

## PREFACE TO FOURTH EDITION

*Since the appearance of the third edition of the book in 2009, there have been significant changes in the transfer pricing regimes which were contained in the OECD Guidelines 1995 and Chapter X of the Indian Income-tax Act. Both have undergone a change. OECD Guidelines were revised in 2010. The Indian law extended the scope of transfer pricing regime to some specified domestic transactions. The expressions “international transaction” and “intangible property” have been defined extensively. The concept of Advance Pricing Agreements was introduced to supplement the traditional administrative, judicial, and tax treaty mechanism for resolving transfer pricing issues, being useful when traditional mechanisms fail or are difficult to apply, as a compromise between the conflicting claims as regards methodology to be applied for determining tax liability. Safe harbour rules were introduced as a domestic measure to provide compliance relief, increased certainty and administrative simplicity and to provide for circumstances in which a taxpayer could follow a simple set of rules under which transfer prices would be automatically accepted by the tax authorities. All are discussed in detail under a chapter allotted to each. A separate chapter is also allotted to discuss the concept of comparability and degree of comparability which are central to the choice of the most reliable transfer pricing method, comparables, and adjustments. Also discussed in detail transfer pricing issues relating to intellectual property intra-group services, cost contribution arrangements, and, business restructuring.*

*Transfer pricing is the most contentious tax issue. Much of the dispute is not over methodologies, but over the procedure and the manner of application. Even those over methodologies, mostly are fact-intensive and judgmental involving difficult evaluation of comparability, market and financial or other industry information, and, therefore, not representative. Decisions setting out principles are*

*few. The book focuses on the main issues of principle that arise in the transfer pricing area and on the analyses of methods for evaluating whether conditions of commercial and financial relations within the MNE satisfy the arm's length principle and on the practical application of those methods. Many transfer pricing suits are unnecessary which are either not well founded or which involve small amounts. They are not well founded because of the lack of clarity on the application of the arm's length principle or as regards the choice of methods to be applied to a fact situation or because of burden of proof or burden of compliance of the transfer pricing requirements. Much of the problem is now resolved through the device of safe harbour and APAs. But in respect of others it still persists in defiance - uncertain, litigious, costly, and time consuming, answers remaining evasive and solution lacking prescription. An attempt could, however, be made to clarify some of the contentious matters. The book is directed towards this end. I hope the readers would find the book useful.*

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