

# Contents

	PAGE NO.
<i>Chapter-heads</i>	I-5
<i>List of cases digested</i>	I-15-I-146
<i>List of cases affirmed/reversed/overruled/approved/ disapproved</i>	I-147-I-152
<i>List of cases against which SLP Dismissed/Granted by Supreme Court</i>	I-153-I-154

## **SECTION 92 : COMPUTATION OF INCOME FROM INTERNATIONAL TRANSACTION HAVING REGARD TO ARM'S LENGTH PRICE**

	CASE NOS.
□ Scope of provision	1-26
□ Transactions with AE alone are covered	27-34
□ Burden of proof	35-38
□ Multiple transactions, in case of	39-40
□ Advance ruling, in case of	41
□ Section 92 vs. Section 9	42
□ Section 92 vs. Section 45	43

## **SECTION 92A : ASSOCIATED ENTERPRISE**

□ Conditions precedent	44-51
□ 'Influence' as occurring in section 92A(2)(i)	52
□ Illustrations	53-61

**SECTION 92B : INTERNATIONAL TRANSACTION**

□ Conditions precedent	62-77
□ AMP expenses	78-108
□ Branch office/project office, transaction with	109-111
□ Business transfer	112
□ Call option rights	113-114
□ Corporate guarantee	115-122
□ Lending or borrowing/capital financing	123-141
□ Reimbursement of expenses	142
□ Pre-incorporation expenses	143
□ Royalty, payment of	144-146
□ Shares issued at premium	147-154
□ Share application money	155-163
□ Shareholder's deposit	164
□ Others	165-175

**SECTION 92BA : SPECIFIED DOMESTIC TRANSACTION**

□ Scope of provisions	176
-----------------------	-----

**SECTION 92C : METHODS FOR DETERMINING ARM'S LENGTH PRICE**

□ General	177-184
□ Most appropriate method, determination of	185-201
□ Rule 10A	202
□ Rule 10B	203-216
□ Berry ratio	217-221
□ Bright line test	222-225
□ Cost plus method	226-246
□ Cup method	247-383
□ Discounted cash flow method	384-387
□ Excess earning method	388
□ Profit split method	389-399
□ Resale price method	400-440
□ TNM method	441-562
□ Others	563-578

**SECTION 92C : COMPARABLES - GENERAL PRINCIPLES**

- |                        |         |
|------------------------|---------|
| □ General              | 579-624 |
| □ Recording of reasons | 625-630 |

**SECTION 92C : COMPARABLES - FUNCTIONAL SIMILARITY**

- |  |           |
|--|-----------|
| □ General  | 631-651   |
| □ BPO-Call centre                                | 652-673   |
| □ Business support services                      | 674-705   |
| □ Consultancy service providers                  | 706-709   |
| □ Engineering services                           | 710-737   |
| □ Health care/pharma supplies services           | 738-742   |
| □ High end service providers                     | 743-746   |
| □ Infrastructure management services             | 747       |
| □ Insurance services                             | 748       |
| □ Investment advisory services                   | 749-790   |
| □ Information Technology Enables Services (ITES) | 791-928   |
| □ Job workers                                    | 929       |
| □ Knowledge Process Outsourcing (KPO)            | 930-948   |
| □ Manufacturer                                   | 949-968   |
| □ Marketing support services                     | 969-1018  |
| □ Medical transcription services                 | 1019-1022 |
| □ Publisher, in case of                          | 1023-1024 |
| □ R&D services providers, in case of             | 1025-1047 |
| □ Ship management services                       | 1048-1049 |
| □ Software consultancy/development services      | 1050-1385 |
| □ Technical support service provider             | 1386-1391 |
| □ Traders  | 1392-1398 |
| □ Others   | 1399-1450 |

**SECTION 92C : COMPARABLES - FACTORS DETERMINING SUITABILITY OF COMPARABLES**

- |                   |           |
|-------------------|-----------|
| □ Abnormal events | 1451-1545 |
| □ Accounting year | 1546-1585 |
| □ Brand value     | 1586-1631 |

	CASE NOS.
□ Current year vs. Multiple year data	1632-1667
□ Data in public domain	1668-1694
□ Employees cost filter	1695-1743
□ Exclusion of comparable selected by assessee himself	1744-1758
□ Export filter	1759-1778
□ Financial statement	1779-1792
□ Foreign comparable	1793-1801
□ Geographical location of comparables	1802-1808
□ Government/public companies	1809-1819
□ Internal comparables	1820-1827
□ Import filter	1828-1829
□ Intangible assets	1830-1833
□ Loss making company	1834-1881
□ Product line/customer base	1882-1886
□ Profit margin/profit level indicator	1887-1927
□ R&D filter	1928
□ Res judicata	1929-1942
□ Revenue filter	1943-1947
□ Related party transactions	1948-2050
□ Segmental result	2051-2151
□ Selection of new comparable	2152
□ Size and economics of scale/high risk companies	2153-2195
□ Super profit making companies	2196-2236
□ Turnover filter	2237-2367
□ Unreliable financial statement	2368-2381
□ Others	2382-2456

