the country in which the taxpayer resides.

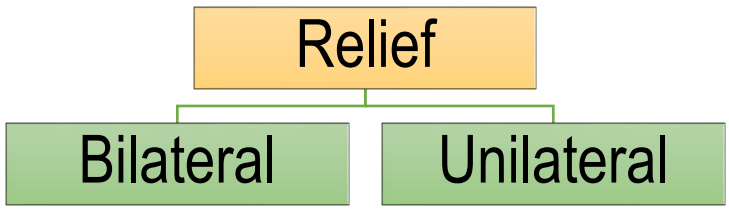
If both rules apply simultaneously to a business entity and it were to suffer tax at both ends, the cost of operating on an international scale would become prohibitive and would deter the process of globalisation. It is from this point of view that Double Taxation Avoidance Agreements (DTAA) become very significant.

DTAAs lay down the allocation rules for taxation of the income by the source country and the residence country. Such rules are laid for various categories of income, for example, interest, dividend, royalties, capital gains, business income etc. Each such category is dealt with by separate article in the DTAA.

Double taxation means taxing the same income twice in the hands of an assessee. A particular income may be taxed in India in the hands of a person based on his/its residence. However, the same income may be taxed in his/its hands in the Source Country also, as per the domestic laws of that country. This gives rise to double taxation. It is a universally accepted principle that the same income should not be subjected to tax twice. In order to take care of such situations, the Income-tax Act, 1961 has provided for double taxation relief.

22.2 TYPES OF RELIEF

Relief from double taxation can be provided in mainly two ways:



(1) **Bilateral Relief**

Under this method, the Governments of two countries can enter into an agreement to provide relief against double taxation by mutually working out the basis on which the relief is to be granted. India has entered into agreements for relief against or avoidance of double taxation with almost 100 countries which include Sri Lanka, Switzerland, Sweden, Denmark, Japan, Federal Republic of Germany, Greece, etc.

Bilateral Relief may be granted in either one of the following methods:

Exemption Method

- A particular income is taxed in only one of the two countries.

Tax Credit Method

- Income is taxable in both countries in accordance with their respective tax laws read with double taxation avoidance agreement.
- The country of residence of the tax payer, however, allows him credit for the tax charged thereon in the country of source.

India follows credit method in majority of its DTAAs.

(2) **Unilateral Relief**

This method provides for double taxation relief unilaterally by a country to its resident for the taxes paid in the other country, even where no DTAA has been entered into with

that country. India grants unilateral relief through credit method under section 91 to its residents for taxes paid in the country, with which India has not signed DTAA.

India has introduced foreign tax credit rules under Rule 128 which allows for granting credit to resident Indians for taxes paid in the other country.

22.3 DOUBLE TAXATION RELIEF PROVISIONS UNDER THE INCOME TAX ACT, 1961

Sections 90, 90A and 91 of the Income-tax Act, 1961 provide for double taxation relief in India.

(1) Agreement with foreign countries or specified territories outside India/ Adoption and implementation of agreement of specified association in India with specified association in specified territories outside India - Bilateral relief [Section 90/ 90A]

Both sections 90 and 90A provide for bilateral relief of double taxation. Section 90 empowers the Central Government to enter into an agreement with foreign country or specified territory outside India while section 90A empower the Central Government to make provisions for adopting and implementing of any agreement entered by any specified association in India with any specified association in the specified territory outside India.

(i) The objective of agreement under section 90 and 90A is

(a) for the granting of relief in respect of—

- income on which income-tax has been paid both in India and in that country or specified territory; or
- income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory to promote mutual economic relations, trade and investment; or

(b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory); 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 specified territory 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 or specified territory.

(ii) Where the agreement has been entered under section 90 or 90A for granting of relief of tax or 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.

(iii) However, the provisions of Chapter X-A, General Anti-Avoidance Rule, shall apply to the assessee even if such provisions are not beneficial to him.

(iv) The charge of tax in respect of a foreign company or a company incorporated in the specified territory outside India at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such company.

(v) Any term used in any agreement but not defined in the Act or in the agreement shall have the same meaning as assigned to in the notification issued by the Central Government in this behalf, unless the context otherwise requires and is not inconsistent with the provisions of the Act or the agreement.

Accordingly, the Central Government has, vide *Notification No.90/2008 dated 28.8.2008 and Notification No.91/2008 dated 28.8.2008*, notified that where an agreement under section 90A and 90 for granting of relief of tax or avoidance of double taxation provides that any income of a resident of India may be taxed in the other country, then such income shall be included in his total income chargeable to tax in India in accordance with the provisions of the Income-tax Act, 1961, and relief shall be granted in accordance with the method for elimination or avoidance of double taxation provided in such agreement.

(vi) **Meaning of terms used in agreement**

	Particulars	Meaning of the term
(1)	Term used in any agreement under section 90(1) or 90A(1) and not defined in the agreement or the Act but assigned a meaning in the notification	The term shall have the meaning assigned in the said notification and the meaning shall be deemed to have effect from the date on which

	issued by the Central Government in the Official Gazette, which is still in force.	the agreement came into force.
(2)	Term used in any agreement which is defined in the agreement itself.	The term shall have the same meaning assigned to it in the agreement.
(3)	Term used in any agreement, which is not defined in the said agreement, but defined in the Income-tax Act, 1961.	The term shall have the meaning assigned to it in the Income-tax Act, 1961 and explanation, if any, given to it by the Central Government.

(vii) The agreement under section 90 and 90A are intended to provide relief to the taxpayer, who is resident of one of the Contracting States to the agreement. Such taxpayer can claim relief by applying the beneficial provisions of either the treaty or the domestic law. However, in many cases, taxpayers who were not residents of a Contracting State also resorted to claiming the benefits under the agreement. In effect, third party residents claimed the unintended treaty benefits.

Therefore, section 90(4) and 90A(4) provides that the non-resident to whom the agreement referred to in section 90(1) or 90A(1) applies, shall be allowed to claim the relief under such agreements if a Tax Residence Certificate (TRC) obtained by him from the Government of that country or specified territory, is furnished declaring his residence of the country outside India or the specified territory outside India, as the case may be.

(viii) A certificate issued by the Government of a foreign country or specified territory outside India would constitute proof of tax residency, without any further conditions regarding furnishing of "prescribed particulars" therein. In addition to such certificate, section 90(5)/90A(5) requires the assessee to provide such other documents and information, as may be prescribed, for claiming the treaty benefits.

Documents and information, to be furnished by the assessee for claiming treaty benefits, prescribed by CBDT vide *Notification No. 57/2013 dated 01.08.2013*:

(i) Status (individual, company, firm etc.) of the assessee;

(ii) Nationality (in case of an individual) or country or specified territory of incorporation or registration (in case of others);

(iii) Assessee's tax identification number in the country or specified territory of residence and in case there is no such number, then, a unique number on the basis of which

the person is identified by the Government of the country or the specified territory of which the assessee claims to be a resident;

(iv) Period for which the residential status, as mentioned in the certificate referred to in section 90(4) or section 90A(4), is applicable; and

(v) Address of the assessee in the country or specified territory outside India, during the period for which the certificate, as mentioned in (iv) above, is applicable.

