



# **TDS & TCS UPDATES**

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# Tax Deduction at Source

**NEWLY INSERTED  
SECTIONS**



# TDS ON BENEFIT OR PREQUISITE OF A BUSINESS OR PROFESSION(SEC.194R)



# INTENTION OF THE PROVISION

**THE SCHEME OF TAX DEDUCTION AT SOURCE (TDS) WAS INTRODUCED WITH AN AIM TO COLLECT TAX AT THE FIRST INSTANCE.**

**OF LATE, TDS HAS BECOME A MAJOR SOURCE OF DIRECT TAX REVENUE AND AN INSTRUMENT IN THE HANDS OF THE GOVERNMENT TO PREVENT TAX EVASION.**

**THE RECENTLY INTRODUCED PROVISIONS FOR DEDUCTION OF TAX AT SOURCE ON PURCHASE OF GOODS AND E-COMMERCE TRANSACTIONS ARE A TESTIMONY TO THE INTENTION OF GOVERNMENT TO BROADEN THE TAX NET.**

# TDS on benefit or perquisite of a business or profession

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Any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten per cent. of the value or aggregate of value of such benefit or perquisite:

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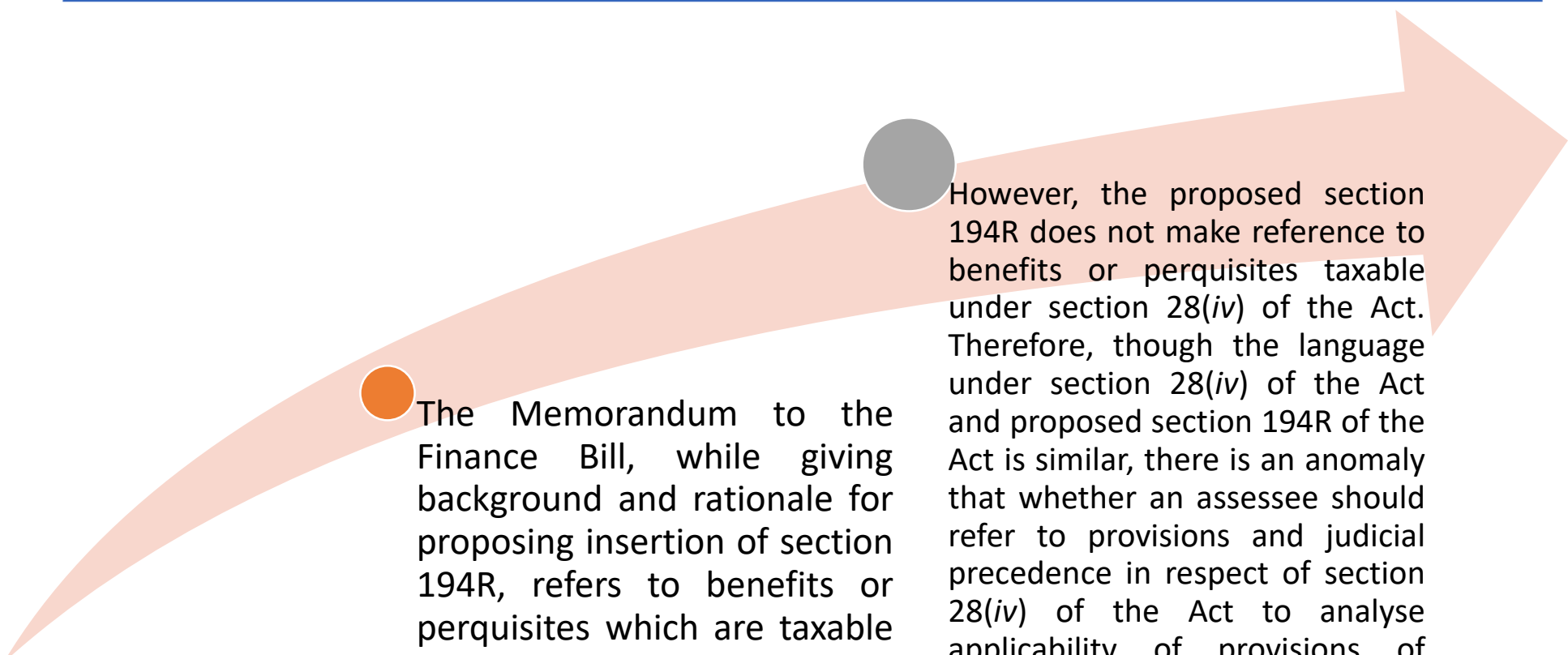
Provided that in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite:

The aforesaid provision is applicable where the aggregate value of benefit or perquisite paid or likely to be paid in financial year is twenty thousand rupees or more.

the expression “person responsible for providing” means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof

non-applicability of said section to small enterprises run by individual or Hindu undivided family are proposed to be made.

