

Bombay Chartered Accountants' Society

DTAA Study Course 13th Batch

**Presentation on Article 8 of Model Convention – Shipping, Inland
Waterways Transport and Air Transport**

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Overview of the contents –

- Income of non resident under Income Tax Act, 1961 (ITA)
- A special article – Rationale
- Important Definitions
- Provisions of Article 8, Paragraph (1) to (4) of the OECD/and (1) to (5) of the UN MC
- Indian Treaties – Distinguished feature/s
- Provisions of ITA applicable to Shipping and Air transport operations of Non Residents

Income of Non Resident under ITA

- Nature of Activities in International Shipping / Air Transport ('International Transportation')
- Charge of Income Tax – Section 4 of ITA
- Scope of total income in case of non resident – Section 5(2) of ITA
- Income deemed to accrue or arise in India, Sec 9,
- Provisions of ITA: Sec. 44B, S. 44BBA, S. 172, S. 115VD and relevant rules

Nature of Activities in International Transportation

Location	Description	Implication under	
		ITA	DTAA
Source Country	Booking of cargo / passengers		
	Movement from factory to intermediate port and to container depot		
	Transport of passengers from smaller cities or feeder routes to main airport		
	Lodging / Boarding of passengers at intermediate / final city of embarkation		
	Demurrage		
	Services at port of shipment / airport		
	Other incidental services / activities viz. container leasing, port handling, selling tickets for other shipping co.s, Hotel services, Shipyard services		

Nature of Activities in International Transportation (con't)

Location	Description	Implication under	
		ITA	DTAA
	International high Seas / airspace from port in source country to other country		
Destination Country	Services at port of destination / disembarkation		
	Movement from port to container depot and finally to customer		
	Transport of passengers from main airport to smaller cities		
	Lodging / Boarding of passengers at intermediate / final city of disembarkation		
	Other incidental services / activities		

Players in International Transportation

- Booking Agents
- Operating company viz. Ship chartering company / Aircraft lessee company engaged in Shipping & Airline operation
- Ship / Aircraft owner company – Time Charters & Voyage Charters
- Ground handling & Engineering Services company in case of airlines
- Other companies providing incidental services

Scope of Income for Non Residents

- Income that accrues or arises in India
- Income received or deemed to be received in India
- Income deemed to accrue or arise in India
- Deemed to accrue or arise- meaning-A general Rule as provided in Section 9 (1)(i), through or from, any business connection in India, property in India, asset or source of Income in India, transfer of capital asset situated in India.

Scope of Income for Non Residents (contd.)

- Inbound Carriage of goods and passengers to any port in India
- Out bound Carriage of goods and passengers from any port in India
- One of the slot of the journey either ends in India or commences from India when journey is comprising of more than one carrier

Scope of Income for Non Residents (contd.)

- Receipt in India in respect of income from carriage of goods, passengers, etc. shipped from port outside India
- Paid or payable in India or outside India; in respect of income from carriage of goods, passengers, etc. shipped from India
- Refer **Lufthansa Cargo India Ltd. vs. DCIT** [92 TTJ 837], payments made by the assessee for earning income from a source outside India, not taxable in India

Definitions: International Traffic

- Means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State
 - “Ship” ; “Air craft”
 - Place of effective management
 - Place of registered office
 - State of Residence
- (Last three definitions or meaning are covered at caption – A rationale)

Definitions: “Ship”, “Aircraft”

- A ship means a vessel especially a large ocean going one, propelled by sails or engines
- “Aircraft” means any machine supported for flight in the air by Buoyancy or by the Dynamic action of air on its surfaces, especially powered airplanes, gliders and helicopters

[Random House Dictionary]

Article 8: Special Article – A Rationale

- Object of treaty: A sharing rule
- Income from International traffic arises between the two Contracting States as opposed to income arising in the Contracting State, where neither States have taxing right
- Income from international traffic is in nature of Business Profits
- Business Profits & Permanent Establishment (PE)
 - Taxability of business profits is resolved through the existence of PE
- Business Profits cover income not specifically dealt with in other articles
- Specific Articles provides that operation of Article on Business Profits is not applicable
- In all other respect, specific Articles 10 & 11 (for receipt as well as distribution / payments), 13, 15 and 22 will apply
- PE Concept & income from international traffic
 - Application may lead to income being taxed, more than the actual income