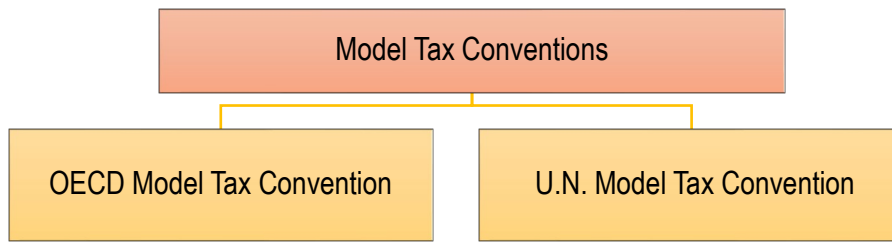
However, the assessee may not be required to provide the information or any part thereof, if the information or the part thereof, as the case may be, is already contained in the TRC referred to in section 90(4) or section 90A(4).

The assessee shall keep and maintain such documents as are necessary to substantiate the information provided. An income-tax authority may require the assessee to provide the said documents in relation to a claim by the said assessee of any relief under an agreement referred to in section 90(1) or section 90A(1), as the case may be.

(ix) *Circular No. 333 dated 2.4.1982*, issued by CBDT provides that a specific provision of the DTAA will prevail over the general provisions of the Income-tax Act, 1961. However, where there is no specific provision in the treaty, then the Income-tax Act will apply. Generally, DTAA only provides for distribution of taxing rights between the residence and the source state. The computation mechanism is usually not provided under DTAA and the same is governed by the domestic tax law of each country.

(x) 'Specified association' under section 90A means any institution, association or body, whether incorporated or not, functioning under any law for the time being in force in India or the laws of the specified territory outside India and which may be notified as such by the Central Government.

Tax treaties are generally based on certain models. The most common ones are:



These model tax conventions will be discussed in detail in Chapter 27 "Overview of Model Tax Conventions".

ILLUSTRATION 1

Examine the correctness or otherwise of the following statement with reference to the provisions of Income-tax Act, 1961.

The double taxation avoidance treaties entered into by the Government of India override the domestic law.

SOLUTION

The statement is correct.

Section 90(2) provides that where a double taxation avoidance treaty is entered into by the Government, the provisions of the Income-tax Act, 1961 would apply to the extent they are more beneficial to the assessee.

In case of any conflict between the provisions of the double taxation avoidance agreement and the Income-tax Act, 1961, the provisions of the DTAA would prevail over the Act in view of the provisions of section 90(2), to the extent they are more beneficial to the assessee [*CIT v. P.V.A.L. Kulandagan Chettiar (2004) 267 ITR 654 (SC)].*

(2) Countries with which no agreement exists – Unilateral Agreements [Section 91]

In the case of income arising to an assessee in countries with which India does not have any double taxation agreement, relief would be granted under section 91 provided all the following conditions are fulfilled:

(a) The assessee is a resident in India during the previous year in respect of which the income is taxable.

(b) The income accrues or arises to him outside India.

(c) The income is not deemed to accrue or arise in India during the previous year.

(d) The income in question has been subjected to income-tax in the foreign country in the hands of the assessee.

(e) The assessee has paid tax on the income in the foreign country.

(f) There is no agreement for relief from double taxation between India and the other country where the income has accrued or arisen.

In such a case, the assessee shall be entitled to a deduction from the Indian income-tax payable by him. The deduction would be a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax in the said country, whichever is lower, or at the Indian rate of tax if both the rates are equal.

Meaning of important terms:

Term	Meaning
Indian rate of tax	The rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the provisions of the Act but before deduction of any double taxation relief due to the assessee
Rate of tax of the said country	Income-tax and super-tax actually paid in that country in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction on account of double taxation relief due in the said country, divided by the whole amount of income assessed in the said country
Income-tax in relation to any country	It includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country

ILLUSTRATION 2

Nandita, an individual resident retired employee of the Prasar Bharati aged 60 years, is a well-known dramatist deriving income of ₹ 1,10,000 from theatrical works played abroad. Tax of ₹ 11,000 was deducted in the country where the plays were performed. India does not have any Double Tax Avoidance Agreement under section 90 of the Income-tax Act, 1961, with that country. Her income in India amounted to ₹ 6,10,000. In view of tax planning, she has deposited ₹ 1,50,000 in Public Provident Fund and paid contribution to approved Pension Fund of LIC ₹ 32,000. She also contributed ₹ 28,000 to Central Government Health Scheme during the previous year and gave payment of medical insurance premium of ₹ 26,000 to insure the health of her mother, a non-resident aged 84 years, who is not dependent on her. Compute the tax liability of Nandita for the Assessment year 2025-26, assuming that she opted out of the default tax regime under section 115BAC.

SOLUTION

Computation of tax liability of Nandita for the A.Y. 2025-26 under normal provisions of the Act

Particulars	₹	₹
Indian Income		6,10,000
Foreign Income		1,10,000
Gross Total Income		**7,20,000**
Less: **Deduction under section 80C**		
Deposit in PPF	1,50,000	

Under section 80CCC		
Contribution to approved Pension Fund of LIC	32,000	
	1,82,000	
Under section 80CCE		
The aggregate deduction under section 80C, 80CCC and 80CCD(1) has to be restricted to ₹ 1,50,000	1,50,000	
Under section 80D		
Contribution to Central Government Health Scheme ₹ 28,000 is also allowable as deduction under section 80D. Since she is a resident senior citizen, the deduction is allowable to a maximum of ₹ 50,000 **(See Note 1)**	28,000	
Medical insurance premium of ₹ 26,000 paid for mother aged 84 years. Since the mother is a non-resident in India, she will not be entitled for the higher deduction of ₹ 50,000 eligible for a senior citizen, who is resident in India. Hence, the deduction will be restricted to maximum of ₹ 25,000.	25,000	2,03,000
Total Income		**5,17,000**
Tax on Total Income		
Income-tax (See Note below)		13,400
Add: Health and Education Cess @4%		536
		13,936
Average rate of tax in India	2.696%	
(i.e. ₹ 13,936/ ₹ 5,17,000 × 100)		
Average rate of tax in foreign country	10%	
(i.e. ₹ 11,000/ ₹ 1,10,000 × 100)		
Deduction under section 91 on ₹ 1,10,000 @ 2.696% (lower of average Indian-tax rate or average foreign tax rate)		2,966
Tax payable in India (₹ 13,936 – ₹ 2,966)		**10,970**

Notes:

1. Section 80D allows a higher deduction of up to ₹ 50,000 in respect of the medical premium paid to insure the heath of a senior citizen. Therefore, Nandita will be allowed deduction of ₹ 28,000 under section 80D, since she is a resident Indian of the age of 60 years.

2. The basic exemption limit for senior citizens under the normal provisions of the Act is ₹ 3,00,000 and the age criterion for qualifying as a "senior citizen" for availing the higher basic exemption limit is 60 years. Accordingly, Nandita is eligible for the higher basic exemption limit of ₹ 3,00,000, since she is 60 years old.

3. An assessee shall be allowed deduction under section 91 provided all the following conditions are fulfilled:-

(a) The assessee is a resident in India during the relevant previous year.

(b) The income accrues or arises to him outside India during that previous year.

(c) Such income is not deemed to accrue or arise in India during the previous year.

(d) The income in question has been subjected to income-tax in the foreign country in the hands of the assessee and the assessee has paid tax on such income in the foreign country.

(e) There is no agreement under section 90 for the relief or avoidance of double taxation between India and the other country where the income has accrued or arisen.

In this case, since all the above conditions are satisfied, Nandita is eligible for deduction u/s 91.

(3) Foreign Tax Credit [Rule 128 of Income-tax Rules, 1962]

(i) Year of availability of credit for foreign tax paid

An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent as specified in this rule.

However, in a case where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India.

