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RESEARCH ARTICLE

OVERVIEW OF INDIAN DOUBLE TAXATION AVOIDANCE AGREEMENTS

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ABSTRACT

In the contemporary global economic scenario international trade and business transactions are highly influenced by the tax agreements between the tax jurisdictions, India is a signatory for about 100 double taxation avoidance agreements. The paper brings out the important features of Indian double taxation avoidance agreements, Indian network of tax agreements, Comprehensive and limited agreements, Relief mechanism, Structure of tax agreements, Taxing rights of the countries and Withholding tax rates applicable. The paper indicates the increasing trend in the signing of tax agreements by India. The paper concludes that the tax agreements being very significant to promote trade and commerce and increase exports from India there must be a sound policy in renegotiating the very old agreements with certain countries.

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INTRODUCTION

Tax is inevitable part of civilized society. The impact of tax is felt in every business transaction, whether national or international, may be with varying intensity. As the international transactions are growing so also the tax complications. Due to non-existence of global tax law international economic transactions are taxed by application of domestic tax laws. This leads to double taxation of such transactions, first in the source country and next in the residence country. Double taxation is an injustice act. Double taxation of this kind cannot be overcome without DTAA[1]. Worldwide a number of countries have signed, mainly bilateral, DTAAs. India is not an exception to it and hence, we see a number of DTAAs signed by India too. The main objective of a tax treaty is to protect taxpayers from double taxation. The other objectives normally include measures:[2]

- To promote fairness by imposing equal tax burdens on domestic and foreign taxpayers with equal income and ability to pay, regardless of the source of income;
- To enhance domestic competitiveness through fiscal measures and to promote economic growth;
- To obtain a fair share of the revenues from cross border transactions: and
- To ensure an equitable balance between capital import neutrality.'

Objective

The main objective of the present study is to provide a broad understanding of Indian Double Taxation Avoidance Agreements (DTAAs).

MATERIALS AND METHODS

The paper is based on secondary data gathered from various published sources like theses, books, journals and websites. The data gathered is presented in tabular and graphical form and analyzed.

[1] Nandini N. Math & Basavaraj C.S., 2013 "Indian Tax Treaties in Liberalised Era", Prabhanveshana – Journal of Commerce and Economics, Vol.03, Issue No.02. July-Dec-2013, p.2

[2] Roy Rohatgi "Basic international taxation" taxmannP64 (2007) India publisher Taxmann Allied Service(p) Ltd.)

The study: The paper analyses the meaning of DTAAs, Types of DTAAs, Structure of Indian DTAAs, Types of Relief provided under DTAAs, Network of Indian DTAAs, and Conclusion.

Meaning of DTAAs: International juridical double taxation is generally defined as the imposition of comparable taxes in two (or more) States on the same taxpayer in respect of the same subject matter and for identical periods.[3] Double taxation avoidance agreements comprise of agreements between two countries, which, by eliminating international double taxation, promote exchange of goods, persons, services and investment of capital.[4] DTAA is an agreement entered into by the participating counties to overcome double or multiple taxes levied on the same subject and/or object of tax for the same year due to the sovereign power bestowed with every tax jurisdiction.

Relief under DTAA: Generally Relief from double taxation is provided mainly in two ways[5].

Bilateral relief (Sec.90)*[6]: Under this method, the Governments of two countries can enter into an agreement to provide relief against double taxation by mutually working out the basis on which relief is to be granted.

Bilateral relief may be granted in either of the following methods

- Exemption method, by which a particular income is taxed in only one of the two countries; and
- Tax relief method under which, an income is taxable in both countries in accordance with the respective tax laws read with the Double Taxation Avoidance Agreements. However, the country of residence of the taxpayer allows him credit for the tax charged thereon in the country of source.

In India, double taxation relief is provided by a combination of these two methods.

Unilateral relief (Sec.91)*:Unilateral relief: This method provides for relief of some kind by the home country where no mutual agreement has been entered into between the countries.

Types of DTAAs: The DTAAs can be classified on the basis of the number of countries entering into agreement and also based on the coverage of tax issues. When an agreement is signed by two tax jurisdictions it is called a bilateral DTAA. When the agreement is signed by more than two countries it is called a multilateral DTAA.

