"International Tax Treaties: Abridging the Concept of Double Taxation Avoidance Agreements in India"

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Abstract: Double Taxation Avoidance Agreement came into existence from the problem of International Taxation under which same income taxed twice if it is earned in foreign country. International or double taxation affects international trade to decline which will reduce the objective of world trade of smooth and efficient sharing the resources to improve the economy of each and every country. Hence the study is undertaken to know the concept behind the implementation of DTAA and the ways of tax relief through DTAA under income tax act 1961 in India. Furthermore, to understand the classified advantages of DTAA's to Indian's, NRI's and at Genera level. And also the paper undergone to know the how much India's DTAA is made and active with other countries.

Keywords: International Trade, International Taxation, DTAA, Bilateral, Unilateral.

Introduction of Study:

World trade has long history, at earlier stage it has started with exchange of one kind of commodities with another by the countries having abundance of resource. Later commodities were exchanged for US Dollar and fine gold used payments. In recent, trading country's currencies took place as a meant of payment. Due to Globalization, international trade boosts up and economic transaction augmented. International taxation notion came up with international trade. International Taxation refers to taxation laws of various nations. Due to Liberalization, increased in international trade and commerce and the country permits to carry the business activities in other countries. With this, question arises about which country should charge tax? This mystification resulted into the income were taxed twice: once at source county and another by resident country. Owing to this international trade could go to wrack and ruin. To overcome this obstacle and carryout the smooth and effective trade between countries, DTAA (Double Taxation Avoidance Agreement) came into existence. DTAA is resolution of double taxation on same income of Assessee. Hence, the study is undertaken to acquaint the need and concept of DTAA, to understand the advantages of DTAA to countries who adopted it. Finally, to get know India's current and active DTAA with other countries.

Objectives of Study:

1. To comprehend the necessity and concept of DTAA in India.
2. To acquire the knowledge of advantages of DTAA to counterparties.
3. To bring to light on DTAA of India with other countries.

Research Methodology:

The paper is based on descriptive, applied and analytical in nature. It emphases on enlightening notions, analyzing practical applications, and assessing the impact of DTAA on various stakeholders. The study is executed using secondary sources of data. The research design focuses on qualitative understanding with analytical interpretation consisting research articles, journals, government publications, newspaper and websites.

- **Nature of Data:** The study depends totally on **secondary sources of evidence**. It includes research papers, journals, government and bulletin reports, tax policy manuals, articles published in newspapers, and data form official websites of regulatory authorities such as the Ministry of Finance, the Income Tax Department of India, and international tax officialdoms.
- **Approach of the Study:** A descriptive approach has been used to describe the concept and provisions of DTAA, while an logical perspective has been applied to evaluate its benefits and implications. The applied research of the study safeguards practical significance by connecting theoretical knowledge with real-world outcomes.
- **Data Collection Tools:** Information is collected through literature review, policy documents, comparative analysis of agreements, and case studies highlighting India's tax treaties with selected countries.
- **Scope of the Study:** The research focuses on India's position in the global taxation framework, with special emphasis on how DTAA helps reduce double taxation, avoids tax leakages, and fosters international cooperation.

Review of Literature:

Ritesh Pandey, Synthia F., Nithin M. (2018). The study was aimed to understand the relations between India and other countries and the impact of DTAA on Indian Economy. It is resulted that Indian trade at international market has been enlarged. So, DTAA is executed to the get rid of from tax paid at foreign as well as resident country. Due to this FDI were increased. The study also mentioned the drawback of DTAA is different tax rates and regimes in different countries that impacts on foreign trade and economy of various countries. But about foreign currency reserve in India is favorable situation for Indian Economy. **Aayushi Jain.** The study was conducted to critical analysis of DTAA under Income Tax Act, 1991. It came to conclusion that all India started DTAA for providing free flow of trade and relief form double taxation. The provision of taxation for trade of India with many countries has provided benefits i.e. tax relief as well as avoiding double taxation. **Arindam Das-Gupta. (2010).** the study was intended to contribute all the way through the improvement of DTAA for economic assessment which is benefited. The paper includes features India's current information gap. Further it has explained that the economic intellectuals having little knowledge of impact of DTAAs on nation economy. The paper tried to identify and recommend for filling the information gap and policy making for India. **Dr. Binoy Mathew. (2015).** the study was undertaken to understand the effects of change in DTAA on foreign investment in India. As tax treaty refers the government to government agreement of avoiding double taxation on same income. To recognize the effects of DTAA top 10 countries were selected with India do the trade. The study found that among top 10 countries Mauritius and Cyprus countries as investors in India were affected by the changes in DTAA's terms and conditions. It is because of money laundering and tax evasion. It also concluded, to create healthy investment environment India and many countries restructured their tax method. Instead of unilateral, these countries have preferred bilateral tax agreement to overcome the problem of double taxation. And on the flipside, developed countries Switzerland, Germany and USA have not affected by change in DTAA tax regime.