Article 8: Special Article – A Rationale

- Concept of Place of Effective Management (PEM)
 - Evolved to establish connecting factors between Non Resident & Taxing State
 - PEM would generally mean the place where the Board controlling the business is situated [Universal Cargo Carriers Inc. and another vs. CIT, 205 ITR 215 (Calcutta)]
 - PEM, registered office, place of residence, place where ship is registered – Distinction
 - PEM is also referred at Article 4(3), U/s 115VC of the ITA under Tonnage Tax Scheme. PEM of Enterprise under A.8 and that of tax payer under A.4
 - It is the de facto control & management, mere right to control is not sufficient. (Refer CIT V/s Bank of China [1985] 154 ITR (Cal.))
 - A place from where business is merely supervised or PE or the place where directives of the Board is implemented etc are not relevant.
 - Enterprise is normally a resident of a place where its registered office is situated

Differentiation: PEM & PE

PEM (Place of Effective Management)	PE (Permanent Establishment)
Means the place where the top level management / Board controlling the business is located	Means fixed place of business through which business activity is wholly or partly carried on e.g. Branch, Office, Factory, Workshop, Place of Management, Mine / Quarry
PEM is PE	PE is not necessarily PEM
Existence of PEM establishes right to tax international shipping / air transport under Article 8	Existence of PE establishes right to tax business income under Article 5

Comparison-Synopsis

OECD Model	UN Alternative B, Alternative A is same as OECD model
➤ Paragraph 1: Rules of taxability in State of place of effective management (PEM)	➤ Paragraph 1: Rules of taxability in State of place of effective management for air transport only ➤ Paragraph 2: Taxation is also allowed in the State of source in case operation of shipping is more than Casual in another State. Taxation on the basis of allocation of profits of the enterprise. Tax rate may be reduced by _____ percentage as per the treaty.

Comparison (contd.)

OECD Model	UN Alternative B
➤ Paragraph 2: Taxation of operation of boat from inland waterways transport, also taxable in the State of PEM	➤ Same, but provided as paragraph (3)

Comparison (contd.)

OECD Model	UN Alternative B
➤ Paragraph 3: In case PEM is aboard a Boat, Taxation will be in the State of home harbour. If home harbour is not available then in the State where operator of the Boat is Resident ➤ Paragraph 4: Paragraph 1 applies in case pooling and other similar arrangements	➤ Same, but provided as paragraph (4) ➤ Paragraph 1 & 2 apply in case of pooling and other arrangements (Paragraph 5)

INDIA - SINGAPORE TAX TREATY

- Article 8(1): Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

INDIA - SINGAPORE TAX TREATY (cont'd)

- Article 8(2): The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency engaged in the operation of ships or aircraft.

INDIA - SINGAPORE TAX TREATY (cont'd)

- Article 8(3): Interest on funds connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft, and the provisions of Article 11 shall not apply in relation to such interest.

INDIA – SINGAPORE TAX TREATY (cont'd)

- Article 8(4):
 - For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall mean profits derived from the transportation by sea or air of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of the ships or aircraft, including profits from:
 - (a) the sale of tickets for such transportation on behalf of other enterprises;
 - (b) the incidental lease of ships or aircraft used in such transportation;
 - (c) the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) in connection with such transportation; and
 - (d) any other activity directly connected with such transportation

Article 8(1): Provisions of UN MC (Alternative A)

- Article 8(1): Profits from the operation of ships or aircraft in International traffic shall be taxable only in the Contracting State in which the PEM of the Enterprise is situated
- OECD Model on Article 8(1) is similar to UN model with no variance

Article 8(1): Contd..

