

Prior to AY 2013-14, there was no need to furnish TRC to claim treaty benefits: Bombay High Court

Summary – The High Court of Bombay (Goa) in a recent case of Prashant M. Timblo, (the Assessee) held that Re-assessment initiated beyond 4 years period in case of assessee a tax resident of UAE was to be set aside as during regular assessment, assessee had disclosed relevant information to show that he was entitled for benefits of DTAA with UAE and further requirement to produce Tax Residency Certificate was introduced in Finance Act, 2012 with effect from 1-4-2013 and present proceedings being in connection with assessment year 2005-06 there was no need of producing such certificate as on date

Facts

- Assessee a tax resident of UAE had claimed India UAE treaty benefits, however Assessing Officer issued notice under section 148 on ground that assessee did not establish that he was resident of UAE on account of his failure to produce Tax Residency Certificate.

Held

- The requirement to produce the Tax Residency Certificate was introduced in the Finance Act, 2012 with effect from 1-4-2013. The present proceedings are in connection with the Assessment Year 2005-06 and there was no need of producing such certificate as on that date. Besides that, the requirement of stay in UAE for a period of six months, has been introduced in Article 4(b) of the amended DTAA between India and UAE which came into effect only from 28-11-2007. As already pointed out, the subject Assessment Year is 2005-06 and, as such, the question of applying the said requirement for the subject assessment would not at all arise. Furthermore, during regular assessment, assessee had disclosed relevant information to show that he was entitled for the benefits of DTAA with UAE. In such circumstances, the question of reopening the assessment under section 148 beyond period of 4 years was not justified.