International Taxation:

International taxations refer to tax on goods and services and flow of capital from one country to another. Tax guru called it as international aspect of income tax laws for international trade of a country. But the tax regime differs country to country. Therefore, taxation system came across Double Taxation: one taxed at source country and second at resident country. Due to this there were more chances of decline in the world trade which is need of each and every country to share the resource and develop the economy. To overcome this problem DTAA (Double Taxation Avoidance Agreement) came into existence.

Any country charge tax on income on the basis of two rules:

Source Rule	**Resident Rule**
From where the income arise	Where the Assessee resides
Income is taxed from where the income is earned (Foreign Country/Government)	Income is taxed by the country where the person resides (Resident County/Government)

Concept of Double Taxation Avoidance Agreement (DTAA)

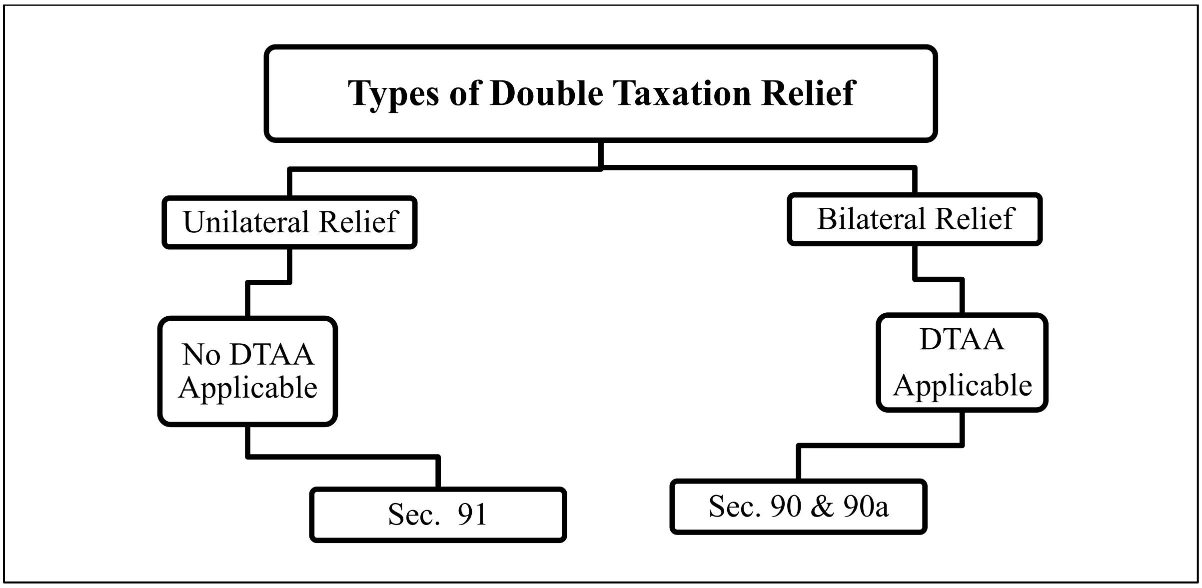
Double Taxation Avoidance Agreement (DTAA) also known as Tax Treaty is a bilateral agreement between two nations endeavor to keep away from or get rid of double taxation of the same income in two countries.

Necessity of Double Taxation Avoidance Agreement:

1. To stimulate transfer of knowledge and expertise
2. To put a stop on tax evasion, tax avoidance, grant relief, benefit of tax credits
3. To forbid inequity between taxpayers
4. To get better the co-operation between two different taxing country's governments
5. To catch the attention of foreign investments by providing relief from dual taxation.
6. To encourage the exchange of goods and services, capital and expertise
7. To provide transparency on how to cross-border transactions will be taxed.
8. To set down 'Definite Rules' for Revenue between two or more countries.
9. To free from certain Incomes taxes in both the Countries.
10. To further reduce tax rates on assured incomes.

