ABSTRACT

The purpose of this study is to highlight thoroughly the problems faced by both the developed and developing countries particularly India in the area of Transfer pricing regime under International Taxation. Since the emergence of International Tax regime, the role played by the Multinational Enterprise (MNE) in the Global economy needs a detailed study in the field of Transfer price application. As the economy became more globally integrated, the corporations, Multinational Enterprises represent a large proportion of global GDP. This Multinational Company uses Transfer pricing, for the purpose of Tax avoidance, a great amount of International Trade is either between multinational corporations or within a multinational corporation which is called intra-firm trade is also called as Transfer price. The process of deciding the transfer price refers to transfer pricing, which is an important strategy for multinational corporations shift their global pre-tax profit from high tax jurisdictions to low tax jurisdictions for the purpose of tax avoidance.

As majority of the cross-border transactions take place between related enterprises. Transfer pricing has grown and constitutes one of the core issues on the tax agenda of multinational enterprises.

The purpose of this paper is to study the so called Arm’s length principle its practices and methodologies practiced in the Developed countries and developing country under special reference to India. Although this principle has been targeted by many critics, stating that the principle of Arm’s length does not take into consideration the interrelation and integration existent between related parties and is of difficult administrative application. Notwithstanding these shortcomings, the fact is that this principle is rather flexible and effective in the majority of cases. Several US federal states apply formulary apportionment instead of separate accounting as in the arm’s length principle. In fact, this formulary apportionment method not share the same flexibility of the arm’s length principle, however its main advantage lies in the consideration that related business groups are integrated and interdependent.

This research study focuses on the methodologies practiced by both the developed and developing countries in applying the Arm’s length principle. For a number of reasons both the developed and developing countries are facing the
problems with Arm’s length principle due to absence of case law with good precedents in applying the norms of Arm’s length principle. Some argue for Formulary apportionment and some favors the concept to of CCCBT (Common Consolidated Corporate Tax Base) prevailing in some parts of Europe. The present study examines various facets of application of various methods of Arms length principle and comparative analysis of different methods prevailing in the world and an attempt to harmonize the conclusion on the conditions prevailed in the world in particular attention to India.

In the process of analysis of the concept of Transfer pricing, the subject has been examined in various facets like rise and growth of Transfer pricing in the selected countries like U.S U.K Australia are developed countries and selected developing country like India. Wherein examination of the case law prevailed in the countries and application of the OECD guidelines both on developed and developing countries have made. The idea of comparison of developed and developing country is sine qua non for the reason that transfer pricing litigation often and often is between the developed and developing countries for the reason of increasing ratio of transfer pricing norms between a taxpayer and local tax authority wherein the norms arguably substitutes for human capital endowments which is relatively scarce in the developing world.

Present study with seven chapters not only a developmental perspective but also discuss the practices prevailing in the situation at the countries along with comparative analysis. This thesis also discuss the methods practices by the various countries in arriving at Arm’s length principle which is sine-qua non for deciding the Transfer pricing and also the other methods which are prevailed in the certain parts of the developed countries like USA. Also a comparative study of the various methods like Arm’s length principle, Global formulary apportionment methods and its comparative analysis to find out the merits and demerits of practices and its relevance to the developing economies like India have been made. Finally conclusion with findings and suggestions were made