Scope of Profits broadly covers

- Profits directly obtained by the enterprise for the transportation of Passengers or cargo by ships or aircraft; whether owned, leased or otherwise; at the disposal of the enterprise that operates in International traffic
 - Ownership of ship is not important for shipping operation (Ref. KLM Royal Dutch Airlines 178 Taxman 291 (Del))
- Profits not directly connected, but are ancillary to such operations,
 - Activities that are not required for the operation in the international traffic but it makes a minor contribution to such operation and closely related to such operation and not regarded as separate business or source of income

Article 8(1): Contd..

- Leasing of Ship or Aircraft, fully equipped
- Leasing of a Ship or Aircraft on a bare boat charter basis as an ancillary activity
- Transportation of cargo and passengers provided by other operators eg: Slot chartering and code sharing
- Inland transportation upto the place of port
- Sell of tickets on behalf of the other operators
- Advertising on Ship or other places of Business
- Container lease, it's use & maintenance
- Maintenance & repair facilities
- Pooling arrangements/Joint business and International operating Agency.

Article 8(1): Contd..

- Preparatory & Auxiliary activities related to transportation
- Gains on alienation of ships (India – UK DTAA)
- Activities not covered
 - Operation of Ship building yard in other Contracting State
 - Operation of Hotel as separate business
 - Investment income from stocks, bonds, shares or loans

Article 8(1) – UN MC Alternative B

- In this alternative, Article 8(1) is split into two paragraphs, 1st paragraph is devoted to the “operation of Aircraft” with similar provisions and second paragraph provides for the source country taxation on the Profits from operation of ships in the International traffic if operations in the other country are “ more than casual”
- Profits from the operation of Aircraft in International traffic shall be taxable only in the Contracting State in which PEM of the enterprise is situated [Paragraph 1 of Alternative B]

Article 8(1) – UN MC Alternative B Contd..

- Profits from the operation of ships in International traffic shall be taxable only in the Contracting State in which the PEM of the enterprise is situated, unless the shipping activity arising from such operations in the other Contracting State are more than casual. If such activities are more than casual, such profits may be taxed in that other State. The profits to be taxed in that other State shall be determined on the basis of an appropriate allocation of the over-all net profits derived by the enterprise from its shipping operations. The tax computed in accordance with such allocation shall then be reduced by ____ per cent. (The percentage is to be established through bilateral negotiations).

[Paragraph 2 of Alternative B]

Article 8(1) – UN MC Alternative B Contd...

- Although India follows UN Model, India's DTAA does not use the Alternative B of the UN Model for source taxation. It uses modified form of source taxation Article whereby source tax is levied for either limited period (first few years) of treaty and/or at concessional rate being lower than that provided under ITA say at 50%
- For Air Transport, normally OECD Model is observed
- Meaning of “more than casual”
 - ‘fixed schedule’, ‘planned irregular visit’ except ‘Tramp Shipping’ [Refer UN Commentary on Article 8]
 - James Mackintosh & Co. Pvt. Ltd. vs ACIT [93 ITD 466 ITAT (Mum)]

Article 8(1), 8(2) & 8(3) of US Model

- India's DTAA with USA follows US Model for Article 8
- It is based on "Residence" as the connecting factor (Paragraph 1)
- Profits from hire of Ships or Aircraft and bare boat charter are covered in Article 8 as International traffic (Paragraph 2)
- Use, maintenance and lease of containers (including trailers, barges & related equipments for the transport of containers) (Paragraph 3)

Article 8(2) or 8(3) of UN Model Alternative B

- Profits from operations of boats engaged in Inland Waterways Transport shall be taxable only in the contracting state in which the place of effective management of the enterprise is situated
- Inland Waterways Transport means transport on rivers, canals & lakes of two or more countries
 - Principles of International traffic applies to International waterways transport also
 - Provisions of Inland waterways transport not found in US Model – Article 7 will be applicable in such cases

Article 8(3) – PEM aboard a Ship etc

- If the place of effective management of a shipping enterprise or an Inland Waterways Transport enterprise is aboard a ship or a boat, then it shall be deemed to be situated in the contracting state in which the home harbor of the ship or boat is situated or if there is no such home harbour, in the contracting state of which the operator of the ship or boat is resident (Article 8(4) of Alternative B)
- US Model: Inland waterways transport is not covered in the model