In practice bilateral DTAAs are very common. Based on the coverage of tax issues DTAAs can be classified as comprehensive DTAAs and Limited DTAAs, Comprehensive DTAAs cover a host of income and business transactions and try to give relief to almost every eligible person covered under taxation. They cover passive as well as active incomes of the person. But, the limited DTAAs are restricted in coverage and they touch only one or two types of income / transactions. The Table-1 and Table-2 give the chronological list of Comprehensive and Limited DTAAs signed by India. Table-3 gives an idea about the growth in DTAAs during Pre and Post-Globalization Era.

Strucuture of Indian DTAAs: India's DTAAs consist of the chapters covering scope of the agreement, definition of the terms used, incomes and transactions covered under agreement, other related aspects and coming into force of the agreement. These chapters cover various articles representing the issues covered in the chapters. The articles are serial numbered from first chapter to last chapter. The example of India-Australia DTAAs covers five chapters and thirty three articles, which is shown in table-4.

Tax rights under Indian DTAAs: DTAAs regulate the taxing rights of the countries participating in the agreement. The agreements make clear as to which country should levy tax on what income or receipt. It means deciding whether a non-resident is liable to pay tax in a source country or not. Table -5 highlights with reference to India source country taxing rights and residence country taxing rights with regard to various active and passive incomes of the persons. The table shows whether source country has a taxing right or a resident country with regard to a particular type of income or receipt.

However in some cases the taxing right is apportioned between the source and residence countries. In some other cases source country has a right to withhold tax at certain rate while the residence country has the taxing right. The withholding tax rates vis-à-vis dividend, interest, royalty, and technical services fees, is presented in Table-6 to 9. The withholding tax rates presented in table 6 to 9 make it clear that the withholding tax rates differ from country to country, with respect to the four categories of incomes cited above.

RESULTS

The following findings emerge from the study

- DTAAs in India have a history of more than fifty years.
- Indian DTAAs have no standard structure and it has evolved over a period on need basis.
- There is rise in the growth of DTAAs signed by India in recent years.
- There is no common policy of allocating taxing rights between source and residence country.
- Withholding tax rates of Dividend, Interest, Royalty, and Technical services differ from country to country.

[3] http://www.oecd.org/tax/treaties/oecdmatcavailableproducts.html

[4] Dr. A.M Sherry "India's Tax treaty Network and Treaty override" Vol.7 (7 Sep 2012) International taxation taxmann.

[5] Directorate of Studies The Institute of Cost Accountants of India(ICAI) "Direct tax law and international taxation" 3rd Edition (2018) Page no. 291

[6] As Per Indian INCOME TAX ACT 1961

Table 1. Indian comprehensive DTAAs (1967-2018)