Double taxation and it's avoidance is possible only when the Assessee is resident of one country and derives income from another country.

There are two types used in India to avoid the Double Taxation on same income:



Unilateral Relief:

Unilateral relief characterized by Indian government doesn't have any agreement on double taxation relief with other countries. It means there is no DTAA between two or more countries. In such cases Indian government gives rebates or relief on income earned and taxed and paid in source country in section 91 of income tax 1961 of India.

Bilateral Relief:

Bilateral relief describes as Indian government have DTAA with two or more countries which is given detailed in section 90 and 90a of income tax 1961 of India.

Section 90: It is an agreement of central government with foreign countries or specified territories.

Section 90 a: It is specific association of Reserve Bank of India makes agreement with Foreign Financial Institutions. The objectives of this section are: grant relief of double taxation on same income and exchange information with each other to prevent tax evasion and recover the tax.

Bilateral relief is classified into two methods:

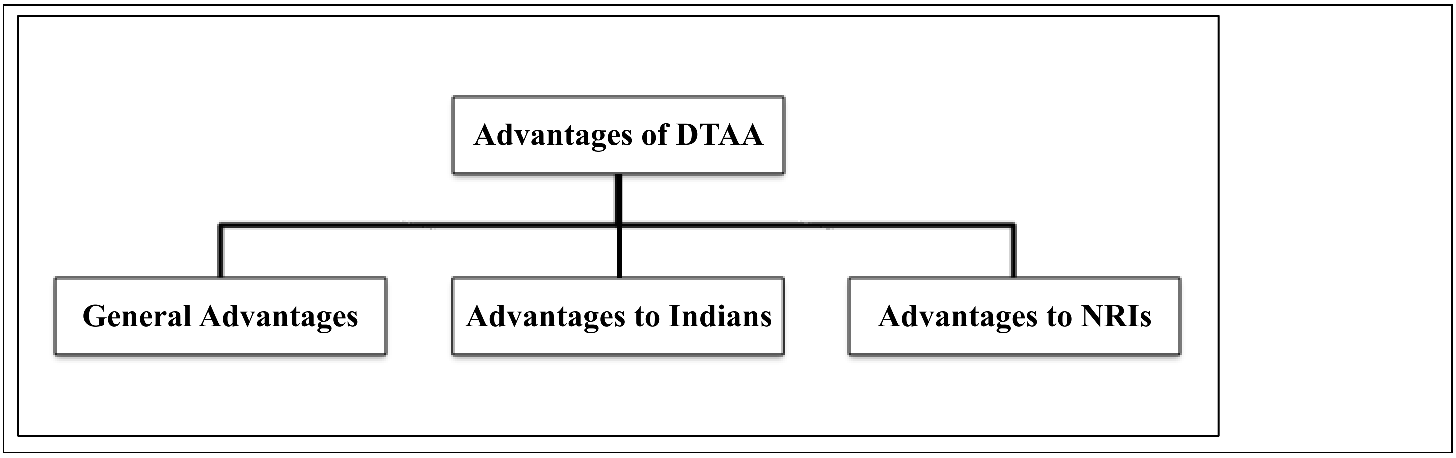
a. Tax Exemption: Under this method if one country charged tax then another dose not on same income.

b. Tax Credit: If an Assessee tax paid in source country and again charged in India then, it will provide as tax credit, which reduces tax liability of an assessee during tax payment.

Note: If Non-resident earns income where DTAA applies, he can claim the tax relief under DTAA only when he shows or provides "Tax Residency Certificate" under section 90(4) approved and given by government of country.

International Journal of Scientific Research in Engineering and Management (IJSREM)
Volume: 09 Issue: 10 | Oct - 2025 SJIF Rating: 8.586 ISSN: 2582-3930

Advantages of DTAA:



A. General Advantages:

1. DTAA passes up the burden of double taxation be fixing the rules and regulations of two countries i.e. bilateral DTAA.

2. DTAA swaps over the information regarding taxation. Therefore it is helpful in avoiding tax evasion and lowering the administrative tax of taxation.

