RESOLVING TAX DISPUTES: EXPLORING ARBITRATION IN TAX LAW

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The evolution of The International Tax

The 21st century World Economy is not only more complicated and dynamic, but highly integrated. National economies have moved closer and become virtually borderless due to rapid movement of resources from one country to another because no country is self-sufficient in all resources to produce all goods and services. There is simultaneous movement of goods and services across borders. It won't be an exaggeration to call the world a "global village". The concept of cross-border transactions, Multinational Corporations (MNCs) and Non Resident has acquired popularity and relevance. This free development of merchandise, administrations and capital which will attack tax. International Taxation is an aspect of Public International Law. There is no definite concept of "International Taxation". However, attempts have been made to define the term. Kevin Holmes described International Taxation as "the body of legal provisions of different countries that covers the tax aspects of cross-border transactions." It is concerned with Direct Taxes and Indirect Taxes. In other words, it is an area of knowledge International-aspects.[1]

At the onset, it is important to note that there is no codified International Tax Law. There are no generally accepted taxation laws by all countries. Further there is no separate Court to interpret the International tax regime. There are provisions in domestic taxation laws of the countries to handle Cross-Border direct and indirect taxes. Nations make attempts to reconcile domestic taxation laws for cross-border transactions by way of **taxation treaties**[2]. OECD (Organization for Economic Co-operation and Development), in their glossary of terms, has defined "tax treaty" as "An agreement between two (or more) countries for the avoidance

[1] Sadowsky, Marilyne, The History of International Tax Law (March 16, 2021). OUP Handbook of International Tax Law (F. Haase, G. Kofler eds., Oxford University Press 2021 Forthcoming), Available at SSRN: https://ssrn.com/abstract=3853172

[2] (*An introduction to tax treaties*) <https://www.un.org/esa/ffd/wp-content/uploads/2015/10/TT_Introduction_Eng.pdf>

of double taxation. A tax treaty may be titled a Convention, Treaty or Agreement." In simpler words, a tax treaty is a formally concluded and ratified agreement between the two nations (bilateral treaty) or more than two nations (multilateral treaty) on matters concerning taxation. There are a number of model tax treaties (Called Model Conventions), published by various national and international bodies, such as the United Nations (UN), OECD etc. which forms the basis for a large number of treaties. Three major model conventions are OECD MODEL[3], UN Model[4] and the US Model Convention.

India has gone into excess of 90 bilateral or Multilateral tax Concurrences with different nations. Income tax Act, 1995 engages the Central Government to go into concurrences with different countries concerning tax collection and its belongings under section 90. Also, there is no prerequisite in India to integrate a settlement into the homegrown regulation to make it. Contained in the definition given by OECD, the basic role of tax treaties is evasion of double tax collection. Be that as it may, there are different purposes for having a tax collection deal set up, some of which will decrease in charge paces of people and enterprises, Laying out methodology for simple recuperation of Tax Dues, Promotion of International trade and business and Providing for Dispute resolution mechanism.

Principles of International Taxation

Two important principles associated with International Taxation are- Residence Principle (what is the residence of assessed) & Source Principle (What is the origin of assessee's income). In International Taxation, a country where a person generates income is very important to decide tax liability. Similarly, it is important that there is a connection between the country and its residents as the Government of a country cannot tax foreign sourced income of Non-Residents. In this regard, section 5, Section 6 and Section 9 of Income Tax Act, 1995[5] are of utmost importance for understanding the legal implications of International Taxation in Indian context. It is important to know the residential status of the assesses as scope of taxable income varies according to such status. Section 6 helps in determining the residential status of the Individual, Hindu Undivided Family and Other assesses (Companies, societies etc.). Furthermore, residential status for individuals can be divided into Resident or Non-resident.