Sl.No.	Country	Date of agreement	Sl.No.	Country	Date of agreement	Sl. No.	Country	Date of agreement
1	Greece	17-03-1967	34	Canada	06-05-1997	67	Tajikistan	10-04-2009
2	UAR (Egypt)	30-09-1969	35	Oman	03-06-1997	68	Luxemburg	09-07-2009
3	Libya	01-07-1982	36	Turkmenistan	07-07-1997	69	United Arab Emirates	01-02-2010
4	Mauritius	06-12-1983	37	Belgium	01-10-1997	70	United Mexican states	01-02-2010
5	Zambia	08-01-1984	38	Kazakhstan	02-10-1997	71	Finland	19-04-2010
6	South Korea	19-07-1985	39	South Africa	28-11-1997	72	Mozambique	30-09-2010
7	Thailand	27-06-1986	40	Sweden	25-12-1997	73	Georgia	08-12-2011
8	New Zealand	03-12-1986	41	Russia	11-04-1998	74	Tanzania	12-12-2011
9	Slovak republic	25-05-1987	42	Belarus	17-07-1998	75	Norway	20-12-2011
10	Netherlands	21-01-1989	43	Namibia	22-01-1999	76	Nepal	06-03-2012
11	Denmark	13-06-1989	44	Czech Republic	27-09-1999	77	OECD member countries	01-06-2012
12	Poland	26-10-1989	45	Trinidad and Tobago	13-10-1999	78	Estonia	20-06-2012
13	Japan	29-12-1989	46	Jordan	16-10-1999	79	Lithuania	10-07-2012
14	United states (USA)	18-12-1990	47	Qatar	15-01-2000	80	Ethiopia	15-10-2012
15	Australia	30-12-1991	48	Morocco	20-02-2000	81	Malaysia	26-12-2012
16	Brazil	11-03-1992	49	Portugal	30-04-2000	82	Uruguay	21-06-2013
17	Bangladesh	27-05-1992	50	Kyrgyzstan	10-01-2001	83	Sri Lanka	22-10-2013
18	UAE	22-09-1993	51	Austria	05-09-2001	84	Albania	04-12-2013
19	United kingdom	26-10-1993	52	Ukraine	31-10-2001	85	Romania	16-12-2013
20	Uzbekistan	25-01-1994	53	Ireland	26-12-2001	86	Latvia	28-12-2013
21	Philippines	21-03-1994	54	Sudan	15-04-2004	87	Malta	07-02-2014
22	Singapore	27-05-1994	55	Uganda	27-08-2004	88	Fiji	15-05-2014
23	France	01-08-1994	56	Armenia	09-09-2004	89	Colombia	07-07-2014
24	China	27-11-1994	57	Slovenia	17-02-2005	90	Bhutan	17-07-2014
25	Swiss	29-12-1994	58	Hungary	04-03-2005	91	Macedonia	12-09-2014
26	Spain	12-01-1995	59	Saudi Arabia	01-11-2006	92	Croatia	06-02-2015
27	Vietnam	02-02-1995	60	Kuwait	17-10-2007	93	Indonesia	05-02-2016
28	Bulgaria	23-06-1995	61	Iceland	21-12-2007	94	Korea(Rep)	12-09-2016
29	Italy	23-11-1995	62	Botswana	30-01-2008	95	Cyprus	14-12-2016
30	Mongolia	29-03-1996	63	Serbia	23-09-2008	96	Kenya	30-08-2017
31	Israel	15-05-1996	64	Montenegro	23-09-2008	97	Hong Kong	30-11-2018
32	Germany	26-10-1996	65	Syria(Arab republic)	10-11-2008			
33	Turkey	01-02-1997	66	Myanmar	30-01-2009			

Source compiles from:

1.www.incometaxindia.in (last visited on 10/02/2019)

2.https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019)

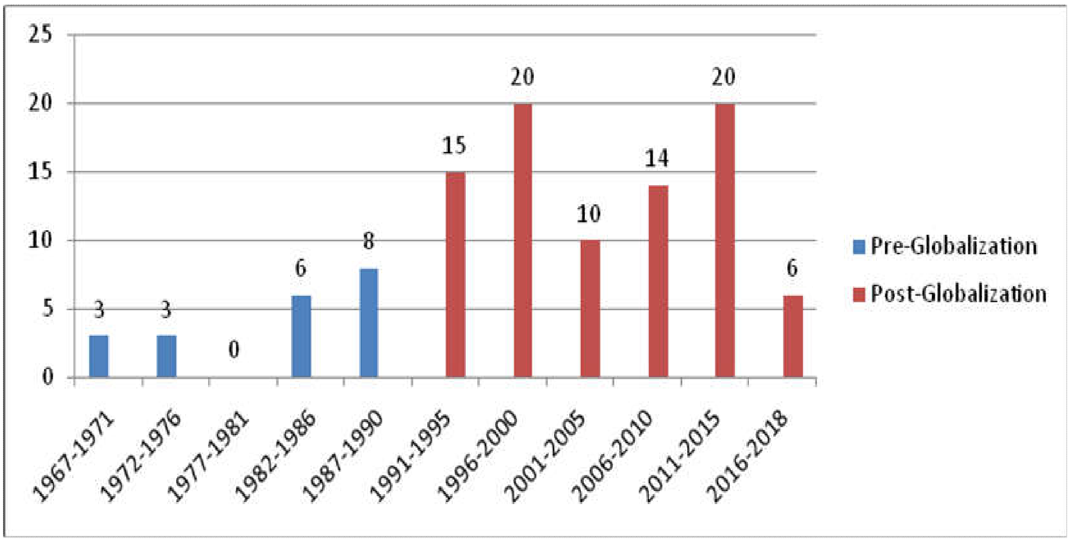
Table 2. Indian Limited DTAAs (1967-2018)