(ii) Meaning of "Foreign tax":

	Country/Specified Territory	Foreign Tax
(i)	in respect of a country or specified territory outside India with which India has entered into an agreement for the relief or	the tax covered under the said agreement

	avoidance of double taxation of income in terms of section 90 or section 90A	
(ii)	in respect of any other country or specified territory outside India	the tax payable under the law in force in that country or specified territory in the nature of income-tax referred to in section 91. For this purpose, income-tax in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country.

(iii) Components of income-tax in respect of which FTC is available

Foreign Tax Credit (FTC) is available against the amount of tax, surcharge and cess payable under the Income-tax Act, 1961. However, it is not available in respect of any sum payable by way of interest, fee or penalty.

(iv) Manner of computing FTC

The credit of foreign tax would be the aggregate of the amounts of credit computed separately for each source of income arising from a particular country or specified territory outside India and shall be given effect to in the following manner:-

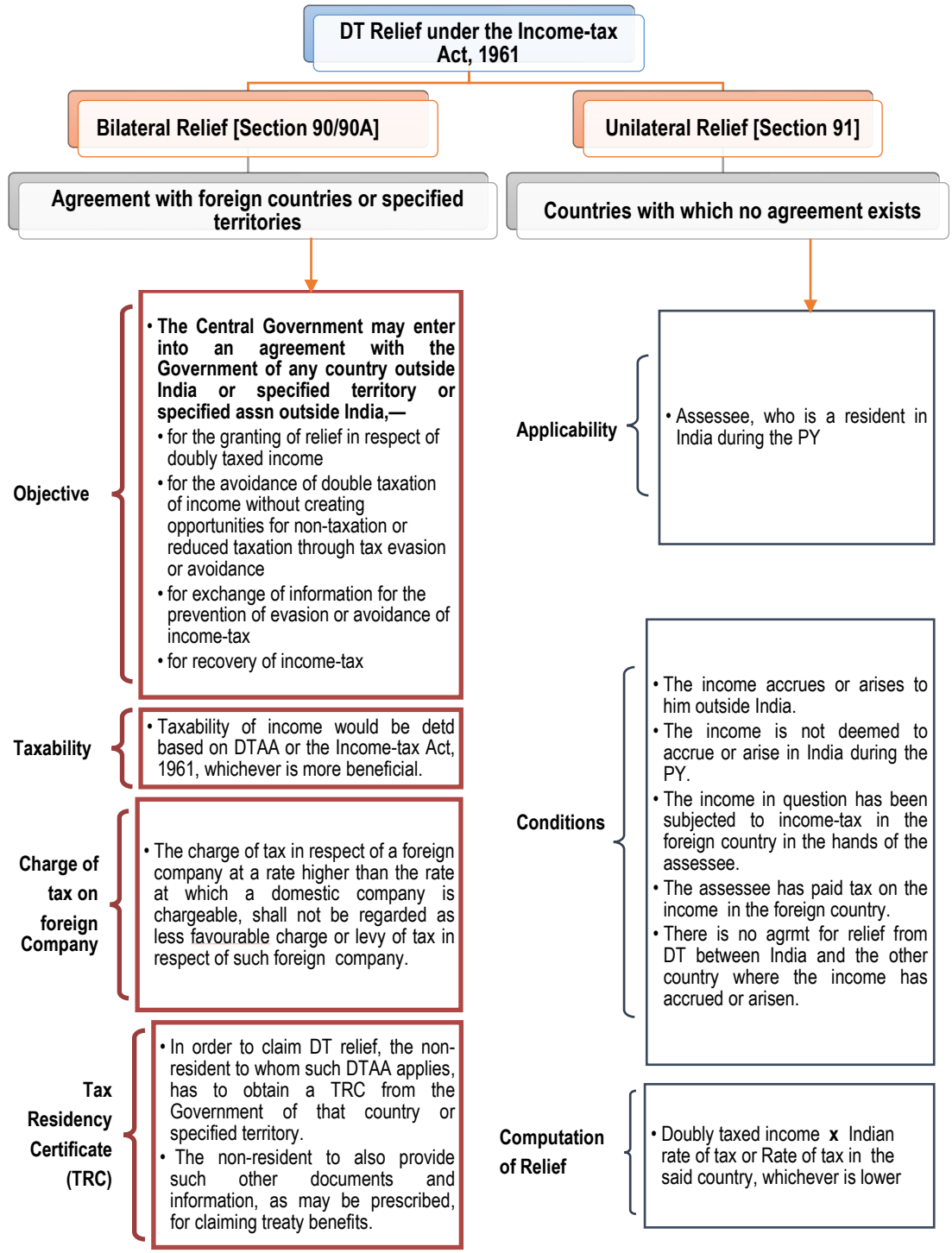
(a) the credit would be the lower of the tax payable under the Income-tax Act, 1961 on such income and the foreign tax paid on such income.

However, where the foreign tax paid exceeds the amount of tax payable in accordance with the provisions of the agreement for relief or avoidance of double taxation, such excess has to be ignored.

(b) the credit would be determined by conversion of the currency of payment of foreign tax at the telegraphic transfer buying rate on the last day of the month immediately preceding the month in which such tax has been paid or deducted.

***Note** – Students are advised to refer to Rule 128 of Income-tax Rules, 1961 given as Annexure 2 at the end of this module.*

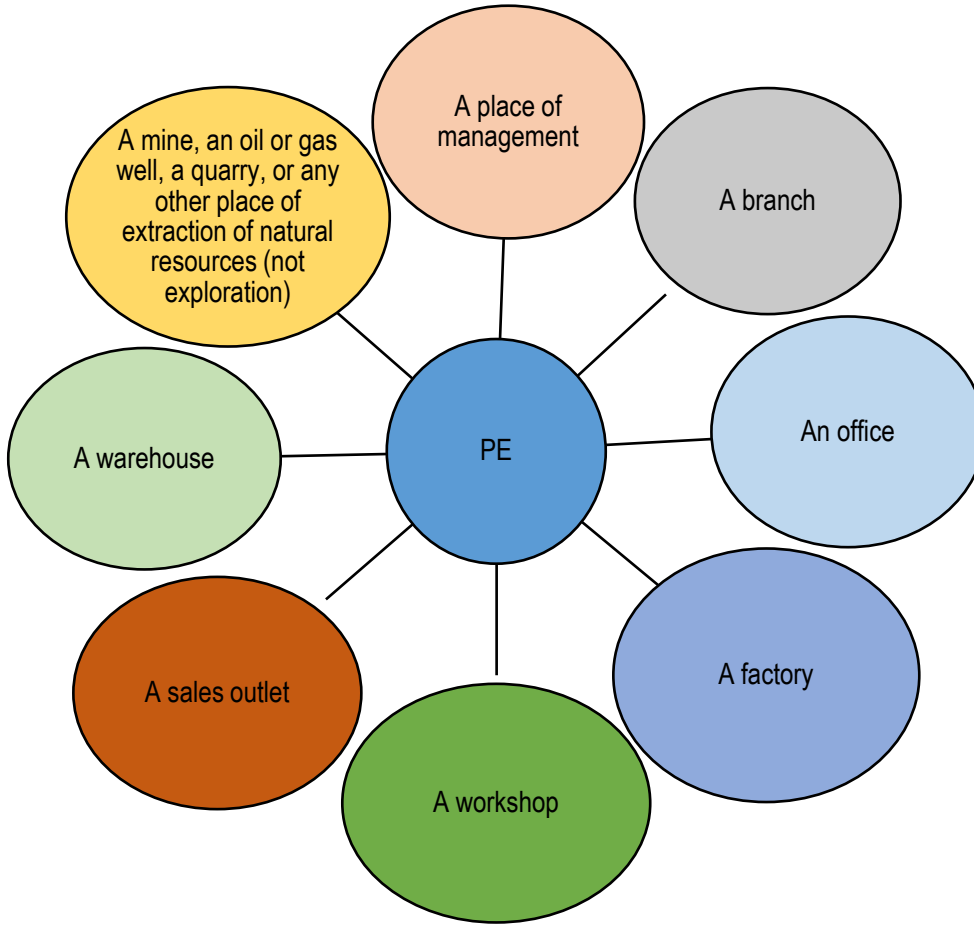
Summary



22.4 CONCEPT OF PERMANENT ESTABLISHMENT

Under the Income-tax Act, 1961, the taxability of business profits is determined by existence of business connection in India under section 9(1)(i). Under the DTAA, taxability of business profits is determined by existence of a Permanent Establishment (PE) in India. It may be noted that the scope of business connection under section 9(1)(i) is wider than that of a PE. Article 5(1) of the DTAA usually provides that for the purpose of this convention, the term 'Permanent Establishment' means a fixed place of business through which the business of an enterprise is wholly or partly carried on. The term PE is also defined under section 92F(iiia) to include a fixed place of business through which the business of the enterprise is wholly or partly carried on.