# WHETHER PROPOSED SECTION 194R REFERS TO BENEFITS OR PERQUISITES UNDER SECTION 28(IV) OF THE ACT



The Memorandum to the Finance Bill, while giving background and rationale for proposing insertion of section 194R, refers to benefits or perquisites which are taxable under section 28(iv) of the Act but, generally not reported in the return of income by the recipients.

However, the proposed section 194R does not make reference to benefits or perquisites taxable under section 28(iv) of the Act. Therefore, though the language under section 28(iv) of the Act and proposed section 194R of the Act is similar, there is an anomaly that whether an assessee should refer to provisions and judicial precedence in respect of section 28(iv) of the Act to analyse applicability of provisions of section 194R of the Act.

## TAX IS REQUIRED TO BE DEDUCTED EVEN WHEN BENEFIT OR PERQUISITE IS WHOLLY IN KIND OR PARTLY IN CASH AND PARTLY IN KIND

Hon'ble Supreme Court of India in a landmark decision, while interpreting the provisions of section 28(iv) of the Act, has held that in order to invoke the provision of section 28(iv), the benefit which is received has to be in kind, *i.e.*, in some other form rather than in the shape of money. Therefore, in case where benefit or perquisite is in cash, the provisions of section 28(iv) are not attracted.

However, the proposed section 194R provides for deduction and payment of tax even in case where the benefit or perquisite is partly in cash and partly in kind by ensuring payment of tax before releasing the benefit or perquisite.

Though it is ambiguous but if proposed section 194R is construed as corollary to the section 28(iv) of the Act, the applicability of deduction of tax is not in consonance with the chargeability provisions u/s 28(iv) of the Act since 28(iv) seeks to tax only the benefit or perquisite received in kind but withholding requirement u/s 194R is proposed also in a case where benefit/perquisite is partly in cash and partly in kind.



## **INSTANCES WHERE PROVISIONS OF PROPOSED SECTION 194R COULD BE APPLICABLE AND MECHANISM FOR APPLICATION**

- ❑ WITH PROPOSED SECTION 194R, IF BUSINESS ENTITIES GIFT VALUABLE ITEMS, CAR, ETC. TO THEIR CUSTOMERS INSTEAD OF GRANTING DISCOUNT, THE VALUE OF SAID GIFTS COULD BE CONSIDERED AS BENEFIT OR PERQUISITE ARISING OUT OF BUSINESS AND PROVISIONS OF PROPOSED SECTION 194R COULD BE ATTRACTED. SIMILARLY, CORPORATES ALSO GIFT VALUABLES LIKE VEHICLES, CARS, ETC. TO THEIR BRAND AMBASSADORS, DEALERS, AND DISTRIBUTORS AS PART OF SALE PROMOTION EXPENSES. SINCE THE SAID BENEFIT IS IN KIND, TAX IS GENERALLY NOT DEDUCTED ON SAID ITEMS. NOW, IN SUCH CASE AS WELL, PROVISIONS OF PROPOSED SECTION 194R COULD BE APPLICABLE.**
- ❑ HOWEVER, DEDUCTIBILITY OF TAX WOULD HAVE TO BE ANALYSED IN RESPECT OF MULTI-LAYER DISTRIBUTION IN A CHAIN FROM MANUFACTURER TO DISTRIBUTOR, DISTRIBUTOR TO WHOLESALER AND WHOLESALE TO RETAILER.**