SL.NO	Country	Date of agreement	Scope of agreement
1	Lebanon	22-02-1968	Operating air craft traffic
2	Iran	09-03-1973	Operating air craft traffic
3	Afghanistan	14-09-1975	Airlines/ merchant shipping
4	Ethiopia	25-11-1976	Operating air craft traffic
5	Yemen	05-08-1988	International air transport
6	Pakistan	31-12-1988	International air transport
7	SAARC country	13-11-2005	1.Total income or on element of income tax. Tax gains from the alienation of movable or immovable property. 2.Total amount of wages or salaries paid or deemed to be paid by enterprise.
8	Maldives	11-04-2016	International air transport

Source compiles from:

1)www.incometaxindiagov.in(last visited on 10/02/2019)

2)https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019)



Source compiles from:

1) www.incometaxindiagov.in (last visited on 10/02/2019)

https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019)

Chart 1. Chart Showing Indian DTAAs during Pre and Post- Globalization Era

Table 3. Indian DTAAs in Pre and Post-Globalization Era

PERIOD (in years)	Number of agreements	Cumulative Number of agreements
Pre-Globalization(1967-1990)		
1967-1971	03	3
1972-1976	03	6
1977-1981	---	6
1982-1986	06	12
1987-1990	08	20
Post-Globalization(1991-2018)		
1991-1995	15	35
1996-2000	20	55
2001-2005	10	65
2006-2010	14	79
2011-2015	20	99
2016-2018	06	105

Table 4. Summary of the convention between india and Australia

Agreement between the government of the republic of india and the government of australia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.[1]

Sl.No	Chapters	Articles Covered
1	Chapter-I (Scope of convention)	1.Persons covered 2.Taxes covered
2	Chapter-II	3.General definitions 4.Resident 5.Permanent Establishment
3	Chapter-III	6. Income from immovable property 7. Business Profits 8. Ships and Aircraft. 9.Associated enterprise 10.Dividends 11. Interest 12. Royalties 13. Alienation of property 14. Independent personal services 15. Dependent Personal service 16. Directors fees 17. Entertainers 18.Pensions and annuities 19. Government service 20. Professors an Teachers 21. Students and Trainees 22. Income Not Expressly mentioned 23. Source of Income 24. Methods of elimination of Double Taxation
4	Chapter-IV(Special Provisions)	24A. Non –Discrimination 25. Mutual agreement Procedure 26.Exchange of information 26A. Assistance for collection of taxes
5	Chapter-V (Final Provisions)	27.Entry into force

Source compiles from:
[1] www.incometaxindiagov.in (last visited on 10/02/2019)
* The model given belongs to India – Australia DTAA.

Table 5. "Typical" rights to tax non-residents in India's DTAAs for different types of income or income of specified entities

SL. No	Nature of Income or other receipt	Source country taxing rights	Residence country taxing rights	Remarks
1	Income from Immovable Property	Yes	No	Withholding rates are prescribed in most cases in the (Indian) Income Tax Act, 1961
2	Business Profits	Only profits of a Permanent Establishment (PE) (if any) in source	Yes	Double Taxation Relief (DTR) given in residence for source tax on the PE. Withholding rates are prescribed in most cases in the (Indian) Income Tax Act, 1961
3	Profits, etc from Shipping and Inland Waterways	On profits earned in source	Yes	Not present as a separate article in all DTAAs
4	Profits etc. from Transport & Air Transport	No	Yes	
5	Profits of Associated Enterprises	Included in profits of source associate	No	Relief to be allowed in residence for source tax
6	Dividends	Withholding tax on source dividend at rate specified	Yes	DTR to be allowed in residence for source tax.
6a	Dividends received by residence entity from PE in source or entity with fixed place of business, etc. in source	Apportioned as with business profits or income from independent personal services as appropriate	Yes	DTR to be allowed in residence for source tax. Usually higher withholding rates are prescribed in the (Indian) Income Tax Act, 1961. The DTAA rate applies if specified.
7	Interest	Withholding tax on source interest at rate specified (b) Interest received by PE taxable in source	Yes	DTR to be allowed in residence for source tax. Usually higher withholding rates are prescribed in the (Indian) Income Tax Act, 1961. The DTAA rate applies if specified.
8	Royalties (and technical fees)	Withholding tax on source royalties at rate specified (b) Royalties received by PE taxable in source	Yes	DTR to be allowed in residence for source tax. Usually higher withholding rates are prescribed in the (Indian) Income Tax Act, 1961. The DTAA rate applies if specified.

