

## **ITAT allows tax credit for dividend tax foregone by Oman to promote economic developments**

**Summary – The Delhi ITAT in a recent case of Krishak Bharati Cooperative Ltd., (the Assessee) held that ITAT allows tax credit for dividend tax foregone by Oman to promote economic developments**

### **Facts**

- Assessee received dividend income from an Omani Company. The assessee was liable to pay tax in India on said dividend income as per Indian Income-tax Act. However, it was not liable to pay any tax on such dividend income in Oman by virtue of exemption granted as per Article 8 (bis) of the Oman Company Income-tax Law.
- Assessee included the dividend income in its total income and, thereafter, claimed credit of tax which would have been payable in Oman in respect of such income.
- The contention of the assessee was that Article 25 of DTAA between India and Oman allows tax credit in India for the taxes payable in Oman. Even though no taxes were actually paid in Oman by virtue of exemption or so.
- Assessing Officer (AO) accepted the contention of assessee and allowed credit of deemed dividend tax which would have been payable in Oman. However, subsequently, Commissioner of Income-tax (CIT) revised the order of AO and disallowed the tax credit so claimed by assessee.
- Aggrieved by the order of CIT, assessee filed the instant appeal before the Tribunal.

### **Held**

- Clause (4) of Article 25 of DTAA between India and Oman lays down that the tax payable shall be deemed to include the tax which would have been payable but not paid because of certain tax incentive granted under the laws of the contracting State designed to promote economic developments.
- Thus, the crucial issue to be examined was whether the dividend income was granted exemption in Oman with the purpose of promoting economic development?
- The exemption had been granted under Article 8(bis) of the Omani Tax Laws. In this respect, it was clarified by the Finance Ministry of Oman that said provision was introduced to promote economic developments in Oman and to attract investment.
- From the clarification of the Finance Ministry of Oman, there remains no doubt regarding the purpose of granting exemption to dividend income. The interpretation of Omani Tax Laws can be clarified only by the highest tax authorities of Oman and, therefore, such interpretation given by them must be adopted in India.
- Hence, in view of the facts of the case, assessee was entitled to tax credit in respect of deemed dividend tax which would have been payable in Oman.