Article 8(4) – Joint Business etc

- This paragraph states that
 - the provision of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency (Article 8(5) of Alternative B)
 - Refer Lufthansa German Airlines' case 90 ITD 310 wherein pool arrangement for technical support in India on a reciprocal basis with other airlines was constituted income from international traffic)
 - Also note DIT v/s Cia de Navegacao Norsul, similar view of ITAT
- US Model has similar provision (Article 8(4) of US Model)

Indian Treaties – Distinguished feature/s

- PEM as the connecting factor

Brazil, Canada, Cyprus, Germany, Libya, Mauritius, Mongolia, Namibia, Netherlands, Sri Lanka, Syria, Tanzania (air transport) & Zambia.

Indian Treaties – Distinguished feature/s

- State of Residence as the connecting factor

Australia, Austria, Belarus, Belgium, Bulgaria, China, Czech Republic, Denmark, Egypt, Finland, France, Greece, Hungary, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Korea, Kyrgyzstan, Malaysia, Malta, Morocco, Nepal, New Zealand, Norway, Oman, Philippines, Poland, Portugal, Qatar, Romania, Russia, Singapore, South Africa, Spain, Sweden, Switzerland, Tanzania (shipping), Thailand, Trinidad & Tobago, Turkey, Turkmenistan, Ukraine, UAE, UK, USA (Reciprocity), Uzbekistan & Vietnam.

Indian Treaties – Distinguished feature/s

- Alternative B, modified form

Bangladesh, Bulgaria, Finland, Greece, Ireland, Jordan, Kenya, Korea, New Zealand, Norway, Philippines, Poland, Romania, Russia, Sri Lanka, Tanzania (shipping), Thailand, Uzbekistan (source taxation as per domestic law)

Indian Treaties – Distinguished feature/s

- Interest income connected to operations

Australia, Czech Republic, Denmark, Finland, France, Germany, Hungary, Indonesia, Ireland, Israel, Japan, Italy, Jordan, Kazakhstan, Kenya, Korea, Malta, Mauritius, Mongolia, Morocco, Namibia, Netherlands, Poland, Qatar, Romania, Russia, Singapore, South Africa, Spain, Sri Lanka, Syria, Tanzania (air transport), Thailand, Trinidad & Tobago, Turkey, Ukraine, UAE, USA, UK, Uzbekistan, Vietnam & Zambia.

Indian Treaties – Distinguished feature/s

- Capital Gains
Malaysia, UAE & UK.
- No provision on shipping
Kyrgyzstan, Nepal, Switzerland & Zambia
- No air transport
UAE (separate agreement)

Case Study

‘R’ STATE	‘P’ STATE	‘S’ STATE
Incorporation	Board Seat	• Activities of Transportation • Accrual of all the Transportation income

- Discuss the applicability of Tax Treaties between:
(i) R & S, (ii) P & S, and (iii) R & P
- Background Articles 4(1) & 4(3)

Operation of Ships – Mixed Business

In a case where enterprise is engaged in a mixed business:

- Article 8 applies only to Transportation Income
- Same principle applies irrespective whether Enterprise is engaged in only transportation business at its place of Residence or elsewhere
- Article 8 will apply to Transportation income and to other business income Article 7 will apply
- PEM concept under Article 4(3) refers to PEM of a Resident whereas Article 8 refers to PEM of the enterprise
- PEM of Enterprise, apart from facts of management, will depend upon the ownership structure of the Enterprise such as Individual, Partnership or Company as owners

Operation of Ships – Mixed Business (con't)

- PEM of overall Enterprise vs PEM for Transportation business
- PEM at the place of PE of Transportation business (Reservation by few countries)
- PEM and Partnership: Treaty will apply irrespective of whether Partnership is treated as a pass-through or not in the state of PEM (unlike Article 5)

[Paragraph 19.1 of the commentary on Article 5]



Provisions of ITA

Shipping business of Non Residents, S. 44B

44B. (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of ships, a sum equal to seven and a half per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head Profits and gains of business or profession.

(2) The amounts referred to in sub-section (1) shall be the following, namely :

- (i) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and
- (ii) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.