Continue……..

9	Capital Gains	(a) On source immoveable property gains (b) On gains from moveable property and shares in some cases	On gains from moveable property and shares in some cases	Withholding rates are prescribed in the (Indian) Income Tax Act, 1961. Withholding can be waived if requested and merited. Residence country taxing rights of gains from share sales are a major concern of India in relation to its DTAAs with Mauritius, Singapore, UAE and Cyprus.
10	Income from Independent Personal Services	Income of PE or entity with fixed place of business, etc. in source apportioned	Yes	DTR to be allowed in residence for source tax Withholding rates are prescribed in most cases in the (Indian) Income Tax Act, 1961.
11	Income from Dependent Personal Services/Income from employment	If stay at least at or above prescribed minimum	If stay is below prescribed minimum	DTR to be allowed in residence for source tax. Withholding rates are prescribed in most cases in the (Indian) Income Tax Act, 1961.
12	Directors" Fees, and Remuneration Of Top-Level Managerial Officials	Yes	No	
13	Income of Artistes and Sportsmen	Yes		Withholding rates are prescribed in the (Indian) Income Tax Act, 1961
14	Pensions	No	Yes	
15	Remuneration and Pensions for Government Service	Yes for source nationals	Yes for resident nationals	
16	Payments to Students, Trainees, etc	(a) Not usually mentioned if source is not place of study (b) Taxable if source coincides with residence after a period	(a) Exempt for specified duration if place of study/residence is not source (b) Taxable if source coincides with residence after a period	
17	Payment to Professors, Teachers and Researchers	Yes, if duration is at least at or above specified minimum	Yes if duration is below specified minimum.	
18	Other Income	No	Yes	Some DTAAs (e.g. Singapore) allow double taxation
19	Capital	Yes (in country of income source)	No	Present in few DTAAs and not uniform
20	Elimination of Double Taxation	No	Yes	Credit method (deduction of source taxes from residence taxes) in most DTAA
21	Mutual Agreement Procedure	NA	NA	Present in all India DTAAs
22	Exchange of Information or Document	NA	NA	Present in most India DTAAs
23	Collection Assistance	NA	NA	Absent in 70% of India's DTAAs especially those signed in earlier years

Source compiles from:

1)www.incometaxindiagov.in(last visited on 10/02/2019)

2)https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019)

Table 6. Withholding Tax Rates For Dividend

SL.NO	Countries	Withholding Rate
1	Columbia, Fiji, Myanmar, Saudi Arabia, Uruguay.	5%
2	Ethiopia, Mozambique, Sri Lanka.	7.5%
3	Albania, Armenia, Austria , Bhutan ,China, Cyprus ,Czech Republic [N5] , Estonia, Finland, Fiji, France, Georgia, Germany, Hungary, ,Indonesia, Iceland, Ireland ,Israel, Japan, Jordan, Kazakhstan Kenya, Kyrgyz Republic, Latvia, Luxembourg, Malta, Morocco, Macedonia, Namibia, Netherlands, Norway, Poland, Romania, Russian Federation, South Africa, Sudan Sweden, Swiss Confederation, Thailand, Trinidad and Tobago. Turkmenistan, Uganda, United Arab Emirates, United Mexican States, Uzbekistan, Vietnam. Kuwait[N1]	10%
4	Australia, Belgium, Brazil, Bulgaria, Korea, Mongolia, New Zealand, Spain, Turkey	15%
5	Bangladesh	a) 10% (if at least 10% of the capital of the company paying the dividend is held by the recipient company); b) 15% in all other cases
6	Botswana	a) 7.5%, if shareholder is a company and holds at least 25% shares in the investee-company; b) 10%, in all other cases
7	Canada	a) 15%, if at least 10% of the voting powers in the company, paying the dividends, is controlled by the recipient company; b) 25%, in other cases
8	Croatia	a) 5% (if at least 10% of the capital of the company paying the dividend is held by the recipient company); b) 15% in all other cases
9	Denmark	a) 15%, if at least 25% of the shares of the company paying the dividend is held by the recipient company; b) 25%, in other cases
10	Italy	a) 15% if at least 10% of the shares of the company paying dividend is beneficially owned by the recipient company; b) 25% in other cases
11	Mauritius	a) 5%, if at least 10% of the capital of the company paying the dividend is held by the recipient company; b) 15%, in other cases

