

Introduction: The Tiger Global Tax Dispute

Tiger Global, a Mauritius-based investment entity, found itself at the center of a pivotal tax controversy when it sold shares in Flipkart Singapore in 2018. The company claimed exemption from Indian capital gains tax under the India-Mauritius Double Taxation Avoidance Agreement (DTAA), setting the stage for a legal battle that would redefine treaty benefits interpretation.

Indian tax authorities challenged this claim, alleging sophisticated tax avoidance through Mauritius entities that were ultimately controlled from the United States. This dispute has evolved into a landmark case examining the intricate relationship between treaty benefits, benefits, tax residency certificates, and anti-abuse provisions in international taxation.



Investment Entity

Mauritius-based Tiger Global holding company

Transaction Year

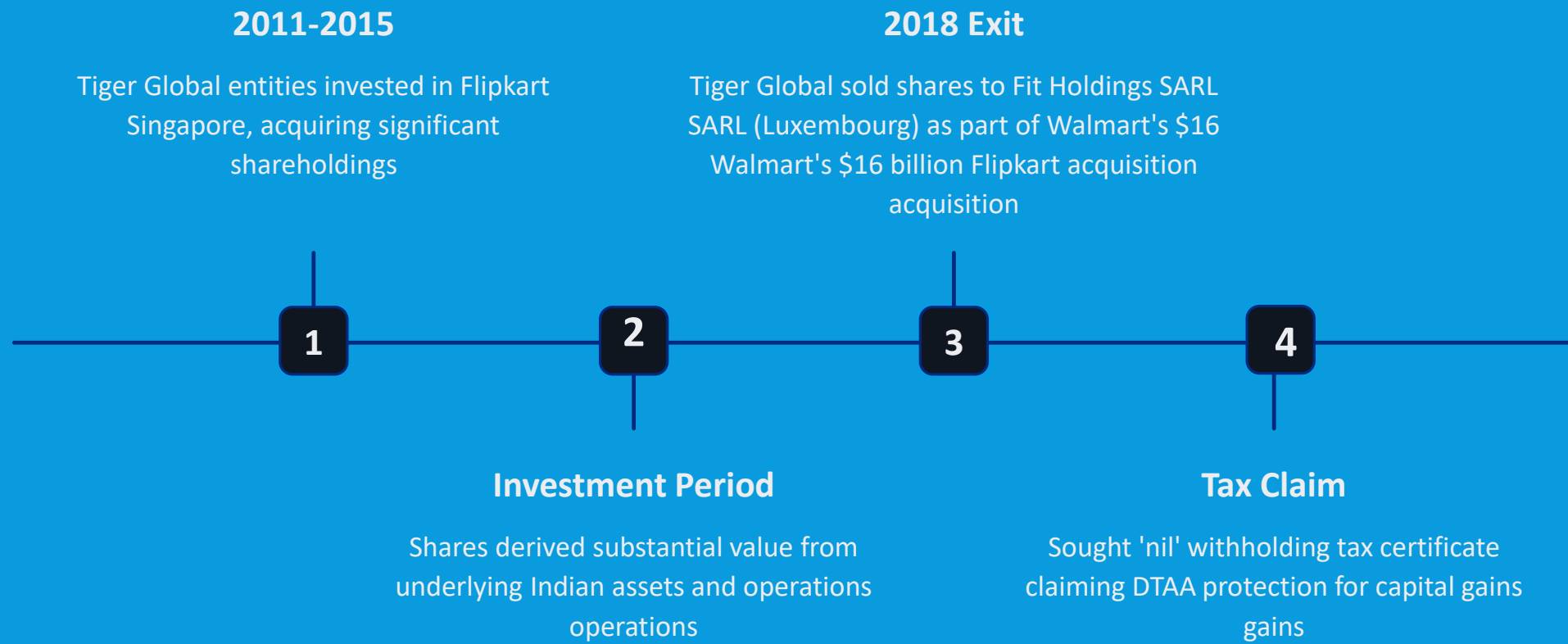
2018 Flipkart share sale during Walmart acquisition

Core Issue

DTAA exemption eligibility and treaty abuse allegations

Background: Investment Structure and Transactions

Tiger Global International II, III, and IV Holdings were incorporated in Mauritius with Category 1 Global Business Licenses and Tax Residency Certificates. These entities represented a sophisticated investment architecture designed to facilitate cross-border capital flows into one of India's most valuable startups.



