

Tiger Global Tax Ruling: Supreme Court Impact on Startups

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Tiger Global Tax Ruling Latest News

- The Supreme Court of India has ruled that venture capital firm Tiger Global's \$1.6-billion stake sale in Flipkart to Walmart is subject to taxation.
- The verdict, closely watched by foreign investors, is seen as a landmark decision that could influence **cross-border deal structures** and have wider implications for India's startup ecosystem.

Dispute Over India-Mauritius Tax Treaty

- The case arose from Tiger Global's 2018 exit, executed through its Mauritius-based entities.
- Tiger Global claimed protection under the India-Mauritius Double Taxation Avoidance Agreement (DTAA).
 - A DTAA is a bilateral treaty to prevent the same income from being taxed in both nations — the country where the income is earned and the country where the company is based out of.
- However, the Supreme Court ruled that the DTAA benefit could not be extended in this case.

Court Rejects Treaty Benefits, Overturns High Court Order

- In denying DTAA protection, the Supreme Court overturned an August 2024 ruling of the Delhi High Court, which had set aside a 2020 decision of the Authority for Advance Rulings (AAR).
- The AAR had earlier concluded that the transaction was prima facie structured to avoid tax.

Broader Implications for Startup Investments

- Mauritius had long been a favoured investment route into India due to the non-taxability of capital gains until 2016.
- The judgment comes amid slowing startup funding, as investors increasingly prioritise profitability and clear tax certainty, potentially reshaping how foreign capital approaches Indian startup exits.

Background: Tiger Global's Flipkart Investment

- After acquiring a stake in **Flipkart**, Mauritius-based entities of **Tiger Global**—Tiger Global International II, III, and IV Holdings—went on to invest in several Indian companies.
- **Claim for Tax Exemption** – Following the stake sale, the Tiger Global entities sought a “nil” withholding tax certificate from Indian tax authorities. They argued that capital gains were exempt under the India-Mauritius DTAA due to the “grandfathering” clause for shares acquired before April 1, 2017.
 - Grandfathering essentially means exempting an activity from a new law or regulation.
- **Tax Authorities' Rejection** – Indian tax authorities rejected the request, concluding that the Mauritius entities lacked independent decision-making. They held that real control over share purchases and sales did not rest with these entities.
- **Authority for Advance Rulings (AAR) Decision** – The matter was taken to the Authority for Advance Rulings, which in 2020 dismissed Tiger Global's claim.
 - The AAR found that the investment structure was primarily designed to obtain DTAA benefits and that effective control lay outside Mauritius—particularly in the United States—through a complex web of entities.
- **Delhi High Court Intervention** – On appeal, the Delhi High Court overturned the AAR ruling, holding that the conclusion of tax avoidance was arbitrary and unsustainable.

Supreme Court's Final Word

- The Supreme Court of India reversed the High Court's decision.
- It held that DTAA protection applies only where assets are directly owned by a Mauritian entity's permanent establishment.
- The Flipkart transaction, he ruled, fell outside this scope—rendering the gains taxable in India.

Implications of the Verdict for Indian Startups and Investors

- **End of Automatic Treaty Benefits** – Tax experts warn that the ruling weakens automatic reliance on the India-Mauritius DTAA. Merely holding a Tax Residency Certificate (TRC) will no longer guarantee capital gains

tax exemption.

- TRC is an official document from a country's tax authority.
- It proves that an individual or entity is a tax resident there for a specific period. This is crucial for claiming benefits under a DTAA.
- **Substance Over Form Becomes the Test** – The judgment reinforces a shift toward examining economic substance. Investors must now show genuine commercial rationale, autonomous decision-making, and real operations in treaty jurisdictions.
- **Higher Tax Uncertainty and Litigation Risk** – According to practitioners, the ruling raises uncertainty for venture capital and private equity exits. Exit planning, valuations, and indemnities may need reassessment amid increased scrutiny and potential disputes.
- **Impact on Offshore Investment Structures** – Structures routed through Mauritius or Singapore—especially pre-2017 investments—could face closer examination. While closed cases may not reopen automatically, reassessments are now more likely where legally permitted.
- **Costlier Risk Management** – Experts anticipate tax insurance and indemnity mechanisms becoming scarcer and more expensive, adding to compliance costs and complicating deal-making for startups and foreign investors alike.

Startup Funding Slowdown Amid Investor Caution

- The Supreme Court ruling comes against the backdrop of a broader slowdown in India's startup funding.
- In 2025, tech startups raised \$10.5 billion, down 17% from 2024 and 4% from 2023. While seed-stage funding fell sharply, early-stage investments showed resilience, signalling selective but continued investor confidence.

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