According to Article 5(2), the term PE includes

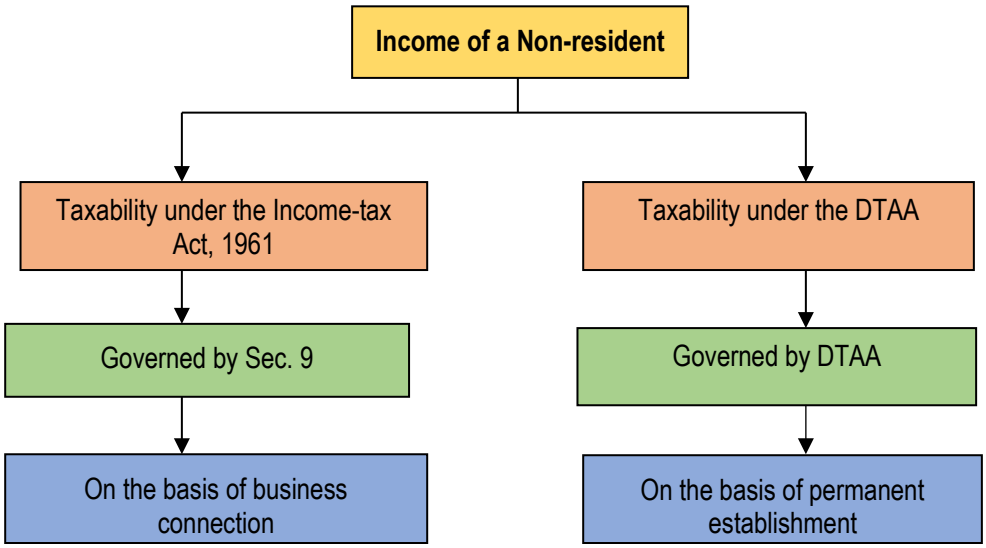


(1) Permanent establishment means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) Every DTAA has a specific clause, which will deal with an explanation of permanent establishment for the purpose of such DTAA.

(3) Business Income of a non-resident will not be taxed in India, unless such non-resident has a permanent establishment in India.

(4) Taxability of income under business connection and permanent establishment is explained here below:



(5) **Liaison Office – Does it constitute a PE?**

(i) **Liaison Office engaged in remittance services** - In *Union of India v. UAE Exchange Center (2020) 425 ITR 30*, the Supreme Court held that an Indian liaison office of a foreign enterprise engaged in remittance services would **not** constitute a PE. In this case, no permission was given by RBI to the assessee to engage in primary business activity and establish a business connection. The liaison office downloads information (such as names and addresses of beneficiaries, amount to be remitted, etc.) by accessing the main servers of assessee in UAE, prints cheques/draft and dispatches them to the addresses of beneficiaries through courier. The Supreme Court held that even if the activities of LO are regarded as business activities, they were of preparatory or auxiliary character.

(ii) **Liaison Office as Communication Channel** - In *DIT (International Taxation) v. Samsung Heavy Industries Ltd. (2020) 426 ITR 1 (SC)*, the project office was set up solely as an auxiliary office meant to act as liaison office between ONGC and the assessee. No expenditure relating to execution of contract was incurred by the project office. Only two persons were working in the project office and they were not qualified to perform any core activity of the assessee. Therefore, the Supreme Court held that the project office is not a fixed place of business through which core business of assessee is carried on, and hence, the same would **not** constitute a PE.

Identifying new customers, marketing activities, price negotiation, discussion of commercial issues, securing and processing orders have led to the liaison office forming a PE.

22.5 TAXATION OF BUSINESS PROCESS OUTSOURCING UNITS IN INDIA

The provisions containing taxation of IT-enabled business process outsourcing units are not contained in the Income-tax Act, 1961 but are given in *Circular No.5/2004 dated 28.9.2004* issued by CBDT. The provisions are briefed hereunder –

(a) A non-resident entity may outsource certain services to a resident Indian entity. If there is no business connection between the two, the resident entity may not be a Permanent Establishment of the non-resident entity, and the resident entity would have to be assessed to income-tax as a separate entity. In such a case, the non-resident entity will not be liable under the Income-tax Act, 1961.

(b) However, it is possible that the non-resident entity may have a business connection with the resident Indian entity. In such a case, the resident Indian entity could be treated as the Permanent Establishment of the non-resident entity.

(c) The non-resident entity or the foreign company will be liable to tax in India only if the IT enabled BPO unit in India constitutes its Permanent Establishment.

(d) A non-resident or a foreign company is treated as having a Permanent Establishment in India if the said non-resident or foreign company carries on business in India through a branch, sales office etc. or through an agent (other than an independent agent) who habitually exercises an authority to conclude contracts or regularly delivers goods or merchandise or habitually secures orders on behalf of the non-resident principal. In such a

case, the profits of the non-resident or foreign company attributable to the business activities carried out in India by the Permanent Establishment becomes taxable in India.

(e) If a foreign enterprise carries on business in another country through a Permanent Establishment situated therein, the profits of the enterprise may be taxed in the other country but only so much of them as is attributable to the Permanent Establishment.

(f) Profits are to be attributed to the Permanent Establishment as if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a Permanent Establishment.

(g) In determining the profits of a Permanent Establishment there shall be allowed as deduction, expenses which are incurred for the purposes of the Permanent Establishment including executive and general administrative expenses so incurred, whether in the State in which the Permanent Establishment is situated or elsewhere.

(h) The expenses that are deductible would have to be determined in accordance with the accepted principles of accountancy and the provisions of the Income-tax Act, 1961.

(i) The profits to be attributed to a Permanent Establishment are those which that Permanent Establishment would have made if, instead of dealing with its Head Office, it had been dealing with an entirely separate enterprise under conditions and at prices prevailing in the ordinary market. This corresponds to the "arm's length principle".

(j) Hence, in determining the profits attributable to an IT-enabled BPO unit constituting a Permanent Establishment, it will be necessary to determine the price of the services rendered by the Permanent Establishment to the Head office or by the Head office to the Permanent Establishment on the basis of "arm's length principle".

TEST YOUR KNOWLEDGE

Questions

1. *Cosmos Limited, a company incorporated in Mauritius, has a branch office in Hyderabad opened in April, 2024. The Indian branch has filed return of income for assessment year 2025-26 disclosing income of ₹ 50 lakhs. It paid tax at the rate applicable to domestic company i.e. 30% plus higher education cess@4% on the basis of paragraph 2 of Article 24 (Non-Discrimination) of the Double Taxation Avoidance Agreement between India and Mauritius, which reads as follows:*

   "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 in the same circumstances."

