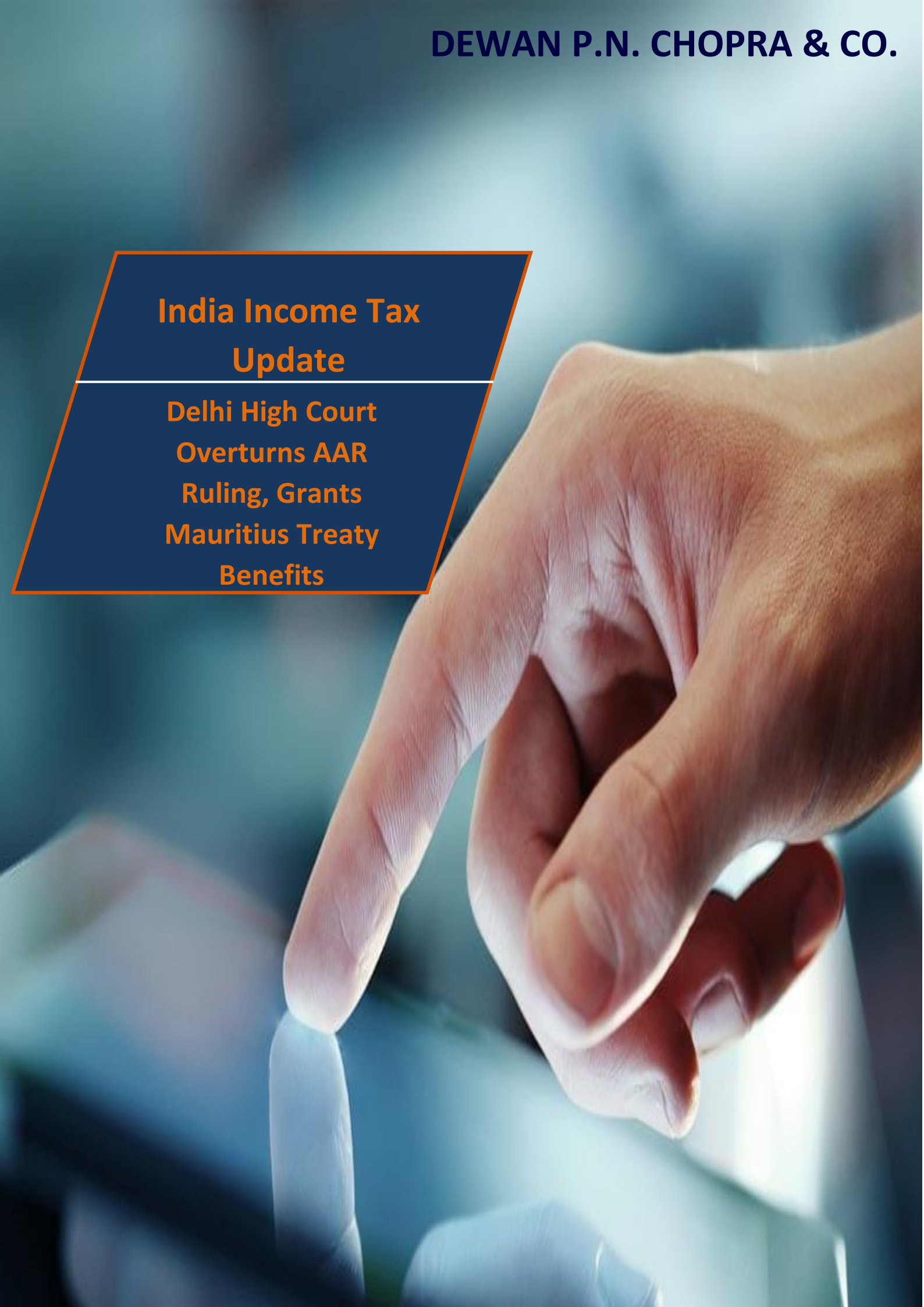


**India Income Tax
Update**

**Delhi High Court
Overturns AAR
Ruling, Grants
Mauritius Treaty
Benefits**



High Court of Delhi (Top State Court)
Overturns AAR Ruling, Grants Mauritius
Treaty Benefits

Hon'ble High court of Delhi ('Delhi HC') in the case of **Tiger Global International III Holdings vs The Authority for Advance Rulings (Income tax) & Ors** dated 28.08.2024, Delhi HC overturns AAR ruling in the case of Tiger Global, allows Mauritius treaty benefit to petitioner on ground that the transaction stands grandfathered by Article 13(3A) of India-Mauritius DTAA;

Some key points of the ruling are as follows:

- TRC issued by Mauritius Revenue Authorities should be sufficient to claim the beneficial provisions of Tax Treaty unless it is established that corporate structuring is designed to obtain

illegitimate or illegal gains, abuse the underlying objective of conventions

- Provisions of Article 13 of the Treaty is very clear under which shares of Indian company acquired before 01 April 2017 has been grandfathered. Further, Rule 10U(1)(d) read with Rule 10(2) of Income Tax Rules has clearly exempted the provisions of GAAR on the said grandfathering provisions.
- Economic substance principles can be tested, inter alia, on the basis of following:
 - quantum of investment,
 - period of holding investment,
 - expenditure incurred in Mauritius,
 - holding a valid TRC and GBL
 - satisfying LOB conditions as applicable.
- Revenue would not be justified in doubting the presumption of validity attached to the TRC as it

would inevitably result in an erosion of faith and trust reposed by Contracting States in each other.

- Merely because the parent may exercise shareholder influence over its subsidiary would not lead one to draw an adverse inference of the latter being a mere puppet. Further, merely because two of the members of the Board also happened to be connected with the larger conglomerate would not convince us to hold that the Mauritius entities were reduced to mere puppets.
- It would be impermissible for the Revenue to manufacture additional roadblocks or standards that parties would be required to meet in order to avail of DTAA benefits, subject to caveats of illegality, fraud and the transaction being in contravention of the underlying object and purpose of the treaty.

For details, please refer the Hon'ble Delhi HC's ruling in the case of **Tiger Global International III Holdings vs The Authority for Advance Rulings (Income tax) & Ors (W.P.(C) 6764/2020)** dated 28.08.2024:

DISCLAIMER: - The summary information herein is based on Hon'ble Delhi HC's ruling in the case of Tiger Global International III Holdings vs The Authority for Advance Rulings (Income tax) & Ors dated 28.08.2024. While the information is believed to be accurate, we make no representations or warranties, express or implied, as to the accuracy or completeness of it. Readers should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This note is not an offer, advice or solicitation. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.