## **SECTION 92C : TRANSFER PRICING ADJUSTMENTS - GENERAL PRINCIPLES**

□ International transactions with AEs	2457-2505
□ Benefit from transaction/allowability of expenditure	2506-2523
□ Other general issues	2524-2565

**SECTION 92C : TRANSFER PRICING ADJUSTMENTS - ILLUSTRATIONS**

□ Administrative services	2566-2569
□ Aggregation of transactions	2570-2589
□ Allocation of expenses	2590-2610
□ AMP expenses	2611-2679
□ Assignment fee	2680
□ Capacity utilization	2681-2715
□ Commission	2716-2750
□ Compensation	2751-2752
□ Consultancy fees	2753-2757
□ Corporate charges	2758-2760
□ Cost of goods sold	2761-2767
□ Custom duty	2768
□ Depreciation	2769-2793
□ Discounts	2794-2797
□ Distribution fee	2798
□ Dividends	2799
□ Employee cost	2800-2801
□ Entity level vs. Transaction level	2802-2806
□ ESOP	2807-2808
□ Export/Domestic sale	2809-2825
□ Foreign exchange gain/loss	2826-2902
□ Financial service fees	2903
□ Forward contracts	2904
□ Goodwill	2905
□ Guarantee commission	2906-2941
□ Head office expenses	2942-2943
□ HRM expenses	2944
□ Import duty	2945-2946
□ Indirect cost	2947-2949
□ Interest	2950-3140
□ Lease rental	3141
□ Legal and professional fees	3142-3144
□ License fees	3145-3146

	CASE NOS.
□ Loss in transit	3147-3148
□ Management fee	3149-3181
□ Marketing expenses	3182-3191
□ Non-compete fees	3192
□ Obsolete stock, provisions for	3193
□ Operating profit/cost, computation of	3194-3310
□ Product recall expenses	3311
□ Purchases/imports	3312-3338
□ Raw material	3339-3354
□ Reimbursement of expenses	3355-3393
□ Research expenses	3394-3395
□ Risk adjustment	3396-3439
□ Royalty	3440-3556
□ Salaries	3557-3562
□ Samples	3563
□ SAP expenses	3564-3566
□ Sponsorship cost	3567
□ Support services fee	3568-3577
□ Technical services fee	3578-3585
□ Trademark expenses	3586-3589
□ Travelling expenses	3590
□ Volume adjustment	3591-3592
□ Working capital adjustments	3593-3657
□ Reassessment	3658-3660
□ Others	3661-3729

### **SECTION 92C(4) : COMPUTATION OF TOTAL INCOME**

□ Sub-section (4) of section 92C	3730-3738
----------------------------------	-----------

### **SECTION 92CA : REFERENCE TO TPO**

□ Application of provision	3739-3760
□ Illustrations	3761-3845

CASE NOS.

**SECTION 92CB : SAFE HARBOUR RULES**

- |   |           |
|---|-----------|
| □ General   | 3846-3873 |
| □ 5% variation in pricing - Position prior to 1-10-2009 | 3874-3882 |
| □ Illustrations   | 3883-3948 |

**SECTION 92D READ WITH SECTIONS 271AA & 271G : MAINTENANCE AND KEEPING OF INFORMATION AND DOCUMENTS**

- |                 |           |
|-----------------|-----------|
| □ Illustrations | 3949-3976 |
|-----------------|-----------|

**SECTION 92E READ WITH SECTION 271BA : REPORT FROM ACCOUNTANTS**

- |                            |           |
|----------------------------|-----------|
| □ Application of provision | 3977-3984 |
|----------------------------|-----------|

**SECTION 144C : DISPUTE RESOLUTION PANEL**

- |                                  |           |
|----------------------------------|-----------|
| □ Jurisdiction and powers of DRP | 3985-4027 |
| □ Constitution of DRP            | 4028      |
| □ Section 144C v. Section 153    | 4029      |
| □ Eligible assessee              | 4030-4034 |
| □ Passing assessment order       | 4035-4058 |
| □ Speaking order                 | 4059-4104 |
| □ Period of limitation           | 4105-4112 |
| □ Writ remedy                    | 4113-4121 |
| □ Others                         | 4122-4139 |

**SECTION 271(1)(c) : PENALTY**

- |                 |           |
|-----------------|-----------|
| □ Illustrations | 4140-4154 |
|-----------------|-----------|

**OTHERS**

- |                  |           |
|------------------|-----------|
| □ Stay of demand | 4155-4161 |
|------------------|-----------|

PAGE NO.

SUBJECT INDEX

*i-xii*