Nokia invokes MAP to resolve Rs 2,000-cr tax problem

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The article talks about the appeal made by Finland-headquartered Nokia for the mutual agreement procedure (MAP) under the India-Finland Double Taxation Avoidance Agreement, to resolve the Rs 2,000-crore tax dispute with the Indian tax department, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates
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New Delhi, May 6:
Finland-headquartered Nokia has invoked the mutual agreement procedure (MAP) under the India-Finland Double Taxation Avoidance Agreement, to resolve the Rs 2,000-crore tax dispute with the Indian tax department.

Now, the competent authorities of the two countries — India and Finland — will sit at the negotiating table and decide how the dispute should be resolved.

MAP is an alternative available to taxpayers for resolving disputes giving rise to double taxation.

Double taxation

The main benefit of pursuing MAP is elimination of double taxation. It is very rare that a case under MAP is not resolved.

If the MAP resolution is accepted, it would eliminate protracted legislation.

The MAP move comes in the wake of the Indian income tax department slapping an over Rs 2,000-crore tax demand on Nokia India over alleged default on tax deduction at source (TDS) on software-related payments made to Nokia Finland for six years.

The IT department had concluded that payments made by Nokia India to Nokia Finland for software downloads — which got embedded in the Nokia handsets manufactured in India — were taxable in India as royalty.

Nokia had approached the Delhi High Court, which had stayed the recovery of demand and directed the Commissioner of Income Tax (appeals) to dispose of the matter by May 31.

However, Nokia withdrew the petition as Delhi High Court had refused to interfere in the merits of the case.

Generally, the issues giving rise to double taxation are submitted by taxpayers for resolution under MAP.

Some of the instances giving rise to double taxation are transfer pricing adjustments, characterisation of income and attribution of profits to permanent establishment.

“It remains to be seen how quickly this case (Nokia) can be resolved, especially when there is no time limit for disposing of such MAP applications in India. Normally, it can take two-three years to resolve a MAP,” said Amit Maheshwari, Partner, Ashok Maheshwary & Associates, a firm of chartered accountants.

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Keywords: Nokia, mutual agreement procedure, India-Finland Double Taxation Avoidance Agreement, income tax dispute, Indian tax department,

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