[3] Organisation for Economic Co-operation and Development, Model Tax Convention on Income and Capital (Paris: OECD, 2014).
[4] United Nations, Department of Economic and Social Affairs, United Nations Model Double Taxation Convention between Developed and Developing Countries (New York: United Nations, 2011).
[5] Income Tax Act, 1955, s (5)(6)(9)

Once the residential status is determined, Section 5 comes into the picture. A careful reading of section 5 and 6, provides that the Act levies tax on those earnings of the overseas companies and Non-Residents, which are accumulated in India. Section 5(2) lays down that such Non-Resident is responsible to pay tax only on the income which is received or is deemed to be received in India or on behalf of such person or income which accrues or arises in India. Section 9 provides for different types of income that are deemed to accrue or arise in India under certain circumstances. Thus, only that income of Non-Resident which falls under this Provisions.

The concept of Environmental Tax

The global talks and mounting pressure on developed and developing states to tackle the problem of environmental pollution has been on the rise since the United Nations recognized pollution as a global threat to mankind. An innovative way of increasing the environmental responsibility of governments is to tax by imposing "Environment Tax" to target the pollutant or polluting behaviour. OECD defines such tax as "a tax whose tax base is a physical unit (or a proxy of it) that has a proven specific negative impact on the environment. Four subsets of environmental taxes are distinguished: energy taxes, transport taxes, pollution tax etc. To ensure effective environmental taxes, OECD recommended the guidelines while forming policies such as The tax base must be carefully designed to target the pollutant or polluting behaviour, The scope of an environmental tax should be as broad as the scope of the environmental damage. For e.g. - Soil pollution affects lesser areas as compared to air pollution. Thus, tax on soil pollution might be imposed at the local level and tax on air pollution can be imposed at global level. Efforts should be made to apply such taxes uniformly with as few exceptions as possible and The tax rate should commensurate with the environmental damage.[6]

However, environmental taxation has also been criticized and showed its own rational meaning towards its view as it stated that Since it is at its initial stage, the actual impact of such taxation on desired results to reduce the pollution cannot be accurately ascertained. Taxes alone cannot bring about the intended environmental outcome by ensuring awareness amongst the masses. Imposition of such taxes might be seen more as a financial burden than as a social

[6] A. Lans Bovenberg and Lawrence H. Goulder, 'Chapter 23 - Environmental Taxation and Regulation', *Handbook of Public Economics*, vol 3 (2002) <https://www.sciencedirect.com/science/article/abs/pii/S1573442002800271>

responsibility, especially in developing countries. It is not always possible to ascertain the environmental damage with mathematical precision, nor is it possible to impose burden on accurately identified persons or entities. It is yet to be seen how global organizations ensure that the governments of all countries fulfil their environmental responsibilities through "Environment Tax-Policies".

Thus, in order to produce desired results, the taxes have to be properly designed and levied as close to the environmentally damaging pollutant or activity as possible.

International Tax Treaties

International law has always been criticized for being an imperfect law or soft law, as it is not consistent, codified and generally does not override domestic laws. It is no surprise that being a subset of International law, International Taxation comes with its own problems. Prominent issues that could be highlighted as there is no uniformity in International Tax structure as it is governed by Tax Treaties, this makes such law highly complicated and unclear. Tax treaties are written in a complex manner and it is extremely difficult for a layman to understand the implications of such treaties. Tax treaties create various disagreements and disputes which are to be tackled by domestic courts and tribunals. The main problem is the lack of availability of precedents to be followed due to differences in provisions of treaties. [7]

Developed nations are in a better position to dictate their terms upon developing nations. This has often led to unfair, unjust and exploitative treatment of developing and under-developed nations. International trade and business is highly dynamic in nature. In such a rapid commercial environment, treaties sometimes fail to provide a solution for a peculiar taxation problem. It takes years to enter into agreements and treaties with other nations. There are issues related to governance, transparency and adjudication which are yet to be solved by the International Organizations. Contemporary considerations for international taxation require smooth administration and revenue efficiency. Social justice and commercial factors must be balanced while designing International Taxation structure, especially by a developing nation

[7] Brian J. Arnold & Michael J. McIntyre, International Tax Primer, second edition, at 6. See also at 105: The objective of tax treaties, broadly stated, is to facilitate cross- border trade and investment by eliminating tax impediments to these cross-border flows. This broad objective is supplemented by several more specific, operational objectives. The most important operational objective of bilateral tax treaties is the elimination of double taxation.

like India. There should be equity, clarity and economy in international taxation structure for a particular.

