Double tax for NRIs if this form is not filed and foreign tax credit is not claimed

By Neelanjit Das, ET Online • Last Updated: Sep 04, 2024, 11:32:00 AM IST

How DTAA helps in avoiding double taxation of same income for NRIs

Sandeep Jhunjhunwala, Partner, Nangia Andersen LLP, says that many countries follow residence-based taxation systems, where the global income of residents is subject to taxation in such countries. "Hence given the same, NRI's resident country may also tax the income earned by NRI in India as part of their global income. Also, such India sourced income would be subject to tax in India as per Indian domestic tax law against which beneficial provisions, if any, under the Double Taxation Avoidance Agreement (DTAA) could be applied," he says.

For example, global income of residents in the USA is subject to tax in the USA. Hence, the Indian income of an NRI who is a resident of the USA may be taxable in the USA at the rates applicable to such income to such NRI. "In this situation, NRI can claim the beneficial provisions under the India-USA DTAA, if any, for taxes payable in the source country. In such a case, the NRI can claim the beneficial tax rate under the India-USA DTAA subject to obtaining a **TRC** and online Form 10F," says Jhunjhunwala.

Jhunjhunwala explains the concept with an example: "For instance, where the NRI earns dividends from shares held in an Indian company, the India Income Tax Act prescribes a withholding tax (TDS) at the rate of 20 per cent (plus applicable surcharge and cess) on such dividend payments/ accruals to a USA resident. However, Article 10 of the India-USA DTAA stipulates a tax rate of 15 per cent on dividends (in certain specified cases). In such a case, the NRI can claim the beneficial tax rate under the India-USA DTAA subject to obtaining a TRC and submission of online Form 10F."