- . An insurance company decided to provide TV of Rs. 50000/- to an agent who clocks insurance premium Rs. 10 Lakhs in one quarter. Now, this will be subject to the TDS provision and the agent has to disclose in his ITR as PGBP .
- .An Electronics company decided to offer the tour to Dubai for the dealer who makes the purchases Rs. 1 Crore in one year. Now, this will be subject to the TDS provision and TDS will be done on the basis of market value of the Bangkok The same has to be disclosed by the purchaser under PGBP
- .provision of free mobile cell phones to distributors subject to sale of “N” number of cell phones during the particular (i.e. upon meeting sales target)
- .Tour packages given to health professionals by pharma companies for promoting their medicines. Incase this is not as per the Law for the doctors to receive, then even the Company will not be allowed deduction under PGBP for the same.
- gift to supplier on celebrate successful completion of project. festival occasions, marriage occasion etc. only those benefit/perquisite, which arise out of business/ profession

Incentive or gift for target completion

Free sample

Sponsors a trip upon achieving target

Provide free ticket for an event

Insurance coverage for the dealer and his employee/ family

Extend credit period

Provide free sample to medical practitioners

Distribution of free samples to the hospital for doctors

- For F.Y. 2022-23, the Value of Benefit or Perquisite given in the Period from 1.4.2022 to 30.6.2022, will be counted and considered for determining the threshold limit of Rs. 20,000 in a year, but TDS u/s 194R will not be deducted on such Benefits or Perquisites. TDS u/s 194R will be deducted only on those Benefits or Perquisites which are provided or given on or after 1.7.2022.
- Deductor is under no obligation to check to whether the benefit provided is taxable as business income for the recipient or not.
- TDS u/s 194R is to be deducted on fair market value of the benefit or perquisite, however if deductor has purchased the benefit/perquisite before providing it to the recipient. In that case, the purchase price (Actual cost) shall be the value for such benefit/perquisite. Further, if the deductor manufactures such item then the price that it charges to its customers for such item shall be the value for such benefit / perquisite.
- GST is to be excluded from the Purchase Value or Fair Market Value of such Benefit or Perquisite, for the Purpose of TDS Deduction.
- Not applicable when paid to employees.
- Payer may be resident or non resident.
- Not applicable on cash discounts, trade discounts and rebate.



Particular	Example -1	Example-2	Example-3
Payer	MJ limited	MJ limited	MJ limited
Receiver	Resident person	Resident employee	Resident person
Benefit / perk amount	Rs. 65,000 on 15.07.2022	Rs. 65,000 on 15.07.2022	Rs. 19,000 on 25.06.2022 & rs.5,000 on 15.07.2022
Applicability of sec. 194R	Yes	No	Yes
TDS on amount	65,000	—	5,000
TDS amount	6,500	—	5,00
Reason	Exceed aggregate limit of Rs. 20,0000	Benefit provided to employee, TDS deduct u/s 192	Exceed aggregate limit of Rs. 20,000 (whole FY amount considered for calculation of limit

Particular	Example -4	Example-5	Example-6
Payer	MJ limited	MJ limited	MJ limited
Receiver	Resident person	Resident employee	Resident person
Benefit / perk amount	25,000 on 10.10.2022 on the occasion of Diwali	25,000 on 10.10.2022 on the occasion of Diwali	Rs. 50,000 on 25.07.2022 of trade discount
Applicability of sec. 194R	Yes	No	No
TDS on amount	25,000	—	—
TDS amount	2,500	—	—
Reason	Limit exceeds of Rs. 20,000 (TDS deduction on Rs. 25,000 due to given on the occasion of Diwali which is the relation to business)	Benefit provided to employee, TDS deduct u/s 192	Trade discount is not a benefit so TDS u/s 194R not deduct, (if agreement specially mentioned for incentive than TDS deductible)

Particular	Example-7	Example-8	Example-9
Payer	MJ limited (Turnover below Rs. 1 crore)	MJ limited	MJ limited
Receiver	Resident person	Resident person	Resident person
Benefit / perk amount	80,000 on 25.07.2022	80,000 on 20.06.2022	Rs. 1,50,000 on 15.08.2022 of winning games
Applicability of sec. 194R	No	No	No
TDS on amount	—	—	—
TDS amount	—	—	—
Reason	Payer is individual having turnover below Rs. 1 crore	Benefits given before 01.07.2022	Amount given for winning lottery /games TDS will be deducted u/s 194B not u/s 194R

# UNION BUDGET AND DIGITAL ASSETS



- ₹ RBI to introduce Digital Rupee using Blockchain and other technologies starting 2022-23
- ₹ This will lead to more efficient and cheaper currency management system
- ₹ It will also give boost to digital economy



# TAXATION OF VIRTUAL DIGITAL ASSETS



# WHAT IS VIRTUAL DIGITAL ASSET?

- ❑ “Virtual Digital Asset” means any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically”
- ❑ a non-fungible token or any other token of similar nature, by whatever name called.
- ❑ any other digital asset, as the Central Government may, by notification in the Official Gazette specify.