Under both the OECD and UN Models, arbitration is available only if a person has presented a case under article 25(1) to the competent authority of the state of which the person is resident. The case must involve actions by one or both of the contracting states that have resulted or will result in taxation contrary to the provisions of the treaty and it must be presented to the competent authority within 3 years of the first notification to the per- son of the actions. A MAP that arises under the residence tiebreaker rule in article 4(2)(d), which requires the competent authorities to settle questions of dual residence in certain circumstances, is covered by article 25(1). Therefore, if the competent authorities fail to agree and this failure results in taxation contrary to the treaty, arbitration is available under article 25(5). MAP cases under article 25(3) that involve the interpretation or application of the treaty or the elimination of double taxation not provided for in the treaty do not qualify for arbitration, although contracting states have the option of extending arbitration to article 25(3) issues.

The concept of International Arbitration:

There is no reason not to select arbitration as an alternative to judicial proceedings because international arbitration has developed over time. Its goal is to offer an impartial platform for resolving any kind of cross-border conflict. International arbitration first appeared in 1794, following the American Revolution, when the US and Great Britain signed the Jay Treaty, which established three arbitral panels to settle American Revolutionary issues and claims. Since then, the preferred mechanism for resolving conflicts between states has been international arbitration. It is regarded as one of the most flexible forms of dispute resolution because it gives the parties complete freedom to modify the proceedings to suit their needs, including selecting the arbitrator, deciding on the procedural rules, and determining which laws will apply to settle the dispute. Since arbitration includes fewer procedural and evidentiary requirements and a decisive finding that spares parties from having to endure an expensive and protracted appeals process, it can be more effective, time-efficient, and cost-effective than traditional litigation.[8]

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[8] *International Arbitration*. (n.d.). Peace Palace Library. Retrieved May 18, 2024, from https://peacepalacelibrary.nl/research-guide/international-arbitration

The secrecy of the proceedings has two drawbacks: some people criticize arbitration because it lacks public transparency. It does, however, present a compelling answer to privacy issues that may surface in the domestic legal system. Time frames that are well stated are also very advantageous in arbitration.

Although arbitration is a relatively new tool for resolving international tax disputes, it is already demonstrating promise, subject to certain restrictions such as public policy challenges and sovereignty considerations. A July 2022 United Nations report states that between 2000 and 2009, the number of investor-state arbitration disputes pertaining to taxes doubled, and between 2010 and 2021, it more than doubled again. There are two main situations in which international tax disputes occur. One type of disagreement involves multiple taxpayers and the government. Usually, the taxpayers are contesting the taxes that the government has imposed on them. In the second scenario, there is a dispute between two or more governments about how tax income from trade and investment activities should be distributed. [9]

Not all disputes can be resolved through arbitration; for instance, there are several countries where laws prohibit the use of arbitration for disputes involving public policy issues, such as tax matters. Additionally, certain tax treaties or national laws may exclude arbitration as a method of resolving disputes pertaining to taxes. Notwithstanding these drawbacks, arbitration is becoming a more popular means of resolving tax disputes, especially in cross-border transactions where parties might rather use arbitration than take their arguments to court across many jurisdictions.

