

## Inland haulage charges being income from operations of ships, are exempt in India

**Summary – The Assessee, (M/s Safmarine Container Lines NV) was engaged in the business of operation of ships and filed its income tax return showing income on account of inland haulage charges as being directly connected with international traffic and therefore exempt under article 8 of India Belgium DTAA. The Assessing Officer held that only loading, unloading and demurrages were activities connected to shipping and, thus, income from inland haulage charges was chargeable to tax in India and made an addition to the assessee's income. The Commissioner (Appeals) deleted the said addition. The ITAT upheld the decision of the Commissioner (Appeals) and held that inland transportation is not only incidental but also closely connected with direct operations of ships and therefore, 'inland haulage charges' being income from operation of ships in international traffic, is exempt under article 8 of the India Belgium DTAA.**

### Facts

- The assessee, which is a non-resident company of Belgium was engaged in the business of operation of ships. The assessee had received certain inland haulage charges. As per Article-8 of DTAA between India and Belgium, income from operation of ships in the international traffic is exempt from tax. The assessee referred to the Article 8(2)(b)(ii) which covers any other activity directly connected with shipping and argued that activity of inland transportation was directly connected with international traffic and therefore income was exempt under Article-8. The assessee relied on the decision of the Tribunal in its own case in assessment year 2001-02 in which the Tribunal held that inland haulage charges earned by the assessee were covered by the income derived from operation of ships in the international traffic as per Article-8 of DTAA between India and Belgium. The AO however, did not accept the contention and held that only loading, unloading and demurrages etc. were activities directly connected to shipping. The AO also observed that the decision of the Tribunal in assessment year 2001-02 was against the stand generally taken by the department in case of shipping companies. He, therefore, held that income from inland haulage charges was chargeable to tax in India.
- Before the Commissioner (Appeals) the assessee submitted that the issue was covered in favor of the assessee by the decision of the Tribunal in assessment year 2001-02 and also by the decision of the Tribunal in assessment year 2003-04 and 2005-06. CIT(A) observed that the case of the assessee was covered under the Article-8 of DTAA and he therefore deleted the addition made by the AO.

**Held**

- The Tribunal held that the dispute raised in the appeal is regarding assessment of income from 'inland haulage charges' received by the assessee company which is a non-resident company registered in Belgium and engaged in the business of operation of ships. The income from operation of ships in international traffic is exempt under Article 8 of DTAA. Article 8(2)(b)(ii) also exempts any activity directly connected with shipping. The assessee had taken the income from inland haulage charges as directly connected with shipping income and accordingly claimed exempt which had not been accepted by the AO. CIT(A) has, however, allowed the claim following the decision of the Tribunal in assessee's own case in 2001-02 which has also been followed in subsequent years. It has been held by the Tribunal that inland haulage charges are not only incidental but also closely connected with direct operations of ships. Since facts of the present case are identical, therefore, respectfully following the decision of the Tribunal in assessee's own case in the earlier years the Tribunal confirmed the order of CIT(A) in allowing the claim.