3. DTAA and its information related to rules, regulations and rates promotes foreign investment

4. DTAA integrates anti-avoidance rules to make sure that counterparties receiving benefits of DTAA and tax exemption under bilateral relief.

5. DTAA provides advantages of Tax exemption, lower tax rates and taxed at twice then refund or allows tax credit which makes smooth international trade.

B. Advantages to Indians:

The companies and citizens of India have below advantages of DTAA:

1. Tax deduction at source which is lower withholding tax because the tax paid by payer of income rather than receiver of income. Hence, it reduces the tax burden of earned person from foreign country.

2. Tax Credits: DTAA facilitates tax credits in the country to avoid double tax on same income.

3. Reducing Tax Evasion: DTAA exchanges the information in bilateral which is helpful in reducing tax evasion.

C. Advantages to NRIs:

NRIs are the persons who are not qualify as Indian citizens and they are permanently residing. However, if India has Double Taxation Avoidance Agreement (DTAA) with the NRI's adopted country, TDS will be at the rate which is usually between 7%-15%. If any of the services cited underneath are taxable in the country of dwelling for an NRI, he or she can advantage of benefit from DTAA to pay tax only once. Basically, these services are:

a. Salary received in India;
b. FDs in India;

c. Saving bank account deposits in India;
d. Capital gains received in India;
e. Real estate property in India.

India's Double Taxation Treaty:

India has DTAA with 88 countries of which 84 are active. Under DTAA rates have given according to transactions and types of income. Section 90 under DTAA has given relief to those incomes of residents of country with which India has signed DTAA agreement.

DTAA of India with other countries:

List of countries with which India having DTAA (Current status of DTAA with below countries are active):

Sr. No.	Country	Sr. No.	Country	Sr. No.	Country	Sr. No.	Country
1	Armenia	22	Greece	43	Montenegro	64	Spain
2	Australia	23	Hashemite Kingdom of Jordan	44	Morocco	65	Sri Lanka
3	Austria	24	Hungary	45	Mozambique	66	Sweden
4	Bangladesh	25	Iceland	46	Myanmar	67	Swiss Confederation
5	Belarus	26	Indonesia	47	Namibia	68	Syrian Arab Republic
6	Belgium	27	Ireland	48	Nepal	69	Tajikistan
7	Botswana	28	Israel	49	Netherlands	70	Tanzania
8	Brazil	29	Italy	50	New Zealand	71	Thailand
9	Bulgaria	30	Japan	51	Norway	72	Trinidad and Tobago
10	Canada	31	Kazakastan	52	Oman	73	Turkey
11	China	32	Kenya	53	Philippines	74	Turkemistan
12	Cyprus	33	Korea	54	Poland	75	UAE
13	Czech Republic	34	Kuwait	55	Portuguese Republic	76	UAR (Egypt)
14	Denmark	35	Kyrgyz Republic	56	Qatar	77	UGANDA
15	Egypt	36	Libya	57	Romania	78	United Kingdom
16	Estonia	37	Lithuania	58	Russia	79	Ukraine
17	Ethiopia	38	Luxembourg	59	Saudi Arabia	80	United Mexican States
18	Finland	39	Malaysia	60	Serbia	81	United States of America
19	France	40	Malta	61	Singapore	82	Uzbekistan
20	Georgia	41	Mauritius	62	Slovenia	83	Vietnam
21	Germany	42	Mongolia	63	South Africa	84	Zambia

(Source: https://www.indiafilings.com/learn/guide-to-double-taxation-treaty-in-india/)

Conclusion:

DTAA is a concept of avoidance of tax which is charged twice of single income from Assessee. In international trade and taxation, every country charges on its own tax regimes and rates, whether the income earned in source country or in resident country. To both countries an Assessee has to pay tax which reduces his real income and he demotivates to make world trade and provide services outside the countries. DTAA is an effective way to of eliminating the obstacle of world trade. India uses two way of tax relief: Unilateral and Bilateral relief, under any of these Assessee has to pay at once. At current, India has 84 active DTAAs with outside countries. DTAA has numerous advantages to Indians as well as NRIs like tax exemption, tax credit, unilateral- if India have no bilateral with any country will applicable to tax relief under unilateral. Also, sharing information with DTAA countries, it possible to reduce tax evasion. The DTAA is a better way of improve the international trade and develop the economy.

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