Arbitration in International Tax Disputes:

Since 1984, when the OECD examined the potential for its use in tax treaties in a paper titled Transfer Pricing and Multinational Enterprises: Three Taxation Issues, arbitration has been taken into consideration as a means of resolving tax disputes. Though it was taken into consideration at the time, it was not accepted for the same reasons that it is not widely used today: the idea that it undermines state sovereignty.Still, in 2008 it was included in the OECD Model.[10]

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[9] Fach Gómez, K. (2019). *60 Years of the New York Convention : key issues and future challenges*. Kluwer Law International.

[10] OECD. (2024, March 5). *Transfer Pricing and Multinational Enterprises*. OECD iLibrary. Retrieved May 18, 2024, from https://www.oecd-ilibrary.org/finance-and-investment/transfer-pricing-and-multinational-enterprises_9789264167773-en

Either independent opinion arbitration or baseball arbitration may be used as the arbitral procedure. Under the terms of the baseball arbitration process, each competent authority will be required to submit a proposed resolution of the dispute, along with the exact amount of tax payable or the tax rate for each issue, on dates that have been agreed upon by the parties. In addition, the competent authorities have the opportunity to respond to the other competent authority's position paper and proposed resolution. They must also submit supporting position papers.After exchanging ideas, the panel would reach a decision by simple majority on the proposed resolution, eliminating the necessity for a reasoned argument. Additionally, the panel's ruling will not be precedent-setting.[11]

International arbitration jurisdiction is determined by a number of variables. Compared to the domestic arbitration jurisdiction, it is more complicated. The existence of a foreign element is the first and most crucial need for any tax dispute to be subject to international arbitration. A tax dispute will not be considered eligible for international arbitration if it is entirely contained inside the borders of the home country. As is already known, arbitration is one of these systems for resolving disputes that requires or requires the parties' cooperation in order to submit the issue for arbitration. To favor arbitration as a method of resolving disputes, there are two ways to give agreement. For example, having a separate agreement that is drafted by the parties or having arbitration terms in tax treaties. Due to the parties' nearly complete control over how the dispute is handled, arbitration is regarded as the most adaptable method of resolving conflicts. However, whether or not the issue in question is arbitrable is one of the most crucial factors to take into account. The subject matter must be appropriate for arbitration procedures.[12]

Tax matters are limited to issues arising under MAP cases under article 25(1). Neither the Commentary on article 25 of the OECD Model nor the Commentary on article 25 (alternative B) of the UN Model provides any reasons for this limitation. Since article 25(3) is permissive rather than mandatory, perhaps there is concern that the prospect of mandatory arbitration would have the unintended consequence of discouraging the competent authorities from even attempting to resolve doubts or difficulties about the interpretation of the treaty or the elimination of double taxation not provided for in the treaty. The Commentary provides that states are free to extend arbitration to MAP cases under article 25(3). However, it might be

[11] Lang, M. (n.d.). *International Arbitration in Tax Matters*. IBFD. Retrieved May 19, 2024, from https://www.ibfd.org/sites/default/files/2021-12/15_075_International-Arbitration-Tax-Matters_final_web.pdf
[12] Dr. Mukesh Kumar Malviya. (2017, March). *Jurisdictional Issues in International Arbitration with Special Reference to India*. Bharat Law Review. Retrieved May 18, 2024, from https://docs.manupatra.in/newsline/articles/Upload/03D471A1-CEC8-46DC-8E27-A42DC5D09E7C.pdf

more appropriate in these circumstances for the Commentary to provide for a voluntary arbitration process that is available only if the competent authorities agree.[13]

Finally, it is worthwhile keeping in mind that even if a treaty does not provide for arbitration, the competent authorities have authority through the MAP to implement an arbitration procedure that would apply generally or just in a particular case. However, it seems unlikely at this stage in the development of arbitration that a competent authority would do so in the absence of an explicit decision by its government to adopt arbitration in its treaties as a mechanism for resolving tax disputes.

