

Finance Act, 2002

Section 42 - INSERTION OF NEW SECTION 92-CA -AfterSection 92-C of the Income Tax Act-, the following section shall be inserted with

1) Where any person, being the assessee, has entered into an international transaction in any previous year, and the Assessing Officer considers it necessary or expedient so to do, he may, with the previous approval of the Commissioner, refer the computation of the arm's length price in relation to the said international transaction underSection 92-C-to the Transfer Pricing Officer. (2) Where a reference is made under sub-section (1), the Transfer Pricing Officer shall serve a notice on the assessee requiring him to produce or cause to be produced on a date to be specified therein, any evidence on which the assessee may rely in support of the computation made by him of the arm's length price in relation to the international transaction referred to in sub-section (1). (3) On the date specified in the notice under sub-section (2), or as soon thereafter as may be, after hearing such evidence as the assessee may produce, including any information or documents referred to in sub-section (3) ofSection 92-D-and after considering such evidence as the Transfer Pricing Officer may require on any specified points and after taking into account all relevant materials which he has gathered, the Transfer Pricing Officer shall, by order in writing, determine the arm's length price in relation to the international transaction in accordance with sub-section (3) ofSection 92-C-and send a copy of his order to the Assessing Officer and to the assessee. (4) On receipt of the order under sub-section (3), the Assessing Officer shall proceed to compute the total income of the assessee under sub-section (4) ofSection 92-C-having regard to the arm's length price determined under sub-section (3) by the Transfer Pricing Officer. (5) With a view to rectifying any mistake apparent from the record, the Transfer Pricing Officer may amend any order passed by him under sub-section (3), and the provisions ofSection 154- shall, so far as may be, apply accordingly. (6) Where any amendment is made by the Transfer Pricing Officer under sub- section (5), he shall send a copy of his order to the Assessing Officer who shall thereafter proceed to amend the order of assessment in conformity with such order of the Transfer Pricing Officer. (7) The Transfer Pricing Officer may, for the purposes of determining the arm's length price under this section, exercise all or any of the powers specified in clauses (a) to (d) of sub-section (1) ofSection 131-or sub-section (6) ofSection 133-. Explanation.-For the purposes of this section, "Transfer Pricing Officer" means a Joint Commissioner or Deputy Commissioner or Assistant Commissioner authorised by the Board to perform all or any of the functions of an Assessing Officer specified in Sections 92-C-and92-D-in respect of any person or class of persons.".