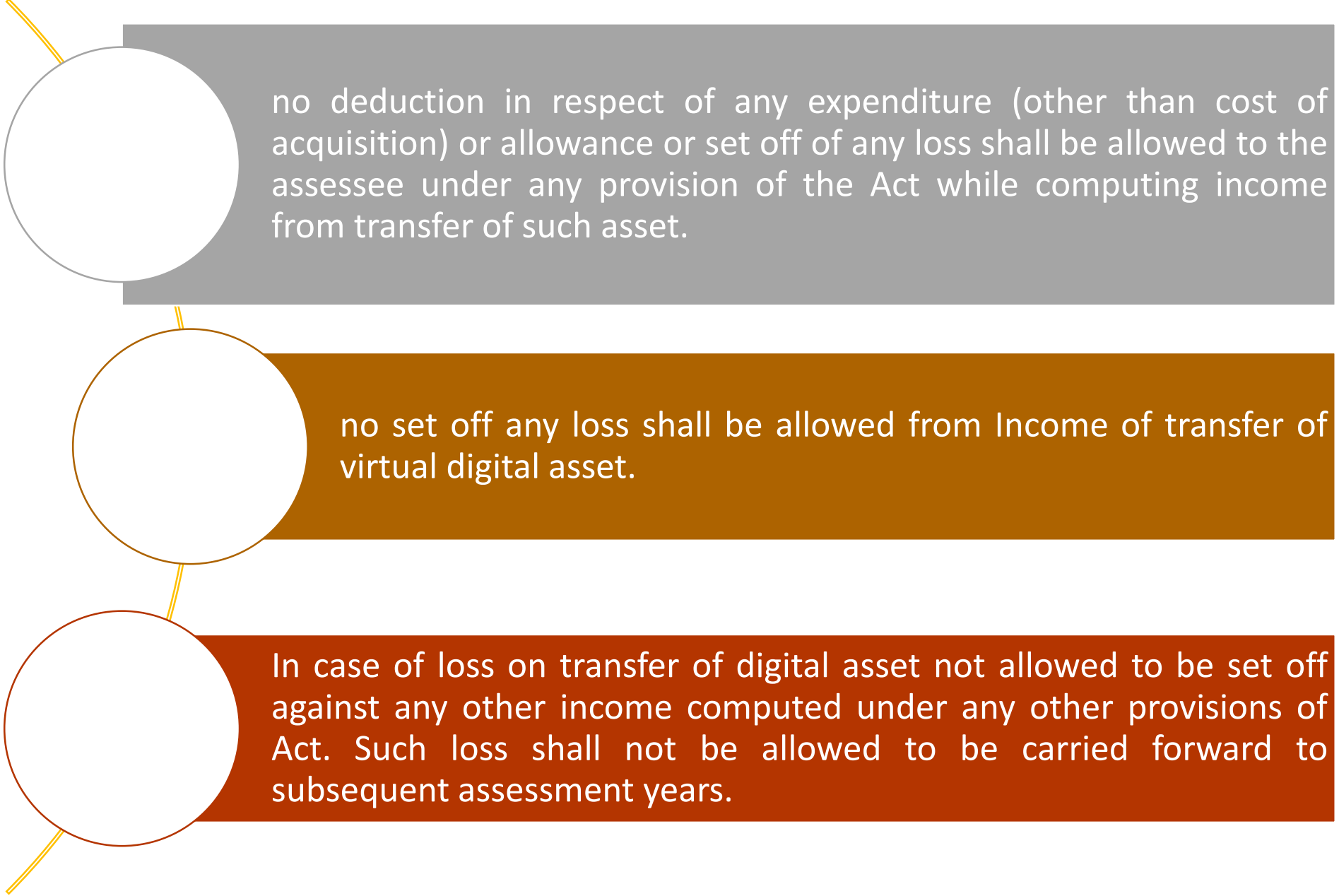
# SECTION 115BBH

Total income of an assessee includes any income from transfer of any virtual digital asset &

The income tax payable shall be the aggregate of the amount of income-tax calculated on income of transfer of any virtual digital asset at the rate of 30% &

The amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the aggregate of the income from transfer of virtual digital assets

# POINTS TO BE CONSIDERED



no deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act while computing income from transfer of such asset.