The complexity of this multi-jurisdictional structure—spanning Mauritius, Singapore, India, and ultimately Luxembourg—became central to the tax authorities' scrutiny of commercial substance and genuine business purpose.

Tax Authorities' Position: Denial of Treaty Benefits



The Indian Income Tax Department and the Authority for Advance Rulings (AAR) adopted a firm stance, rejecting Tiger Global's claim for DTAA benefits. Their analysis penetrated beyond the corporate structure to examine the underlying economic reality and control mechanisms.

Tax authorities argued that the Mauritius entities were mere conduits lacking genuine commercial substance, with strategic and operational control residing entirely with Tiger Global Management LLC in the United States. This structure, they contended, was engineered primarily to circumvent Indian capital gains taxation.

Lack of Substance

Mauritius entities deemed to lack genuine commercial operations and independent decision-making capabilities

US Control

Strategic management and investment decisions made by made by Tiger Global Management LLC in New York York

Corporate Veil Piercing

Invoked Vodafone precedent principles to look through through the Mauritius structure to identify true beneficial beneficial owners

Anti-Abuse Application

AAR applied General Anti-Avoidance Rules, denying treaty benefits and imposing withholding tax obligations

Delhi High Court's Verdict: Upholding Treaty Benefits

In August 2024, the Delhi High Court delivered a comprehensive ruling that overturned the AAR's decision, providing significant relief to Tiger Global and foreign investors relying on the India-Mauritius DTAA. The court's reasoning emphasized treaty sanctity and established procedural protections.



Tax Residency Certificate from Mauritius authorities must be accorded conclusive value and cannot be casually disregarded



Grandfathering Protected Protected

Article 13(3A) exemption for capital capital gains on shares acquired before April 1, 2017 remains valid valid and enforceable



Look-Through Rejected

Revenue's attempt to deny benefits benefits based solely on US control control or beneficial ownership was was deemed inappropriate

"The court ruled that the Mauritius entities possessed sufficient commercial substance and were not established merely as tax avoidance vehicles. Treaty benefits cannot be denied without concrete evidence of abuse."

This decision was celebrated by the international investment community as affirming predictability and stability in treaty treaty interpretation, providing confidence for cross-border investment structures.

Supreme Court Intervention: Stay and Reversal



The trajectory of this case took a dramatic turn in January 2025 when the Supreme Court of India stayed the Delhi High Court's favorable ruling. The apex court recognized the far-reaching implications of treaty interpretation on India's broader tax policy and revenue interests.

The Supreme Court emphasized "pan-India implications" requiring thorough examination of treaty abuse mechanisms and anti-avoidance measures. This intervention signaled growing judicial skepticism toward structures that, while technically compliant, appeared designed primarily for tax optimization.



January 2025

Supreme Court stays High Court ruling pending detailed examination



Scrutiny Intensifies

TRC alone insufficient without genuine economic substance demonstration



January 2026

Final ruling: India-Mauritius DTAA does not shield Tiger Global from capital gains tax

The January 2026 ruling represented a watershed moment, clarifying that holding a Tax Residency Certificate and structured compliance with treaty provisions does not automatically guarantee exemption from Indian taxation when substance requirements are questioned. This decision exposed Mauritius-based investors to significant tax liabilities and fundamentally challenged previously understood grandfathering protections.

Legal and Tax Implications of the Supreme Court Ruling

The Supreme Court's decision represents a seismic shift in India's approach to treaty benefits and cross-border taxation, with profound consequences extending far beyond Tiger Global's specific circumstances. This ruling fundamentally recalibrates the risk-reward calculus for offshore investment structures.

