Financial sector under threat

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A new Money Bill, the Direct Tax Code Bill, that is currently being circulated in India can spell serious trouble for the financial sector in Mauritius. It's time for the country to lobby against the General Anti-Avoidance Provision, says an Indian fiscal expert.

" The General Anti-Avoidance Provision (GAAP) that provides wide ranging arbitrary powers to the tax man is putting investors off. Section 123 is a big problem in GAAP, as it can override many laws and even court decisions.The tax commissioner can also ignore and override treaties signed with other countries, if it so deems fit," says Indian fiscal expert Nishith Desai.

With respect to the current tax treaty between Mauritius and India, Desai makes it clear that it is India that is upsetting Mauritius and not vice versa.

"India has benefitted tremendously from the treaty with Mauritius as investment that wouldn't have ordinarily reached Indian shores, did find itself there thanks to Mauritius despite some loss on account of capital gains," he explains.

He points out that India has counterweighed the losses through indirect tax from VAT, and tax on earning among others and therefore it has been win-win for both countries.

He thinks Mauritius "is significantly dependent on India" and should gradually "de-risk itself from it" by developing clear cut short/medium and long-term strategies to position itself in the global fiscal/economic/political markes.

He believes the medium strategy would be to move away from the current practice of laying heavy emphasis on inbound investment to India.

"Mauritius should now focus on Indian outbound investments and position itself as a platform to invest in Africa and elsewhere. In the long-term, it must de-risk itself from India. If Indian customers leave, then the Mauritian financial sector will be facing a serious problem," he says.

Desai was guest speaker at the HSBC discussion panel on the Indian Direct Tax Code Bill at the Sheraton Hotel in Ebène on Wednesday.

Desai explains that the new Bill is riddled with controversy and is causing major confusion with both local and foreign investors.

"The Bill is being introduced to simplify the law in India. But, in the construction of the Bill, instead of setting up a law commission, it was a small group of bureaucrats who rewrote the tax law. They came from the tax department but in drafting the Bill, they didn't take cognizance of taxpayers' laws, international laws, and treaty laws. This small group of people thought of new ideas and developed a Bill without any consultations with professionals, economists, lawyers, and judges. In the end, we have been left with a Bill that is a difficult instrument to handle and is causing uncertainty," he adds.

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