AO can’t disregard TRC as same is sufficient evidence to claim treaty eligibility: Delhi HC

Facts of the case - Blackstone capital partners (singapore) vi fdi three pte. Ltd v. ACIT - [2023] (Delhi)[30-01-2023]

Assessee was a company incorporated in Singapore, holding a valid Tax Residency Certificate (TRC) issued by the Inland Revenue Authorities of Singapore (IRAS). The assessee claimed the benefits under Article 13(4) of the India-Singapore DTAA, which merely allocates the taxing rights vis-à-vis capital gains to Singapore.

The Assessing Officer (AO) issued a notice of reassessment contending that the assessee was a shell/conduit company with little to no business activity in Singapore and no real and ongoing business operations.

AO strongly argued that the taxpayer was a US-based company as its management was located there and the investment funds for India originated from the United States. Since India and USA DTAA do not provide for capital gains tax exemption, AO denied the capital gain exemption to the assessee.

Decision of the case:

- The Delhi High Court held that TRC is statutorily the only evidence required to be eligible for the benefit under the DTAA. AO cannot question it as the same would be wholly contrary to the Government of India’s consistent policy and repeated assurances to Foreign Investors.
- Further, even the clarificatory press release dated 01-03-2013 issued by the Finance Ministry pursuant to the 2013 amendment makes it clear that a TRC is to be accepted and tax authorities cannot go behind it.
- IRAS issued TRC to the assessee after a detailed analysis of the documents, and the Indian Revenue authorities cannot disregard the same. AO cannot go behind the TRC issued by the other tax jurisdiction as the same is sufficient evidence to claim treaty eligibility, residence status, and legal ownership.
- Therefore, AO was not right in issuing reassessment notice to deny the benefit of India-Singapore DTAA to assessee.