Explanation: For the purposes of this sub-section, the amount referred to in clause (i) or clause (ii) shall include the amount paid or payable or received or deemed to be received, as the case may be, by way of demurrage charges or handling charges or any other amount of similar nature.

Sec. 44B – Contd..

- Special Provisions for computing profits & gains of shipping business
- Sec. 44B(1): Non obstante clause operating for Sec 28 to 43C
- Sec. 44B(2)(i): amount paid or payable in India or outside India, for carriage of goods/passengers shipped at any port in India
- Sec. 44B(2)(ii): amount received or deemed to be received in India for carriage of goods/passengers shipped at any port outside India
- Explanation: demurrage charges or handling charges or any other amount of similar nature shall be included in the amount referred to at S. 44B(2)

Operation of Aircraft by Non Residents, Sec. 44BBA

44BBA. (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to five per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head Profits and gains of business or profession.

(2) The amounts referred to in sub-section (1) shall be the following, namely :

(a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods from any place in India; and

(b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from any place outside India.

Sec. 44BBA – Contd..

- Sec. 44BBA(1): Non obstante clause, 5% of aggregate amount specified at sec. 44BBA(2) shall be the deemed profits
- Sec. 44BBA(2)(i): amount paid or payable on account of carriage of passengers , livestock, mail or goods from any place in India
- Sec. 44BBA(2)(ii): amount received or deemed to be received on account of carriage of passengers , livestock, mail or goods from any place outside India

Shipping Business of Non Residents – S. 172

- Levy & recovery of Tax in respect of ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India-Notwithstanding the other provisions of the Act.
- Deemed income @ 7.5% of the aggregate amount of revenue from specified activities; if goods, passengers, etc. shipped at a port in India
- Filing tax return in respect of the revenue
- Assessment of income by A.O.
- AO's power to call for information
- Port clearance by collector only if tax is paid or arrangement for payment of tax is made or treaty exist between India and the state of the Shipping enterprise
- Option to the owner/charterer of the ship to assess his income as per the provisions of ITA S.172(7).
- Amount of collection by non resident for carriage shall include demurrage or handling charge or any other amount of similar nature

Sec. 172 – Contd..

- Sec. 44B & Sec. 172, application of these two provisions distinguished
CBDT vs. Chowgule & Co. Ltd. [1991] 192 ITR 40 (Kar.)
Cir. No. 169 dt. 23.06.75
Cir. No. 763 dt. 18.02.98
- Sec.44B & Sec. 172 – Double taxation on slot chartering
Refer Nedlloyd lines BV vs. DCIT [1992] 43 ITD 433 (Mum)
- Interest payable by the non resident on payment of taxes
Refer A.S. Glittre's case (1997) 225 ITR 739 (SC), Cir 9 dt 9.07.2001.
- TDS on payment to non resident
Sec. 194C & Sec. 195 shall not apply-S.172 Applies notwithstanding
the provisions of the Act. One of the function of both the Section is
similar, a recovery of taxes. Cir. No.723 dt, 19.09.95

Sec. 44B & Sec.172– Tax Credit in State of Residence or State of PEM

- Taxation on net basis in Home Country whereas presumptive taxation under ITA levies tax on gross basis
- Income on which taxes paid under ITA is different from the one computed under domestic law in the Home Country
- Tax Credit: Tax Rate in India @ 42.23% on 7.5% of the receipts
- Remedy – MAP
- Tax under ITA cannot be more than 7.5% of the receipts – DSD Noell GmbH (Delhi)
- No option to pay lower tax u/s 44 BB whereas it is possible u/s. 172

Chapter XIIG of ITA

Special provisions relating to income of shipping companies

- The provisions are academic in nature for this course
- What about tax credit for “Tonnage Tax”?
- Interesting definitions like bare boat charter, ship, qualifying ship, pleasure craft, fishing vessel, seagoing ship, etc. are covered