   However, the Assessing Officer computed tax on the Indian branch at the rate applicable to a foreign company i.e. 35% plus higher education cess@4%.

   Is the action of the Assessing Officer in accordance with law?

2. *Kalpesh Kumar, a resident individual, is a musician deriving income of ₹ 7,50,000 from concerts performed outside India. Tax of ₹ 1,00,000 was deducted at source in the country where the concerts were performed. India does not have any double tax avoidance agreement with that country. His income in India amounted to ₹ 30,00,000. Compute net tax liability of Kalpesh Kumar for the assessment year 2025-26 assuming he has deposited ₹ 1,50,000 in Public Provident Fund and paid medical insurance premium in respect of his father, resident in India, aged 65 years, ₹ 52,000.*

3. *The following are the particulars of income earned by Miss Vivitha, a resident Indian aged 25, for the assessment year 2025-26:*

	(₹ In lacs)
Income from playing snooker matches in country L	*12.00*
Tax paid in country L	*1.80*
Income from playing snooker tournaments in India	*19.20*
Life Insurance Premium paid	*1.10*
Medical Insurance Premium paid for her father (resident Indian) aged 62 years (paid through credit card)	*0.54*

   Compute her total income and net tax liability for the assessment year 2025-26. There is no Double Taxation Avoidance Agreement between India and country L.

4. *The concept of Permanent Establishment is one of the most important concepts in determining the tax implications of cross border transactions. Examine the significance thereof, when such transactions are governed by Double Taxation Avoidance Agreements (DTAA).*

5. *An individual resident in India, having income earned outside India in a country with which no agreement under section 90 exists, asks you to examine whether the credit for the tax paid on the foreign income will be allowed against his income-tax liability in India.*

6. *The Income-tax Act, 1961 provides for taxation of a certain income earned in India by Mr. X, a non-resident. The Double Taxation Avoidance Agreement, which applies to Mr. X provides for taxation of such income in the country of residence. Is Mr. X liable to pay tax on such income earned by him in India? Examine.*

7. *Arif is a resident of both India and another foreign country in the previous year 2024-25. He owns immovable properties (including residential house) in both the countries. He earned income of ₹ 50 lakhs from rubber estates in the foreign country during the financial year 2024-25. He also sold some house property situated in foreign country resulting in short-term capital gain of ₹ 10 lakhs during the year. Arif has no permanent establishment of business carried on in India. However, he has derived rental income of ₹ 6 lakhs from property let out in India and he has a house in Lucknow where he stays during his visit to India.*

   Article 4 of the Double Taxation Avoidance Agreement between India and the foreign country where Arif is a resident, provides that "where an individual is a resident of both the Contracting States, then, he shall be deemed to be resident of the Contracting State in which he has permanent home available to him. If he has permanent home in both the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests)".

   You are required to examine with reasons whether the business income of Arif arising in foreign country and the capital gains in respect of sale of the property situated in foreign country can be taxed in India.

8. *Mr. Kamesh, an individual resident in India aged 52 years, furnishes you the following particulars of income earned in India, Country "X" and Country "Y" for the previous year 2024-25. India has not entered into double taxation avoidance agreement with these two countries.*

Particulars	₹
Income from profession carried on in India	7,50,000
Agricultural income in Country "X" (gross)	50,000
Dividend from a company incorporated in Country "Y" (gross)	1,50,000
Royalty income from a literary book from Country "X" (gross)	6,00,000
Expenses incurred for earning royalty	50,000
Business loss in Country "Y" (Proprietary business)	65,000
Rent from a house situated in Country "Y" (gross)	2,40,000
Municipal tax paid in respect of the above house in Country "Y" (not allowed as deduction in country "Y")	10,000

Note: Business loss in Country "Y" not eligible for set off against other incomes as per law of that country.

The rates of tax in Country "X" and Country "Y" are 10% and 20%, respectively.

Compute total income and net tax liability of Mr. Kamesh in India for Assessment Year 2025-26, assuming that he opted out of the default tax regime under section 115BAC.

9. Mr. Anil, aged 49 years, a resident individual furnishes the following particulars of income earned by him in India and Country N for the previous year 2024-25. India does not have a double taxation avoidance agreement (DTAA) with Country N.

Particulars	Amount (₹)
Income from profession carried on in Mumbai	8,50,000
Agricultural Income in Country N	1,30,000
Dividend from a company incorporated in Country N (gross)	85,000
Royalty income from a literary book from Country N (gross)	6,25,000
Expenses incurred for earning royalty	75,000
Business loss in Country N	1,10,000

The domestic tax laws of Country N does not permit set-off of business loss against any other income. The rate of income-tax in Country N is 18%. Compute total income and net tax liability of Mr. Anil in India for A.Y. 2025-26, assuming that he satisfies all conditions for the purpose of section 91 and he opted out of the default tax regime under section 115BAC.

10. *Mr. Ravi, an individual resident in India aged 45 years, furnishes you the following particulars of income earned in India, Foreign Countries "S" and "T" for the previous year 2024-25.*

Particulars	₹
Indian Income:	
Income from business carried on in Mumbai	*4,40,000*
Interest on savings bank with ICICI Bank	*42,000*
Income earned in Foreign Country "S" [Rate of tax – 16%]:	
Agricultural income in Country "S"	*94,000*
Royalty income from a book on art from Country "S" (Gross)	*7,80,000*
Expenses incurred for earning royalty	*50,000*
Income earned in Foreign Country "T" [Rate of tax – 20%]:	
Dividend from a company incorporated in Country "T" (Gross)	*2,65,000*
Rent from a house situated in Country "T" (Gross)	*3,30,000*
Municipal tax paid in respect of the above house (not allowed as deduction in Country "T")	*10,000*

Compute the total income and net tax liability of Mr. Ravi in India for A.Y. 2025-26 assuming that India has not entered into double taxation avoidance agreement with Countries S & T.

Answers

1. Under section 90(2), where the Central Government has entered into an agreement for avoidance of double taxation with the Government of any country outside India or specified territory outside India, as the case may be, then, in relation to the assessee to whom such agreement applies, the provisions of the Income-tax Act, 1961 shall apply to the extent they are more beneficial to the assessee. Thus, in view of paragraph 2 of Article 24 (Non-discrimination of the DTAA, it appears that the Indian branch of Cosmos Limited, incorporated in Mauritius, is liable to tax in India at the rate applicable to domestic company (30%), which is lower than the rate of tax applicable to a foreign company (35%).

However, *Explanation 1* to section 90 clarifies that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company. Therefore, in view of this *Explanation*, the action of the Assessing Officer in levying tax@35% on the Indian branch of Cosmos Ltd. is in accordance with law.

