

## **Company not entitled to DTAA benefit since place of effective management located in a third country**

**Summary – The Mumbai ITAT in a recent case of ARC Line (Mauritius), (the Assessee) held that Company will not be entitled to DTAA benefit since place of effective management is located in a third country**

### **Facts**

- The appellant, a non-resident company incorporated in Mauritius, was engaged in the business of shipping. It claimed income from shipping activities as exempt under the provisions of the Double Taxation Avoidance Agreement (DTAA) by taking support of Article 8 entered into between India and Mauritius.
- The Assessing Officer held that Article 8 of the Indo-Mauritius DTAA will apply only if the place of effective management is situated either in India or Mauritius. He gave a finding that the place of effective management was located in Gulf Countries and, hence, Article 8 would not apply.
- The Commissioner (Appeals) confirmed the order of the Assessing Officer.

### **Held**

- The Tribunal decided that if the effective management of an enterprise is not in one of the contracting State, but situated in the third state, the benefit of Article 8 cannot be extended.
- Hence the issue is to be decided against the assessee.