DOMESTIC TRANSFER PRICING

By :

CA Sweety Sharma

SYNOPSIS

- Meaning of TRANSFER PRICING
- Methods of TRANSFER PRICING
- Meaning of ASSOCIATED ENTERPRISES
- Meaning of SPECIFIED DOMESTIC TRANSACTIONS
- COMPLIANCE and Penalties for Non Compliance
- TP Documentation
- Accountant’s Report

TRANSFER PRICING – Meaning

- It relates to determination of correct Market Price i.e. Arm Length Price
- Any income from domestic transaction shall be computed as per Arm Length Price.
- Any allowance for expenditure/interest or allocation of cost or expense or income in relation to specified domestic transaction shall be computed as per ALP.
- But if provisions of TP has the effect of reducing the income chargeable to tax or increasing the loss to the assesse to whom TP applies, provisions of TP shall not apply.

Methods of Transfer Pricing

- Comparable Uncontrolled Price Method
- Resale Price Method
- Cost Plus Method
- Profit Split Method
- Transactional Net Margin Method

Meaning of **Associated Enterprises – Sec 92 A**

Two Enterprises shall be deemed to be associated Enterprises, if any time during the year

- If one enterprise holds, directly or indirectly, shares carrying not less than **26% of voting power in other enterprise**
- Any other person holding directly or indirectly, shares carrying not less than 26% of voting power of each of such enterprise.
- A loan given by one enterprise to the other constitutes **not less than 51% of the Book Value of the total assets** of the other enterprise.
- One enterprise **guarantees not less than 10% of the total borrowings** of the other enterprise.
- More than **½ of BOD** or **Members of Governing Body** or **1 or more Executive Director** of one enterprise is **appointed** by other enterprise.

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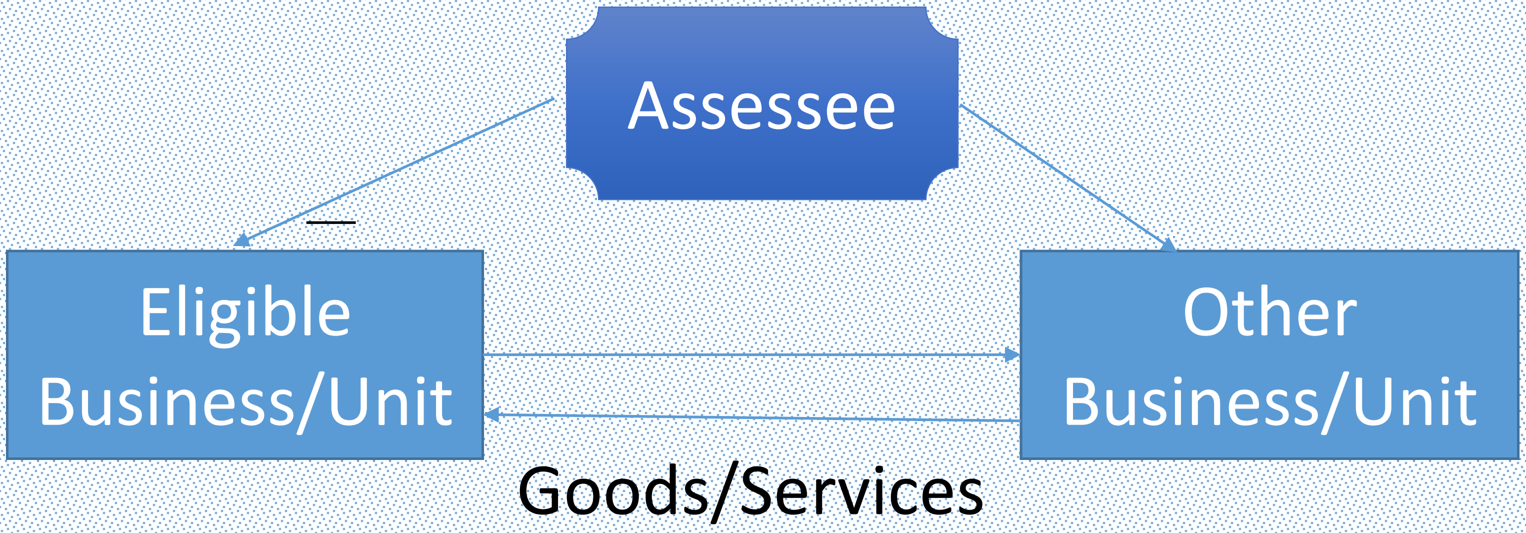
- More than ½ of BOD or Members of Governing Board or 1 or more Executive Director of each of the two enterprise is appointed by other person.
- The business of one enterprise is wholly dependent on the use of know how, patent, technical knowhow of the other enterprise which have exclusive rights.
- 90% or more of the raw material/consumables required for manufacture/processing of goods is supplie by the other enterprise.
- Goods manufactured by one enterprise is sold to other enterprise and the price and other conditions are influenced by such other enterprise.

