Finance Act, 2003

Section 28 - INSERTION OF NEW SECTION 44DA After section 44D of the Income tax Act,-the following section shall be inserted with

I) The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31 st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of-which-the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of this Act: Provided that no deduction shall be allowed,- (i) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or (ii) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices. (2) Every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained In section 44AA-and get his accounts audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and furnish along with the return of income, the report of such audit in the prescribed form duly signed and verified by such accountant. Explanation.-For the purposes of this section,- (a) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub -section (1) of section 9; (b) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub -section (1) of section 9; (c) "permanent establishment" shall have the same meaning as in clause (iiia) of section 92F.'.