2. Computation of net tax liability of Mr. Kalpesh for A.Y.2025-26 under the default tax regime under section 115BAC (assuming that he pays tax under the default tax regime)

Particulars	₹	₹
Indian Income		30,00,000
Foreign Income		7,50,000
Gross Total Income		**37,50,000**
Less: **Deduction under VI-A [Not available under default tax regime]**		Nil
Total Income		**37,50,000**
Tax on total income		8,15,000
Add: Health and Education cess @4%		32,600
		8,47,600
Average rate of tax in India [i.e., ₹ 8,47,600 /₹ 37,50,000 x 100]	22.60%	
Average rate of tax in foreign country [i.e. ₹ 1,00,000/ ₹ 7,50,000 x 100]	13.333%	
Doubly taxed income	7,50,000	
Deduction under section 91 on ₹ 7,50,000 @13.33% (lower of average Indian tax rate and foreign tax rate]		1,00,000
Net tax liability in India [₹ 8,47,600 – ₹ 1,00,000]		**7,47,600**

Computation of net tax liability of Mr. Kalpesh for A.Y.2025-26 under the normal provisions of the Act (assuming that he has exercised the option to shift out of default tax regime)

Particulars	₹	₹
Indian Income		30,00,000
Foreign Income		7,50,000
Gross Total Income		**37,50,000**
Less: **Deduction under section 80C**		
PPF Contribution	1,50,000	
Deduction under section 80D		
Medical insurance premium of father, being a resident senior citizen, restricted to	50,000	2,00,000
Total Income		**35,50,000**

Tax on total income		8,77,500
Add: Health and Education cess @4%		35,100
		9,12,600
Average rate of tax in India [i.e., ₹ 9,12,600 /₹ 35,50,000 x 100]	25.71%	
Average rate of tax in foreign country		
[i.e. ₹ 1,00,000/ ₹ 7,50,000 x 100]	13.333%	
Doubly taxed income	7,50,000	
Deduction under section 91 on ₹ 7,50,000 @13.33%		
(lower of average Indian tax rate and foreign tax rate]		1,00,000
Net tax liability in India [₹ 9,12,600 – ₹ 1,00,000]		**8,12,600**

Note: An assessee shall be allowed deduction under section 91 provided all the following conditions are fulfilled:-

(a) The assessee is a resident in India during the relevant previous year.

(b) The income accrues or arises to him outside India during that previous year.

(c) Such income is not deemed to accrue or arise in India during the previous year.

(d) The income in question has been subjected to income-tax in the foreign country in the hands of the assessee and the assessee has paid tax on such income in the foreign country.

(e) There is no agreement under section 90 for the relief or avoidance of double taxation between India and the other country where the income has accrued or arisen.

In this case, Kalpesh Kumar is eligible for deduction under section 91 since all the above conditions are fulfilled.

3. Computation of total income and net tax liability of Miss Vivitha for the A.Y. 2025-26 under the default tax regime under section 115BAC (assuming that she pays tax under the default tax regime)

Particulars	₹	₹
Indian Income [Income from playing snooker tournaments in India]		19,20,000
Foreign Income [Income from playing snooker matches in country L]		12,00,000
Gross Total Income		**31,20,000**
Less: Deduction under Chapter VIA		Nil
Total Income		**31,20,000**

Tax on Total Income		
Income-tax		6,26,000
Add: Health and education cess @4%		25,040
		6,51,040
Average rate of tax in India	20.87%	
(i.e. ₹ 6,51,040/₹ 31,20,000 × 100)		
Average rate of tax in foreign country	15.00%	
(i.e. ₹ 1,80,000/ ₹12,00,000 ×100)		
Deduction under section 91 on ₹ 12 lakh @ 15% (lower of average Indian-tax rate or average foreign tax rate)		1,80,000
Net tax liability in India (₹ 6,51,040 – ₹ 1,80,000)		**4,71,040**

Computation of total income and net tax liability of Miss Vivitha for the A.Y. 2025-26 under the normal provisions of the Act
(assuming that she has exercised the option to shift out of default tax regime)

Particulars	₹	₹
Indian Income [Income from playing snooker tournaments in India]		19,20,000
Foreign Income [Income from playing snooker matches in country L]		12,00,000
Gross Total Income		**31,20,000**
Less: Deduction under Chapter VIA		
Deduction under section 80C		
Life insurance premium of ₹ 1,10,000 paid during the previous year deduction, is within the overall limit of ₹ 1.5 lakh. Hence, fully allowable as deduction	1,10,000	
Deduction under section 80D		
Medical insurance premium of ₹ 54,000 paid for her father aged 62 years. Since her father is a senior citizen, the deduction is allowable to a maximum of ₹ 50,000. Further, deduction is allowable where payment is made by any mode other than cash. Here payment is made by credit card hence, eligible for deduction.	50,000	1,60,000
Total Income		**29,60,000**
Tax on Total Income		
Income-tax		7,00,500

Add: Health and education cess @4%		28,020
		7,28,520
Average rate of tax in India	24.61%	
(i.e. ₹ 7,28,520/₹ 29,60,000 × 100)		
Average rate of tax in foreign country	15.00%	
(i.e. ₹ 1,80,000/ ₹12,00,000 ×100)		
Deduction under section 91 on ₹ 12 lakh @ 15% (lower of average Indian-tax rate or average foreign tax rate)		1,80,000
Net tax liability in India (₹ 7,28,520 – ₹ 1,80,000)		**5,48,520**

Note: Miss Vivitha shall be allowed deduction under section 91, since the following conditions are fulfilled:-

(a) She is a resident in India during the relevant previous year.

(b) The income accrues or arises to her outside India during that previous year and such income is not deemed to accrue or arise in India during the previous year.

(c) The income in question has been subjected to income-tax in the foreign country L in her hands and she has paid tax on such income in the foreign country L.

(d) There is no agreement under section 90 for the relief or avoidance of double taxation between India and country L where the income has accrued or arisen.

4. Double Taxation Avoidance Agreements (DTAAs) generally contain an Article providing that business income is taxable in the country of residence, unless the enterprise has a permanent establishment in the country of source, and such income can be attributed to the permanent establishment.

As per section 92F(iiia), the term "Permanent Establishment" includes a fixed place of business through which the business of an enterprise is wholly or partly carried on.

As per this definition, to constitute a permanent establishment, there must be a place of business which is fixed and the business of the enterprise must be carried out wholly or partly through this place.

Section 9(1)(i) requires existence of business connection for deeming business income to accrue or arise in India. DTAAs, however, provide that business income is taxable only if there is a permanent establishment in India. As per section 90(2), the provisions of the Income-tax Act, 1961 or the DTAA, whichever is beneficial, shall apply. The PE concept is narrower than the business connection concept. Therefore, in a case where the Indian

Government has entered into DTAA with a country, unless and until the PE test is satisfied, the business income would not be taxable in the source country.

However, in cases not covered by DTAAs, business income attributable to business connection is taxable.

5. The assessee is a resident in India and accordingly, the income accruing or arising to him globally is chargeable to tax in India. However, section 91 specifies that if a person resident in India has paid tax in any country with which no agreement under section 90 exists, then, for the purpose of relief or avoidance of double taxation, a deduction is allowed from the Indian income-tax payable by him, of a sum calculated on such doubly taxed income at Indian rate of tax or the rate of tax of such foreign country, whichever is lower, or at the Indian rate of tax, if both the rates are equal. Accordingly, the assessee shall not be given any credit of the tax paid on the income in other country, but shall be allowed a deduction from the Indian income-tax payable by him as per section 91 read with Rule 128 on Foreign Tax Credit.

6. Section 90(2) makes it clear that where the Central Government has entered into a Double Taxation Avoidance Agreement with a country outside India, then in respect of an assessee to whom such agreement applies, the provisions of the Act shall apply to the extent they are more beneficial to the assessee. This means that where the DTAA has been entered, the assessee can opt to be governed by the provisions of DTAA if the provisions are beneficial in comparison to provisions of Act.

However, as per section 90(4), the assessee, in order to claim relief under the agreement, has to obtain a certificate [Tax Residence Certificate (TRC)] from the Government of that country, declaring the residence of the country outside India. Further, he also has to provide the following information in Form No. 10F:

(i) Status (individual, company, firm etc.) of the assessee;

(ii) PAN of the assessee, if allotted;

(iii) Nationality (in case of an individual) or country or specified territory of incorporation or registration (in case of others);

(iv) Assessee's tax identification number in the country or specified territory of residence and in case there is no such number, then, a unique number on the basis of which the person is identified by the Government of the country or the specified territory of which the assessee claims to be a resident;

(v) Period for which the residential status, as mentioned in the certificate referred to in section 90(4) or section 90A(4), is applicable; and

(vi) Address of the assessee in the country or specified territory outside India, during the period for which the certificate, as mentioned in (v) above, is applicable.