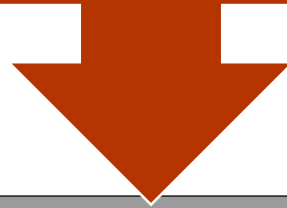
no set off any loss shall be allowed from Income of transfer of virtual digital asset.

In case of loss on transfer of digital asset not allowed to be set off against any other income computed under any other provisions of Act. Such loss shall not be allowed to be carried forward to subsequent assessment years.



# AMENDMENT WILL TAKE EFFECT FROM A.Y 2023-24

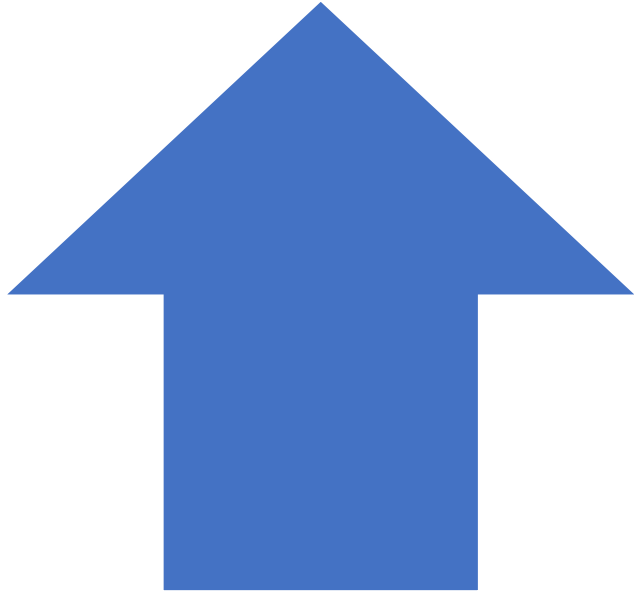
Section 194S- provide for deduction of tax on payment for transfer of virtual digital asset to a resident at the rate of one per cent of such sum.



**However, in case the payment for such transfer is–**

- (i) wholly in kind or in exchange of another virtual digital asset where there is no part in cash; or**
- (ii) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer, the person before making the payment shall ensure that the tax has been paid in respect of such consideration.**

## EXEMPTION FROM SECTION 194S



In case of specified person- No tax is required to be deducted in case payer is specified person and amount of consideration is less than Rs 50000 during the financial year (FORM 24 QE).



In any other case, said limit is proposed to be Rs 10000 during the financial year.

# WHO IS SPECIFIED PERSON??????


**MEANS A PERSON- BEING AN INDIVIDUAL OR HINDU UNDIVIDED FAMILY WHOSE TOTAL SALES, GROSS RECEIPTS OR TURNOVER FROM THE BUSINESS CARRIED ON BY HIM OR PROFESSION EXERCISED BY HIM DOES NOT EXCEED**





**ONE CRORE RUPEES IN CASE OF BUSINESS  
OR FIFTY LAKH RUPEES.**

**IN CASE OF PROFESSION, DURING THE FINANCIAL YEAR  
IMMEDIATELY PRECEDING THE FINANCIAL YEAR IN WHICH  
SUCH VIRTUAL DIGITAL ASSET IS TRANSFERRED;**

**BEING AN INDIVIDUAL OR HINDU UNDIVIDED FAMILY  
HAVING INCOME UNDER ANY HEAD OTHER THAN THE HEAD  
'PROFITS AND GAINS OF BUSINESS OR PROFESSION'**

SL. No.	SECTION	NATURE OF PAYMENT	PAYER	PAYEE	RATE	LIMIT	REMARKS
1.	194K	Units of Mutual Fund specified u/s 10(23D)	Any Person	Resident	at 10 %	₹ 5,000 /-	a mutual fund is required to deduct TDS @ 10% only on dividend payment
		<div>MUTUALFUNDS <i>Sahi Hai</i></div>					
2.	194-O	Sale of Goods or Services on E-Commerce	E-commerce Operator	E-Commerce Participant	at 1 %	₹ 5,00,000 /- (Individual or HUF – if PAN or Aadhaar is furnished)	transaction in respect of which tax has been deducted by the e-commerce operator under this section, there shall not be further liability on that transaction for TDS under any other provision of Chapter XVII-B of the Act.
							