Recent important Judgments

1. Inland haulage charges (cost of moving container to inland destination)
 - ADIT vs Safmarine Container Lines, NV [(24 SOT 211 ITAT (Mum))]
 - DDIT vs Delmas Shipping South Africa (Pty) Ltd. [2008-TIOL-547-ITAT (Mum)]
 - ADIT vs Federal Express ITAT Mumbai [2009-TIOL-179-ITAT (Mum)]
2. Bare Boat charter charges paid to non-resident
 - not treated as operation of ship in international traffic
 - may be treated as Equipment Royalty as payment was for use or hire of Equipment / Vessel and not for services
 - West Asia Maritime Ltd. vs ITO (109 TTJ 617 ITAT Chennai)
 - Pumpuhar Shipping Corp. Ltd. Vs ITO (178 TTJ 970 ITAT Chennai)
3. Time Charterer is treated as operator of Ship and hence services are covered by Article 8.

Recent important Judgments (con't)

4. Lease of aircraft

- Outside the scope of Section 44BBA hence chargeable to tax under normal provisions of ITA
 - Caribjet Inc Mumbai Tribunal
- Fully equipped with crew, then covered by Article 8
- Ground operations & Engg. services not covered by Section 44BBA
- Pool of resources for ground services & engg.
 - Lufthansa German Airlines vs DCIT [90 ITA 310 ITAT (Delhi)]
- Taxable if separate profit centre
 - British Airways PLC vs DCIT [73 TTJ 519 ITAT (Delhi)]

Recent important Judgments (con't)

5. 'Slot Charter'

- Income from 'Slot Charter' is exempt as income from 'operation of ships'
 - DIT vs Balaji Shipping UK Ltd. (Mum. High Court decided on 23/8/2012)
 - DIT vs Balaji Shipping UK Ltd. [2009] 121 ITD 61 (Mum.)

6. Effectively connected with PE

- Shipping profits not taxable in India even if there is a PE
 - ADIT vs Mediterranean Shipping Co. S.A. [ITAT Mum 7/11/2012]

7. Application of Article 22; meaning of "dealt with"

- Gearbulk AG (2009) 318 ITR 66 (AAR)
- ADIT vs Mediterranean Shipping Co. S.A. [ITAT Mum 7/11/2012]

Treatment under proposed Direct Taxes Code, 2010

- Transportation charges defined in Section 314 sub-clause 269: Charter hire charges (with or without crew), including an arrangement as slot charter, space charter, joint charter or any similar arrangement, of ships, aircraft or any other mode of transport, on account of the carriage of passengers, livestock, mail (including courier) or goods
- Bare Boat and Time Charter hire receipts are covered
- Import freight collected by Foreign Shipping company from non-residents included
- Applicability of BPT (Branch Profit Tax)

Treatment under proposed Direct Taxes Code, 2010 (con't)

- Section 32(2) specifies that business where income is determined on presumptive basis is contained in Fourteenth Schedule.
- Tax rates as per Fourteenth Schedule in case of non-resident deriving income from transportation charges on account of carriage of passengers, live-stock, mail or goods:

From Business of operation of ships (incl. slot charter, space charter or joint charter)	10%
From Business of operation of aircraft (incl. slot charter, space charter or joint charter)	7.5%

Treatment under proposed Direct Taxes Code, 2010 (con't)

- If actual profit from above is higher, than higher amount will be taxable
- But above provisions of Fourteenth Schedule not to apply at the option of the assessee, if —
 - (i) books of account and other documents referred to in section 87 are maintained and produced before Assessing Officer;
 - (ii) the assessee gets his accounts audited;
 - (iii) the accounts are correct and complete to the satisfaction of the Assessing Officer;
 - (iv) the income can be properly deduced from the accounts

EXAMPLE OF TREATMENT OF SHIPPING INCOME UNDER ITA & DTC, 2010 (con't)

	ITA	DTC 2010	DTC 2010 (MAT)
Gross Receipts	100	100	100
Expenses	50	50	50
Net Income	50	50	50
Deemed Profits as % of gross receipts / Book profits (for MAT)	7.5%	10%	50
Tax Rate applicable as per Finance Act, 2011 & Rates under DTC, 2010	42.23%	30%	25%
Tax Amount	3.17	3	12.5



Thank You