

ATMC COMMENTS ON THE RECENT GAAR ANNOUNCEMENTS

The Government of India (GOI) has recently endorsed the recommendations of the Report of the Expert Committee headed by Dr Parthasarathi Shome (the "Report"). Where deemed appropriate, it has taken account of the representations of the industry and has addressed certain potential grey areas which required due attention and clarification. In that regard, the Indian Union Finance Minister Shri P. Chidambaram announced in a press conference in New Delhi that the GOI has "carefully considered the Report on General Anti Avoidance Rules (GAAR) and accepted the major recommendations of the Expert Committee with some modifications." The Finance Minister then elaborated on the decisions that have been taken by the GOI in regard to GAAR. These decisions either clarify or explain the modifications to the major recommendations.

A special committee was set up by the ATMC to look at the general implications of GAAR and to make recommendations to the relevant authorities where deemed appropriate. The committee has duly analysed the salient points of the Report and the subsequent amendments and comments of the GOI. It has noted many positive points, but continues to believe that certain pertinent issues can further be addressed to create a conducive environment for more economic and fiscal buoyancy.

The ATMC is proud to inform its members that its stance on certain fundamental issues relating to GAAR and the Report has been vindicated. These issues would have impacted many of our members and other stakeholders. The ATMC has spared no efforts to ensure that the consequences of these measures were fully appreciated by those in the relevant quarters.

One of the recommendations of the Report was to endorse the validity of the CBDT circular 789 and, in doing so, it is very clear that the Expert Committee fully appreciated the economic, fiscal and wider issues at stake in regard to the CBDT circular. This particular recommendation gave a much needed fillip to the global business community using the pan African-Asian Mauritian platform to invest in India. In the process, economic players from both India and Mauritius have seen the potential for a revival in business activity in terms of FDI, FII and private equity flows into India. With the Sensex crossing the erstwhile psychological milestone of 20,000 points, it is felt that this nascent revival has all the hallmarks to translate into a sustained one.

Notwithstanding this potential resurgence, it appears that certain players with ostensible vested and competing interests have once again reached out for the doom and gloom beads of their chaplet to rehearse and chant their intermittent mantra of uncertainty in regard to the historical and well trodden Mauritian route.

The ATMC has as a result considered the Expert Committee recommendation relating to the CBDT circular 789 upholding the validity of the Tax Residence Certificate ("TRC") issued by the Mauritius Revenue Authority as prima facie evidence of residence in Mauritius and **the ATMC takes the view that the acceptance of the major recommendations of the Report unequivocally includes the recommendations relating to the CBDT circular 789.** There has been no statement by any competent authority to contradict or to reject this particular recommendation. This view is also shared by certain leading legal and accountancy firms including the Big Four.

The high level political endorsement of the Mauritian route remains strong. Indeed, during the recent visit of the President of Mauritius to India, where he was the guest of honour at the Pravasi Bharatiya Divas 2013, the Prime Minister of India reiterated India's commitment to Mauritius and reassured his counterpart that nothing will be done to harm the interests of Mauritius. The importance of this mutually beneficial relationship, which transcends many spheres, is fully appreciated by stakeholders of both countries.

At the level of the ATMC, our members continue to see Mauritius being used as a platform to invest in Africa, South-East Asia, China and the Indian sub-continent. We are also witnessing a steady stream of outbound flows from these geographies which reinforces the reputation of Mauritius as a jurisdiction of substance and its growing role as the bridge between Asia and Africa. The recent visit of Mrs Christine Lagarde from the IMF, which resulted in the signature of a memorandum with the Government of Mauritius to site the Africa Training Institute in Mauritius, bears further testimony to the excellent reputation that Mauritius enjoys vis-a-vis organisations such as the IMF and the World Bank, which also has an office in Mauritius. As reported in the press, the Australian Agency for International Development and the Chinese authorities have also pledged financial support for the Institute. Such support is yet another feather in the Mauritian cap.

The ATMC believes that Mauritius will play an increasing role as a regional hub for Africa and, as this current fledgling trend gathers momentum, the tax treaties and IPPAs signed with India, China and other emerging economies will be of further significance and add another dimension to the bilateral relationship with these countries.