Under the arbitration provision of the OECD Model, arbitration is initiated at the request of the taxpayer who presented the case to the competent authority under article 25(1). In this regard, arbitration under the OECD Model is fundamentally consistent with the MAP. Both are initiated by the taxpayer; however, once initiated, both are state-to-state processes con- trolled by the competent authorities. Although article 25(5) does not specify any particular method for submitting issues to arbitration, the sample mutual agreement in the annex to the Commentary on article 25 indicates that a request should be made in writing with sufficient information to identify the case and the unresolved issues. As noted above, however, even if a treaty does not explicitly provide for arbitration, under article 25 the competent authorities of the contracting states have the ability to initiate arbitration on an ad hoc basis in a particular case without the taxpayer's consent.[14]

In contrast, under the arbitration provision of the UN Model, arbitration is initiated at the request of one of the competent authorities. The sample agreement in the Annex to the UN Commentary on article 25 indicates that the request should be made in writing to the other competent authority, with notice to the taxpayer who presented the case for MAP and sufficient information to identify the case and the unresolved issues. Alternatively, the Commentary on the UN Model also provides that the contracting states may wish to submit issues for arbitration only if both competent authorities agree. This voluntary arbitration is discussed below. The UN Commentary also recognizes that countries that wish to use taxpayer-initiated arbitration, as provided in the OECD Model, are free to do so.[15]

[13] *Overview of the MAP Process | Internal Revenue Service*. (n.d.). IRS. Retrieved May 22, 2024, from https://www.irs.gov/businesses/overview-of-the-map-process
[14] Gustaf Lindencrona & Nils Mattsson, Arbitration in Taxation (1981)
[15] Id. at 12. The authors state that:
"If two states have decided to conclude an agreement on the avoidance of double taxation, they have thereby

At first glance, the contrast between the OECD and UN Models concerning the person who is entitled to initiate arbitration may appear to reflect the fundamental reluctance of developing countries to allow arbitration. However, in practice, the author suspects that arbitration initiated by one of the competent authorities under the UN Model will operate in largely the same manner as taxpayer-initiated arbitration under the OECD Model. If one competent authority can force the other competent authority to accept arbitration of unresolved issues, it seems likely that the requesting competent authority would consult with the taxpayer involved and in most cases would accede to the taxpayer's wishes concerning recourse to arbitration. However, the competent authority requesting arbitration must take into account other factors that would be irrelevant to taxpayers, such as the ongoing relationship with the other competent authority. It is unclear whether these other factors are sufficient to make a significant difference between taxpayer-initiated and competent authority-initiated arbitration. [16]

Allowing taxpayers to initiate arbitration provides certainty for taxpayers that issues concerning the proper application of tax treaties on which the competent authorities cannot agree after a reasonable period will be decided. The only obligation of the competent authorities under article 25(2) is to endeavour to resolve MAP cases presented to them; if they cannot resolve a MAP case, in the absence of arbitration, there is nothing to force them to do so. Taxpayers usually suffer the consequences of the inability of the competent authorities to agree: double taxation contrary to the provisions of the treaty. Allowing taxpayers to initiate arbitration reflects the important interest that taxpayers have in an effective dispute resolution mechanism that prevents double taxation. Moreover, once arbitration is requested by a taxpayer, the contracting state of which the taxpayer is a resident is effectively required to support the taxpayer's claim against the tax authority of the other contracting state.[17]

For countries that want to maintain control over access to arbitration, the UN alternative provision requires both competent authorities to agree to submit cases to arbitration on a case-by-case basis. Under this voluntary arbitration process, taxpayers' interests in certainty and the elimination of double taxation are subordinate to the governmental interests of the contracting states. According to the UN Commentary, this system of voluntary arbitration allows countries

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accepted to refrain from their right of taxation in certain situations. It is only logical the states find solutions that ensure that disputes on the contents of the agreement can be solved in all situations.