Stricter Treaty Scrutiny

Enhanced application of anti-abuse provisions including GAAR, with tax authorities empowered to challenge treaty claims more aggressively

FPI Exposure

Foreign Portfolio Investors, Private Equity, and Venture Capital funds using Mauritius or similar jurisdictions face unprecedented tax exposure

TRC Inadequacy

Tax Residency Certificates no longer provide conclusive protection; substantive commercial commercial presence and operations now required

Indirect Transfer Taxation

Opens pathway for taxing capital gains from indirect transfers of Indian assets through offshore intermediaries

Retrospective Risk

Possibility of reassessing completed past transactions, creating litigation exposure for multiple years

Critical takeaway: This ruling fundamentally alters the compliance landscape, requiring investors to demonstrate genuine commercial substance beyond formal documentation and corporate registration.

Broader Impact on India-Mauritius DTAA and Foreign Investment`

The Tiger Global ruling sends reverberations throughout the India-Mauritius tax treaty framework, which for decades served as the preferred conduit for tax-efficient investments into India. This decision marks the erosion of one of the most one of the most significant tax planning mechanisms in South Asian investment architecture.

Treaty Erosion

Historical benefits diminishing rapidly rapidly

Grandfathering Threat

Pre-2017 protection now uncertain uncertain

Transparency Push

Substance-driven structures emerging

Global Alignment

Convergence with OECD BEPS standards

Investor Confidence

Mauritius route losing attractiveness

Investment Flow Transformation

The decision compels a strategic reassessment of investment routing. Mauritius, once the dominant source of Foreign Direct Investment (FDI) into India, faces structural disadvantages. Investors are pivoting toward jurisdictions with more robust substance requirements like Singapore, the Netherlands, and the UAE.

Regulatory Evolution

India's approach aligns with global anti-abuse initiatives under the OECD's Base Erosion and Profit Shifting (BEPS) framework. This ruling demonstrates India's commitment to preventing treaty shopping and artificial profit shifting, even at the potential cost of short-term investment flows.

Key Takeaways for Investors and Tax Practitioners

The Tiger Global ruling necessitates immediate strategic recalibration for foreign investors, tax advisors, and multinational corporations with Indian exposure. Understanding and implementing these insights is critical for compliance and risk mitigation.

TRC Limitations

Tax Residency Certificate from Mauritius no longer guarantees treaty protection; must be supported by demonstrable commercial substance

Substance Requirements

Entities must demonstrate genuine operations, independent decision-making, qualified personnel, and adequate infrastructure

Proactive Restructuring

Reassess offshore structures immediately and prepare for potential capital gains tax liabilities on Indian investments

2017

Critical Date

Grandfathering cutoff under scrutiny despite previous assurances

100%

Substance Test

Full commercial substance now required for treaty benefits

High

Litigation Risk

Significantly elevated exposure for Mauritius structures

Conclusion: The New Tax Reality Post Tiger Global Ruling

The Supreme Court's Tiger Global decision represents a definitive turning point in India's taxation of cross-border investments, signaling a more aggressive and substance-focused enforcement approach. This landmark ruling dismantles decades of reliance on the India-Mauritius DTAA as a tax-efficient investment conduit.

Paradigm Shift

Treaty benefits now require rigorous substantiation beyond formal documentation

Enhanced Scrutiny

Tax authorities empowered to challenge treaty claims with greater authority

Cautionary Tale

Tiger Global serves as warning for investors lacking genuine commercial substance

While the ruling promotes fairness in taxation and aligns India with global anti-abuse standards, it simultaneously introduces uncertainty and complexity for legitimate cross-border investments. The delicate balance between preventing tax avoidance and maintaining an attractive investment climate remains contested.

Stakeholders—including Foreign Portfolio Investors, Private Equity funds, Equity funds, multinational corporations, and tax advisors—must adapt swiftly to this evolving landscape. Success requires informed strategies, robust compliance frameworks, and genuine commercial substance in investment structures. The post-Tiger Global era demands transparency, substance, and strategic foresight in international tax planning.



Review Existing Structures



Prepare Defense Documentation



Establish Genuine Substance



Ensure Treaty Compliance



Adapt to New Reality