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12	Montenegro	5% (in some cases 15%)
13	Oman	a) 10%, if at least 10% of shares are held by the recipient company; b) 12.5%, in other cases
14	Philippines	a) 15%, if at least 10% of the shares of the company paying the dividend is held by the recipient company; b) 20%, in other cases
15	Portuguese Republic	10%***/15%
16	Qatar	a) 5%, if at least 10% of the shares of the company paying the dividend is held by the recipient company; b) 10%, in other cases
17	Serbia	a) 5%, if recipient is company and holds 25% shares; b) 15%, in any other case
18	Singapore	a) 10%, if at least 25% of the shares of the company paying the dividend is held by the recipient company; b) 15%, in other cases
19	Slovenia	a) 5%, if at least 10% of the shares of the company paying the dividend is held by the recipient company; b) 15%, in other cases
20	Syrian Arab Republic	a) 5%, if at least 10% of the shares of the company paying the dividend is held by the recipient company; b) 10%, in other cases
21	Tajikistan	a) 5%, if at least 25% of the shares of the company paying the dividend is held by the recipient company; b) 10%, in other cases
22	Tanzania	5%****, 10%
23	Ukraine	a) 10%, if at least 25% of the shares of the company paying the dividend is held by the recipient company; b) 15%, in other cases
24	United Kingdom	15%/10%[N4]
25	United States	a) 15%, if at least 10% of the voting stock of the company paying the dividend is held by the recipient company; b) 25% in other cases
26	Zambia	a) 5%, if at least 25% of the shares of the company paying the dividend is held by a recipient company for a period of at least 6 months prior to the date of payment of the dividend; b) 15% in other cases

Source compiles from:
1. www.incometaxindiagov.in(last visited on 10/02/2019)
2.https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019)

Table 7. Withholding tax rates for interest

Sl.no	Countries	Withholding Rate
1	Mauritius	7.5%
2	Albania , Armenia , Austria, Bangladesh, Bhutan , Botswana China, Columbia, Croatia, Cyprus ,Czech Republic [Note5] Estonia, Ethiopia, Finland, Fiji, France, Georgia, Germany Hungary, Indonesia, Iceland, Ireland, Israel, Japan, Jordan Kazakhstan ,Kenya [N1 not apply] , Korea [N1 not apply] Kuwait [N1 not apply], Kyrgyz Republic, Latvia, Lithuania Luxembourg, Malaysia , Malta , Montenegro, Myanmar Morocco , Mozambique , Macedonia , Namibia, Nepal Netherlands, New Zealand , Norway, Oman, Poland Portuguese Republic, Qatar, Romania, Russian Federation Saudi Arabia, Serbia, Slovenia [N1 not apply], South Africa Sri Lanka, Sudan, Sweden, Swiss Confederation Syrian Arab Republic , Tajikistan, Tanzania[N1 not apply] Thailand , Trinidad and Tobago , Turkmenistan Uganda, Ukraine, United Mexican States, Uruguay Uzbekistan, Vietnam, Zambia.	10%[N1]
3	Australia [N1 not apply], Brazil, Bulgaria, Italy, Spain	15%[N1]
4	Belgium	15% (10% if loan is granted by a bank)
5	Denmark	a) 10% if loan is granted by bank; b) 15% for others [N1]
6	Philippines	a) 10%, if interest is received by a financial institution or insurance company; b) 15% in other cases [N1]
7	Singapore	a) 10%, if loan is granted by a bank or similar institute including an insurance company; b) 15%, in all other cases
8	Turkey	a) 10% if loan is granted by a bank, etc.; b) 15% in other cases [N1]
9	United Arab Emirates	a) 5% if loan is granted by a bank/similar financial institute; b) 12.5%, in other cases
10	United Kingdom	a) 10%, if interest is paid to a bank; b) 15%, in other cases[N1]
11	United States	a) 10% if loan is granted by a bank/similar institute including insurance company; b) 15% for others