[16] See William W. Park, Income Tax Treaty Arbitration, Tax Mgmt. Int'l J, 31(5), 219 and the references thereafter. See also Park & Tillinghast, supra note 8

[17] See Michael McIntyre, Comments on the OECD Proposal for Secret and Mandatory Arbitration of International Tax Disputes, 7 Fla. Tax Rev. 622

to "preserve great flexibility" concerning the types of issues submitted for arbitration and the number of arbitration cases. However, the UN Commentary notes that compulsory arbitration initiated by one of the competent authorities or by taxpayers provides greater certainty that treaty disputes will be resolved effectively.A voluntary arbitration process would allow countries that are sceptical about the necessity for and benefits of arbitration to experiment with it temporarily without making a permanent commitment.

Reasons for growth of Arbitration in tax matters

1. **Equitable resolution of tax controversies:**

Arbitration provides a neutral forum where there is a neutral party or panel i.e. the Arbitrator who is usually expertised in Tax laws, International law and also commercial laws tries to resolve the matter in question. This serves to guarantee equity and fairness in the settlement of tax disputes as opposed to domestic courts that can be politically or biased.

2. **Cost effective:**

The process of arbitration is more streamlined and the cost involved in it is comparatively less than traditional litigation in the court. it involves less complexities in the procedure.

3. **Flexible:**

Compared to court processes, arbitration allows parties greater latitude in creating the procedural rules and hearing dates. This adaptability enables participants to customize the procedure to their unique requirements and goals, possibly cutting down on needless expenses and delays.

Brief case study: (GOOGLE Tax avoidance)

To avoid UK corporation tax, Google relies on the deeply unconvincing argument that its sales to UK clients take place in Ireland, despite clear evidence that the vast majority of sales activity takes place in the UK. The big accountancy firms sell tax advice which promotes artificial tax structures, such as that used by Google and other multinationals, which serve to avoid UK taxes rather than to reflect the substance of the way business is actually conducted. HM Revenue & Customs (HMRC) is hampered by the complexity of existing laws, which leave so much scope for aggressive exploitation of loopholes, but it has not been sufficiently challenging the

manifestly artificial tax arrangements of multinationals. HM Treasury needs to take a leading role in driving international action to update tax laws and combat tax avoidance.[18]

The UK is a key market for Google but the enormous profit derived is out of reach of the UK's tax system. Google generated US $18 billion revenue from the UK between 2006 and 2011. Information on the UK profits derived from this revenue is not available but the company paid the equivalent of just US $16 million of UK corporation taxes in the same period. Google defends its tax position by claiming that its sales of advertising space to UK clients take place in Ireland—an argument which we find deeply unconvincing on the basis of evidence that, despite sales being billed from Ireland, most sales revenue is generated by staff in the UK. It is quite clear to us that sales to UK clients are the primary purpose, responsibility and result of its UK operation, and that the processing of sales through Google Ireland has no purpose other than to avoid UK corporation tax. This elaborate corporate construct has damaged Google's reputation in the UK and undermined confidence in the effectiveness of HMRC. In contrast to evidence given to us previously, Google has also conceded that its engineers in the UK are contributing to product development and creating economic value in the UK.

Recommendation: *Public confidence in Google will only be restored when it establishes a corporate structure that ensures Google pays tax where it generates profit. This should be addressed as a matter of urgency by Google and other companies with a similar corporate structure—the Committee will continue to pursue this issue over the course of the Parliament.*

Hence, this clearly shows how a simple tax system could be complexly used so that the tax could be evaded from the government.

Taxation policies play a crucial role in shaping economic systems and influencing both domestic and international business activities. One key debate in the realm of taxation revolves around whether source-based taxation or resident-based taxation is more beneficial. This article aims to provide a comprehensive analysis of the advantages over all the demerits of each approach to shed light on which might be more favourable in different contexts.