However, the assessee may not be required to provide the information or any part thereof, if the information or the part thereof, as the case may be, is already contained in the TRC referred to in section 90(4) or section 90A(4).

The Supreme Court has held, in *CIT v. P.V.A.L. Kulandagan Chettiar (2004) 267 ITR 654,* that in case of any conflict between the provisions of the Double Taxation Avoidance Agreement and the Income-tax Act, 1961, the provisions of the Double Taxation Avoidance Agreement would prevail over those of the Income-tax Act, 1961. Mr. X is, therefore, not liable to pay tax on the income earned by him in India provided he submits the Tax Residence Certificate obtained from the government of the other country and provides such other documents and information as may be prescribed.

7. Section 90(2) of the Income-tax Act, 1961 provides that where the Central Government has entered into an agreement with the Government of any other country for granting relief of tax or for avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of the Income-tax Act, 1961 shall apply to the extent they are more beneficial to that assessee.

In this case, Arif is resident of both India and the foreign country. Therefore, the DTAA provides for a tie-breaker rule wherein if a person is resident of two countries, he shall be deemed to be resident of the Contracting State in which he has permanent home available to him. If he has permanent home in both the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests).

Arif has residential houses both in India and foreign country. Thus, he has a permanent home in both the countries.

Arif owns rubber estates in a foreign country from which he derives business income. However, Arif has no permanent establishment of his business in India. Therefore, his personal and economic relations with foreign country are closer, since foreign country is the place where –

(a) the property is located and

(b) the permanent establishment (PE) has been set-up

Therefore, he shall be deemed to be resident of the foreign country for A.Y. 2025-26.

The fact of the case and issues arising therefrom are similar to that of *CIT vs. P.V.A.L. Kulandagan Chettiar (2004) 267 ITR 654*, where the Supreme Court held that if an assessee is deemed to be a resident of a Contracting State where his personal and economic relations are closer, then in such a case, the fact that he is a resident in India to be taxed in terms of sections 4 and 5 would become irrelevant, since the DTAA prevails over sections 4 and 5. Accordingly, only the income accruing or arising or deemed to accrue or arise in India shall be taxable in India in the hands of Arif.

However, as per section 90(4), in order to claim relief under the agreement, Arif has to obtain a certificate [Tax Residency Certificate (TRC)] declaring his residence of the country outside India from the Government of that country. Further, he also has to provide such other documents and information, as may be prescribed.

Therefore, in this case, Arif is not liable to income tax in India for assessment year 2025-26 in respect of business income and capital gains arising in the foreign country provided he furnishes the Tax Residency Certificate and provides such other documents and information as may be prescribed.

8. Computation of total income of Mr. Kamesh for A.Y.2025-26 under normal provisions of the Act

Particulars	₹	₹
Income from House Property [House situated in country Y]		
Gross Annual Value[1]	2,40,000	
Less: Municipal taxes	10,000	
Net Annual Value	2,30,000	
Less: Deduction under section 24 – 30% of NAV	69,000	
		1,61,000
Profits and Gains of Business or Profession		
Income from profession carried on in India	7,50,000	
Royalty income from a literary book from Country X (after deducting expenses of ₹ 50,000)	5,50,000	
	13,00,000	
Less: Business loss in country Y set-off[2]	65,000	
		12,35,000

[1] Rental Income has been taken as GAV in the absence of other information relating to fair rent, municipal value etc.
[2] As per section 70(1), inter-source set-off of income is permitted.

Income from Other Sources		
Agricultural income in country X	50,000	
Dividend from a company in country Y	1,50,000	2,00,000
Gross Total Income		**15,96,000**
***Less:* Deduction under Chapter VIA**		
Under section 80QQB – Royalty income of a resident from literary work[3]		3,00,000
Total Income		**12,96,000**

Note – Since adjusted total income (i.e., ₹ 15,96,000) does not exceed ₹ 20 lakhs, AMT would not be attracted in this case.

Computation of net tax liability of Mr. Kamesh for A.Y.2025-26

Particulars	₹
Tax on total income [30% of ₹ 2,96,000 + ₹ 1,12,500]	2,01,300
Add: Health and Education cess@4%	8,052
	2,09,352
Less: Deduction under section 91 **(See Working Note below)**	69,739
Net tax liability	**1,39,613**
Net tax liability (rounded off)	1,39,610

Working Note: Calculation of Rebate under section 91

	₹	₹
Average rate of tax in India [i.e., ₹ 2,09,352 / ₹ 12,96,000 x 100]	**16.154%**	
Average rate of tax in country X	**10%**	
Doubly taxed income pertaining to country X		
Agricultural Income	50,000	
Royalty Income [₹ 6,00,000 – ₹ 50,000 (Expenses) – ₹ 3,00,000 (deduction under section 80QQB)][4]	2,50,000	
	3,00,000	
Deduction under section 91 on ₹ 3,00,000 @10% [being the lower of average Indian tax rate (16.154%) and foreign tax rate (10%)]		30,000

[3] It is assumed that the royalty earned outside India has been brought into India in convertible foreign exchange within a period of six months from the end of the previous year.

[4] Doubly taxed income includes only that part of income which is included in the assessee's total income. The amount deducted under Chapter VIA is not doubly taxed and hence, no relief is allowable in respect of such amount – *CIT v. Dr. R.N. Jhanji (1990) 185 ITR 586 (Raj.).*

Average rate of tax in country Y	**20%**	
Doubly taxed income pertaining to country Y		
Income from house property	1,61,000	
Dividend	1,50,000	
	3,11,000	
Less: Business loss set-off	65,000	
	2,46,000	
Deduction u/s 91 on ₹ 2,46,000 @16.154% (being the lower of average Indian tax rate (16.154%) and foreign tax rate (20%)]		39,739
Total rebate under section 91 (Country X + Country Y)		**69,739**

Note: Mr. Kamesh shall be allowed deduction u/s 91, since the following conditions are fulfilled:-

(a) He is a resident in India during the relevant previous year (i.e., P.Y.2024-25).

(b) The income in question accrues or arises to him outside India in foreign countries X and Y during that previous year and such income is not deemed to accrue or arise in India during the previous year.

(c) The income in question has been subjected to income-tax in the foreign countries X and Y in his hands and it is presumed that he has paid tax on such income in those countries.

(d) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Countries X and Y where the income has accrued or arisen.

9. Computation of total income of Mr. Anil for A.Y.2025-26 under normal provisions of the Act

Particulars	₹	₹
Profits and Gains of Business or Profession		
Income from profession carried on in India	8,50,000	
Royalty income from a literary book in Country N (after deducting expenses of ₹ 75,000)	5,50,000	
	14,00,000	
Less: Business loss in Country N	1,10,000	12,90,000
Income from Other Sources		
Agricultural income in Country N [Not exempt u/s 10(1)]	1,30,000	

Dividend received from a company incorporated in Country N	85,000	
		2,15,000
Gross Total Income		**15,05,000**
***Less:* Deduction under Chapter VIA**		3,00,000
Under section 80QQB – Royalty income of a resident from a literary book[5]		
Total Income		**12,05,000**

Note – Since adjusted total income (i.e., ₹ 15,05,000) does not exceed ₹ 20 lakhs, AMT would not be attracted in this case.