Meaning of **Specified Domestic Transaction** – Sec 92 BA

- Payment made to Domestic Related Parties for **Expenditure** i.e **40A(2)** Payment.
- Transaction referred in Sec 80A.



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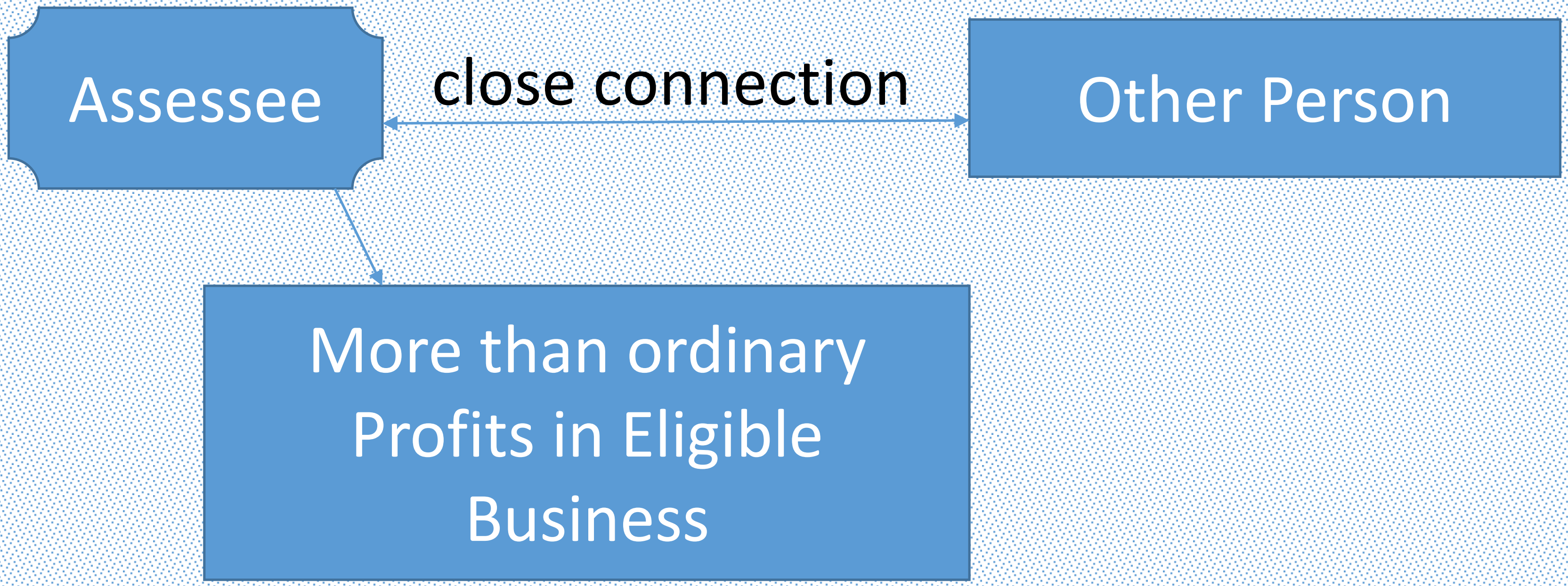
- Transaction between Assessee and other person owing to close connection results in more than ordinary profits to assesse in Eligible business



Main condition for being specified Domestic Transaction

Aggregate of the transactions entered by the assessee in the previous year exceeds a sum of Rs. 20 crore.

COMPLIANCE

- Obtain a report under Form 3CEB from a Chartered Accountant and file it before tax authorities within due date of filing of return of income.

- Due date for filing tax return would be 30th November for the assessee on whom transfer pricing provisions are applicable

- Assessee must submit the transfer pricing document to the tax authorities, within 30 days of the receipt of notice from the department.

Penalties for Non Compliance

Under Sec 271 AA	• **For failure to keep and maintain information and documents** • **For failure to report such transaction** • **For failure to maintain or furnishes an incorrect information or document**	**2% of the value of specified domestic transaction**
Under Sec 271 BA	• For failure to furnish report from CA	Rs. 1 lakh
Under Sec 271 G	• For Failure to furnish information/document called by tax authorities	2% of the value of specified domestic transaction

TP Documentation

- To be preserved for 8 years from end of relevant Assessment Year.
- Documents related to name of the associated enterprise, nature of the relationship have also to be kept.

Accountant's Report – Sec 92 E

- Every assessee who has entered into specified domestic transaction during a previous year shall obtain a report from an accountant and furnish such report on or before the specified date in the prescribed form duly signed and verified in the prescribed manner by such accountant.
- Aggregate value of Specified domestic transaction should not be less than Rs. 20 crore.

Greetings

By CA Sweety Sharma
Sweety24th@gmail.com
098736-956-62