

2.2 Decision of the court

- The Court ruled that Hyatt UAE has a **fixed place PE in India** within the meaning of Art. 5(1) DTT India-UAE, and that, the **income received under the SOSA is attributable to the PE** and is therefore taxable in India.
 - According to the Court, Hyatt UAE exercised **pervasive and enforceable control** over the hotel's **strategic, operational, and financial** dimensions that goes beyond mere consultancy.
 - In reference to the Formula One case, the Court clarified that a fixed place PE does **not require ownership or exclusive possession**.
 - The **20-year** duration of the SOSA, coupled with Hyatt UAE's **continuous and functional presence** satisfies the **PE tests of stability, productivity and dependence** under the DTT India-UAE.
 - The frequent and regular **visits by executives and personnel** establish a **continuous and coordinated engagement**, even though no single individual exceeded the **9-month** stay threshold.
- www.ifa.nl | ©