Computation of net tax liability of Mr. Anil for A.Y.2025-26

Particulars		₹
Tax on total income [30% of ₹ 2,05,000 plus ₹ 1,12,500]		1,74,000
Add: Health and education cess @4%		6,960
Tax Liability		1,80,960
Calculation of Rebate under section 91:		
Average rate of tax in India [i.e., ₹ 1,80,960 / ₹ 12,05,000 x 100]	**15.017%**	
Average rate of tax in Country N	**18%**	
Doubly taxed income pertaining to Country N	**₹**	
Agricultural Income	1,30,000	
Royalty Income [₹ 6,25,000 – ₹ 75,000 (Expenses) – ₹ 3,00,000 (deduction under section 80QQB)] [6]	2,50,000	
Dividend income	85,000	
	4,65,000	
Less: Business Loss set off	1,10,000	
	3,55,000	
Rebate under section 91 on ₹ 3,55,000 @ 15.017% [being the lower of average Indian tax rate (15.017%) and foreign tax rate (18%)]		53,310
Net tax liability		**1,27,650**

[5] *It is assumed that the royalty earned outside India has been brought into India in convertible foreign exchange within a period of six months from the end of the previous year.*

[6] *Doubly taxed income includes only that part of income which is included in the assessee's total income. The amount deducted under Chapter VIA is not doubly taxed and hence, no relief is allowable in respect of such amount – CIT v. Dr. R.N. Jhanji (1990) 185 ITR 586 (Raj.).*

10. Computation of total income of Mr. Ravi for A.Y.2025-26 under the default tax regime under section 115BAC (assuming that he pays tax under the default tax regime)

Particulars	₹	₹
Income from House Property [House situated in Country T]		
Gross Annual Value[7]	3,30,000	
Less: Municipal taxes paid in Country T	10,000	
Net Annual Value	3,20,000	
Less: Deduction under section 24 – 30% of NAV	96,000	
		2,24,000
Profits and Gains of Business or Profession		
Income from business carried on in India	4,40,000	
Royalty income from a book on art in Country S (after deducting expenses of ₹ 50,000)	7,30,000	11,70,000
Income from Other Sources		
Interest on savings bank with ICICI Bank	42,000	
Agricultural income in Country S [Not exempt]	94,000	
Dividend from a company in Country T	2,65,000	4,01,000
Gross Total Income		**17,95,000**
Less: Deduction under Chapter VIA [Not available under default tax regime]		Nil
Total Income		**17,95,000**

Computation of tax liability of Mr. Ravi for A.Y.2025-26 under the default tax regime

Particulars		₹
Tax on total income		2,28,500
Add: Health and education cess @4%		9,140
		2,37,640
Less: Rebate under section 91 **(See Working Note below)**		1,73,828
Net tax liability		**63,812**
Net tax liability (Rounded off)		**63,812**

[7]Rental income has been taken as GAV in the absence of other information relating to fair rent, municipal value etc.

Calculation of Rebate under section 91:		
Average rate of tax in India [i.e., ₹ 2,37,640 / ₹ 17,95,000 x 100]	**13.239%**	
Average rate of tax in Country S	**16%**	
Doubly taxed income pertaining to Country S	**₹**	
Agricultural Income	94,000	
Royalty Income [₹ 7,80,000 – ₹ 50,000 (Expenses)]	7,30,000	
	8,24,000	
Rebate under section 91 on ₹ 8,24,000 @13.239% [being the lower of average Indian tax rate (13.239%) and Country S tax rate (16%)]		1,09,089
Average rate of tax in Country T	**20%**	
Doubly taxed income pertaining to Country T		
Income from house property	2,24,000	
Dividend	2,65,000	
	4,89,000	
Rebate under section 91 on ₹ 4,89,000 @13.239% (being the lower of average Indian tax rate (13.239%) and Country T tax rate (20%)]		64,739
Total rebate under section 91 (Country S + Country T)		**1,73,828**

Computation of total income of Mr. Ravi for A.Y.2025-26
under the normal provisions of the Act
(assuming that he has exercised the option to shift out of default tax regime)

Particulars	₹	₹
Income from House Property [House situated in Country T]		
Gross Annual Value[8]	3,30,000	
Less: Municipal taxes paid in Country T	10,000	
Net Annual Value	3,20,000	
Less: Deduction under section 24 – 30% of NAV	96,000	
		2,24,000
Profits and Gains of Business or Profession		
Income from business carried on in India	4,40,000	

[8]Rental income has been taken as GAV in the absence of other information relating to fair rent, municipal value etc.

Royalty income from a book of art in Country S (after deducting expenses of ₹ 50,000)	7,30,000	11,70,000
Income from Other Sources		
Interest on savings bank with ICICI Bank	42,000	
Agricultural income in Country S [Not exempt]	94,000	
Dividend from a company in Country T	2,65,000	4,01,000
Gross Total Income		**17,95,000**
***Less:* Deduction under Chapter VIA**		
Under section 80QQB – Royalty income of a resident from a work of art[9]		3,00,000
Under section 80TTA – Interest on savings bank account, subject to a maximum of ₹ 10,000.		10,000
Total Income		**14,85,000**

Note – Since adjusted total income (i.e., ₹ 17,85,000) does not exceed ₹ 20 lakhs, AMT would not be attracted in this case.

Computation of tax liability of Mr. Ravi for A.Y.2025-26 under the normal provisions of the Act

Particulars		₹
Tax on total income [30% of ₹ 4,85,000 + ₹ 1,12,500]		2,58,000
Add: Health and education cess @4%		10,320
		2,68,320
Less: Rebate under section 91 **(See Working Note below)**		1,72,197
Tax Payable		**96,123**
Tax payable (rounded off)		**96,120**
Calculation of Rebate under section 91:		
Average rate of tax in India [i.e., ₹ 2,68,320 / ₹ 14,85,000 x 100]	**18.069%**	
Average rate of tax in Country S	**16%**	

[9] It is assumed that the royalty earned outside India has been brought into India in convertible foreign exchange within a period of six months from the end of the previous year.

Doubly taxed income pertaining to Country S[10]	**₹**	
Agricultural Income	94,000	
Royalty Income [₹ 7,80,000 – ₹ 50,000 (Expenses) – ₹ 3,00,000 (deduction under section 80QQB)]	4,30,000	
	5,24,000	
Rebate under section 91 on ₹ 5,24,000 @16% [being the lower of average Indian tax rate (18.069%) and Country S tax rate (16%)]		83,840
Average rate of tax in Country T	**20%**	
Doubly taxed income pertaining to Country T		
Income from house property	2,24,000	
Dividend	2,65,000	
	4,89,000	
Rebate under section 91 on ₹ 4,89,000 @18.069% (being the lower of average Indian tax rate (18.069%) and Country T tax rate (20%)]		88,357
Total rebate under section 91 (Country S + Country T)		**1,72,197**

Note: Mr. Ravi shall be allowed deduction under section 91, since the following conditions are fulfilled:-

(a) He is a resident in India during the relevant previous year i.e., P.Y.2024-25.

(b) The income in question accrues or arises to him outside India in foreign countries S & T during that previous year and such income is not deemed to accrue or arise in India during the previous year.

(c) The income in question has been subjected to income-tax in the foreign countries "S" and "T" in his hands and it is presumed that he has paid tax on such income in those countries.

(d) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Countries S and T where the income has accrued or arisen.

[10]Doubly taxed income includes only that part of income which is included in the assessee's total income. The amount deducted under Chapter VIA is not doubly taxed and hence, no relief is allowable in respect of such amount – *CIT v. Dr. R.N. Jhanji (1990) 185 ITR 586 (Raj.).*