

# Tax Hotline

October 01, 2002

## GOVERNMENT OF INDIA FILES SLP AGAINST DELHI HIGH COURT ORDER

After much speculation over when the Government of India (“**GOI**”) would appeal against the Delhi High Court (“**Delhi HC**”) order dated May 31, 2002; the GOI has finally gone ahead and filed the Special Leave Petition (“**SLP**”) before the Apex Court of India. The SLP has been filed jointly by the GOI and Central Board of Direct Taxes (“**CBDT**”), both being the respondents in the Delhi HC writ petitions.

The Delhi HC, in the aforementioned ruling had quashed Circular 789, dated April 13, 2000 which clarified that Certificate of Residence issued by Mauritius tax authorities would constitute sufficient proof of residence as well as beneficial ownership of a Mauritius entity. The Delhi HC ruled that the Circular was bad in law and also *obiter* stated that the Indian Income Tax Authorities (“**IT Authorities**”) could re-open assessments of Mauritius based Foreign Institutional Investors (“**FIIs**”) as may be open to them under the Indian Income Tax law.

If the SLP is admitted and the application for stay of the Delhi HC order is accepted, then the Delhi HC order would be put on stay and consequently IT Authorities would be prevented from re-opening any assessments until the final adjudication of the SLP by the Supreme Court of India. However, if the SLP is rejected, then the Delhi HC order would become final.

Source: *The Economic Times*, October 1, 2002

## DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### Horizon Technologies

January 21, 2025

### Compendium of Research Papers

January 11, 2025

### FAQs on Setting Up of Offices in India

December 13, 2024

## Research Articles

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

### Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

### The Revolution Realized: Bitcoin's Triumph

December 05, 2024

## Audio

### Securities Market Regulator's Continued Quest Against “Unfiltered” Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### “Investment return is not enough” Nishith Desai with Nikunj Dalmia (ET Now) at FI18 event in Riyadh

October 31, 2024

### Analysing SEBI's Consultation Paper

on Simplification of registration for  
FPIs

September 26, 2024

Scope of judicial interference and  
inquiry in an application for  
appointment of arbitrator under the  
(Indian) Arbitration and Conciliation  
Act, 1996

September 22, 2024