

C.—Representative assessee—Special cases

Who may be regarded as agent.

163. (1) For the purposes of this Act, “agent”, in relation to a non-resident, includes any person in India—

- (a) who is employed by or on behalf of the non-resident; or
- (b) who has any business connection with the non-resident; or
- (c) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or
- (d) who is the trustee of the non-resident;

and includes also any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India:

Provided that a broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled, namely:—

- (i) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and
- (ii) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

Explanation.— For the purposes of this sub-section, the expression “business connection” shall have the meaning assigned to it in *Explanation 2* to clause (i) of sub-section (1) of section 9 of this Act.

(2) No person shall be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.