

## **Only top-level Polish executives exempted from tax net: ITAT**

The Income-Tax Appellate Tribunal, Ahmedabad has said that all management functions cannot be classified as top-level management functions unless they are senior officials with titles such as chairperson, chief executive officer, managing director, president and executive directors.

The tribunal made the observation while interpreting provisions of the tax treaty between India and Poland that exempts top management personnel of Polish companies from paying tax in India.

The dispute relates to a taxpayer, Mohan Balakrishnan Pookulangara, who played a key role in setting up a Polish company's Indian office in Bangalore and claimed exemption from liability to pay tax in India citing the treaty provision.

He had claimed that he was the final authority at the Bangalore-based Indian office and was responsible for establishing the Indian office after taking all the relevant approvals. The assessing officer, however, disputed his claim and said that he was only a service provider.

Since top-level management is not defined under the tax treaty, the tribunal depended on various dictionaries that defined the top-level management personnel. On the basis of these definitions, the ITAT said the assessee cannot be considered a top-level management personnel.

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