Source compiles from:
1)www.incometaxindiagov.in(last visited on 10/02/2019)
https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019)

Table 8. Withholding tax rates for royalty

SL.NO	COUNTRIES	WITHHOLDING RATE
1	Albania, Armenia , Austria, Bangladesh, Belgium, Bhutan, Botswana, China Columbia, Croatia, Cyprus, Czech Republic [Note5], Estonia, Ethiopia Finland, Fiji, France, Georgia, Germany, Hungary, Indonesia, Iceland Ireland, Israel, Japan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lithuania Luxembourg, Malaysia, Malta, Montenegro, Myanmar, Morocco Mozambique, Macedonia, Namibia, Netherlands, New Zealand , Norway Portuguese Republic, Qatar, Romania, Russian Federation, Saudi Arabia Serbia, Singapore, Slovenia, South Africa, Sri Lanka, Sudan ,Sweden Swiss Confederation, Syrian Arab Republic, Tajikistan, Tanzania Thailand , Trinidad and Tobago, Turkmenistan, Uganda, Ukraine United Arab Emirates, United Mexican States , Uruguay, Uzbekistan Vietnam, Zambia	10%
2	Kyrgyz Republic, Mongolia, Mauritius, Nepal, Poland, Turkey, Oman	15%
3	Denmark, Italy, Jordan	20%
4	Australia	10%/15%[N2]
5	Brazil	a) 25% for use of trademark; b) 15% for others
6	Bulgaria	a) 15% of royalty relating to literary, artistic, scientific works other than films or tapes used for radio or television broadcasting; b) 20%, in other cases
7	Canada	10%-15%
8	Philippines	15% if it is payable in pursuance of any collaboration agreement approved by the Government of India
9	Spain	10%/20%[N3]
10	United Kingdom, United States	10%/15%[N2]

Source compiles from:
www.incometaxindiagov.in(last visited on 10/02/2019)
https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019)

Table 9. Withholding tax rates for technical services

Sl.No	Countries	Withholding rate
1	Albania, Armenia, Austria, Belgium, Bhutan, Botswana, China, Columbia Croatia, Cyprus, Czech Republic, Estonia, Ethiopia, Finland, Fiji, France Georgia, Germany, Hungary, Indonesia, Iceland, Ireland, Israel, Japan Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lithuania, Luxembourg Malaysia, Malta, Mauritius, Montenegro, Morocco , Macedonia, Namibia Netherlands, New Zealand, Norway, Portuguese Republic, Qatar , Romania Romania, Serbia, Singapore, Slovenia, South Africa, Sri Lanka, Sudan Sweden, Swiss Confederation, Trinidad and Tobago, Turkmenistan, Uganda, Ukraine, United Mexican States, Uruguay, Uzbekistan, Vietnam Zambia	10%
2	Kyrgyz Republic, Mongolia, Turkey, Poland , Oman	15%
3	Australia, Canada, United Kingdom, United States	10%/15%[N2]
4	Bulgaria, Denmark, Jordan, Spain[N3], Italy	20%
5	Bangladesh , Brazil, Myanmar, Philippines, Saudi Arabia, Mozambique Nepal, Syrian Arab Republic, Tajikistan, Tanzania, Thailand United Arab Emirates.	No separate provision

Source compiles from:
1)www.incometaxindiagov.in(last visited on 10/02/2019)
2)https://www.taxmann.com/double-taxation-avoidance-agreements.aspx (last visited on 15/02/2019

Conclusion

DTAAs facilitate smooth and hassle free international trade and commerce. As the globalization wind spread the world wide India successfully negotiated DTAAs with many countries. However, there are still many more countries with which the DTAAs are to be negotiated. India needs to renegotiate the taxing rights and withholding tax rates with those countries with which the DTAAs have been signed long time back. In the days to come Indian DTAAs are likely to be guided by International bodies like OECD, G-20, and UN etc.

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