

## Tax Hotline

November 22, 2000

### THE HIGH COURT REFUSES TO GRANT A STAY AGAINST THE CBDT CIRCULAR REAFFIRMING INDIA-MAURITIUS TAX TREATY BENEFITS

The CBDT on April 13, 2000 had issued a circular stating that tax exemption on Capital Gains should be granted to Mauritius-based FIs once they have been given tax residency certificate by the Mauritius Income Tax authorities. This circular was contested through a public interest litigation (PIL) by an NGO Azadi Bachao Andolan.

The Delhi High Court refused to stay the operation of the circular. However, it held that should its final ruling uphold all the writ petitions which challenge the circular, the FIs claiming tax exemption upto that time based on the Board's order would be penalized. The final ruling is scheduled for January 31, 2001.

There were two PILs challenging the circular on the ground that CBDT had wrongly construed the residential status of the FIs who had registered their offices in Mauritius only to gain tax benefits in India under the Tax Treaty. The third petition contends that the CBDT was violating the very fundamentals for which it was granted powers as a statutory body u/s 119 of the IT Act by defending the right of these FIs to claim tax exemption here under the Tax Treaty.

Source: The Economic Times, November 22, 2000

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