Source-based taxation refers to taxing income generated within a country's borders, regardless of the taxpayer's residency status. This approach often involves taxing income earned from

[18] https://www.taxnotes.com/featured-news/google-us-wins-7-million-tax-dispute-against-indian-officials/2023/02/27/7g008

local investments, operations, or sales, irrespective of where the taxpayer resides. Proponents of source-based taxation argue that it provides countries with a fair share of tax revenue from economic activities conducted within their jurisdiction. Additionally, it can incentivize foreign investment by offering favourable tax rates or exemptions, thereby promoting economic growth and job creation.

Source-based taxation can attract foreign investors by offering competitive tax rates and a stable regulatory environment, leading to increased capital inflows and economic development. Tax authorities can more easily enforce source-based taxation since income generated within the country is subject to taxation, regardless of the taxpayer's residency status. This simplifies compliance and reduces tax evasion. By taxing income generated within its borders, a country ensures that all businesses operating within its jurisdiction contribute to public services and infrastructure, regardless of their owners' residency.

When it comes to residence based tax there are many demerits taking account of which it becomes extremely difficult to handle. Resident-based taxation may discourage foreign investment and entrepreneurship by imposing higher tax burdens on foreign residents and investors, potentially leading to capital flight and reduced economic growth. Expatriates and individuals with international income may face complexities and compliance burdens under resident-based taxation, as they must navigate tax treaties and reporting requirements in multiple jurisdictions lastly, High-tax countries may engage in tax competition to attract wealthy residents, leading to a race to the bottom in terms of tax rates and eroding the tax base.

Conclusion:

Both source-based taxation and resident-based taxation have their merits and drawbacks, and the suitability of each depends on various factors, including a country's economic structure, its goals for tax policy, and its position in the global economy. While source-based taxation can promote foreign investment and economic growth, resident-based taxation prioritizes tax equity and ensures that residents contribute to the societies in which they live. Ultimately, policymakers must carefully consider the trade-offs and implications of each approach to design tax systems that promote both economic prosperity and social welfare.

Source base tax has various limitations such as Source-based taxation may result in double taxation if the same income is taxed both in the country where it is earned and in the taxpayer's

country of residence. This can deter cross-border investment and hinder international trade. Implementing source-based taxation requires navigating complex international tax treaties and agreements to prevent double taxation and ensure fairness. Failure to do so can lead to disputes and hinder international cooperation. Some multinational corporations may exploit loopholes in source-based taxation systems to artificially shift profits to low-tax jurisdictions, reducing their overall tax liabilities and depriving countries of revenue. Hence this could be easily corrected by the Double tax avoidance agreement (DTAA) between the countries and the loopholes could be keep under check and balance by bilateral tax treaties keeping the DTAA as the parent statute.

Source-based taxation can incentivize foreign investment by offering favourable tax rates or exemptions on income generated within a country's borders. This can lead to increased capital inflows, job creation, and economic development. Taxing income generated within a country's borders simplifies tax administration and enforcement compared to tracking the global income of residents. This can lead to higher compliance rates and reduced tax evasion. Source-based taxation ensures that all businesses operating within a country's jurisdiction contribute to public services and infrastructure, regardless of their owners' residency. This promotes tax fairness and ensures that economic activity generates revenue for the host country. Taxing income at its source aligns with the principle of taxing economic activity where it occurs. This can lead to a more efficient allocation of resources and prevent profit shifting to low-tax jurisdictions. Source-based taxation can facilitate international cooperation by providing a clear framework for taxing cross-border transactions and preventing double taxation through tax treaties and agreements. This can promote fairness and reduce conflicts between countries over tax matters.

The role assigned to this resolution process is similar to settlement in that there is no need for a decision to be made and that it has a rather preliminary structure, even though the mutual agreement process refers to an actual need for the effective enforcement of tax treaties and laws, whether they be Indian tax disputes or international tax disputes. In the event that negotiations go down, the parties may submit the disagreement to national courts or, in a last-ditch effort, give up their rights. The process for a mutual agreement could be enhanced by the arbitration.