TR 254

Facts

A has been incorporated in Mauritius since 9 November 2017 and it holds a Global Business Licence issued by the Financial Services Commission.

The principal activity of A is that of investment holding and it currently holds 10.77% shareholding in B (formerly C), an automobile project company situated in Pakistan.

B qualifies for a tax exemption in Pakistan under Clause 126E of Part I of the Second Schedule of the Income Tax Ordinance 2001, which states as follows:

"Income derived by a zone enterprise as defined in the Special Economic Zones Act, 2012 (XX of 2012) for a period of ten years starting from the date the developer certifies that the zone enterprise has commenced commercial operation and for a period of ten years to a developer of zone starting from the date of signing of the development agreement in the special economic zone as announced by the Federal Government.

Provided that this clause shall also apply to a co-developer as defined in Special Economic Zone Rules, 2013 subject to the condition that a certificate has been furnished:

(a) by the developer that he has not claimed exemption under this clause and has relinquished his claim in favour of the co-developer; and

(b) by the Special Economic Zone Authority validating that the developer has not claimed exemption under this clause and has relinquished claim in favour of the co-developer".

A receives dividend income from B.

Point at issue

Whether A is eligible to claim tax sparing, along with the withholding tax and underlying tax suffered on the foreign dividend received from B?

Ruling

On the basis of the facts provided, it is ruled that A is entitled to claim credit for tax sparing in respect of dividend receivable from B in accordance with the provisions of Regulation 9 of the Income Tax (Foreign Tax Credit) Regulations 1996 and Article 23(4) of the Double Taxation Avoidance Agreement between Pakistan and Mauritius.

A will also be entitled to claim foreign tax credit in respect of withholding tax and underlying tax suffered on the foreign source dividend receivable from B for set-off against its Mauritian tax payable.