SL. No.	SECTION	NATURE OF PAYMENT	PAYER	PAYEE	RATE	LIMIT	REMARKS
3.	194LC	Interest from Indian Company  	Specified Company or Business Trust	Non-resident, other than a company	<ul style="list-style-type: none"> <li>• at 5 %</li> <li>• at 4 % on interest payment against borrowings through issues of long-term bonds and RDB</li> </ul>	-	The period of said concessional deduction has been proposed to be extended to 1st July’ 2023 from 1st July’ 2020.
4.	194LD	Interest on certain bonds and Government Securities  	Any Person	Foreign Institutional Investor or Qualified Foreign Investor	at 5 %	-	It has been proposed to extend the period of concessional TDS of 5% to 01-07-2023 from existing 01-07-2020. Further, this section shall also apply on the interest payable to an FII or QFI in respect of the investment made in municipal debt security.

## Section 194 Q – Deduction of tax at source on Purchase of Goods

This section is applicable from **01.07.2021** and provides for deduction of tax at source on the payment made by the assessee towards the purchase of goods. It is similar to section 206C(1H) which is applicable for collection of tax at source.

- It is applicable to a resident buyer for purchase of goods of the value or aggregate value exceeding **Rs.50 lakhs** in any previous year.
- The assessee at the time of credit of such sum to the account of the seller or at the time of payment whichever is earlier shall deduct an amount equal to **0.1%** of such sum exceeding **Rs.50 lakhs** by way of income-tax.
- The buyer would mean a person whose total sales, gross receipts or turnover from the business carried on by him exceeded **Rs.10 crores** during the financial year preceding the financial year in which the purchase of goods is carried out.



This provision **shall not apply** where

- (i) tax is deductible at source under any other provision of this Act; and
- (ii) tax is collectible under the provisions of **section 206C other than a transaction to which section 206C(1H) applies.**

In other words, the seller covered by **section 206C(1H)** would collect **0.1% (w.e.f. 01.04.2021)** and the buyer would deduct **0.1% w.e.f. 01.07.2021.**

In the Memorandum explaining the provisions in the Finance Bill, 2021 it is clarified that if on a transaction TCS is required under section 206C(1H) as well as TDS under section 194Q, then in respect of that transaction **only TDS under section 194Q shall only be carried out.**

## **Reduced rate of TDS under section 194Q when PAN not furnished.** [further proviso to section 206AA(1)]

When the person entitled to receive any sum or income on which tax is deductible under Chapter XVII-B does not furnish Permanent Account Number to the person responsible for deducting tax at source, the person making payment must deduct tax at source at the higher of the following rates viz.

- (i) rate as specified in the relevant provision of this Act; or
- (ii) at the rate or rates in force; or
- (iii) at the rate of 20%.

The Finance Bill, 2021 proposes to insert **section 194Q** for deduction of tax at source **w.e.f. 01.07.2021**. If the supplier of goods referred to in **section 194Q** does not furnish his PAN then the buyer must deduct tax at source **@ 5%** instead of **20%** given above. This is enabled by inserting a further proviso to section 206AA to be effective from **1<sup>st</sup> July, 2021**.

## Sub-Section (1H) as has been inserted in Sec.206C :

The tax shall be collected by the seller from buyer, if following conditions are satisfied:

- (a) There is a sale of goods to such buyer.
- (b) The seller receives any amount as consideration for the sale of any goods of the value or aggregate of such value exceeding INR 50 lakhs in any previous year from such buyer.

It is pertinent to note that the threshold limit of **INR 50 lakhs** is per buyer per year. Additionally, the threshold limit of **INR 10 crore** in the preceding financial year shall be considered to determine the applicability of the provisions upon seller. This means that entities having turnover/ gross receipts/ sales of less than **INR 10 crore** are kept outside the ambit of the above section.

Further, the government has made certain exclusions of buyers from the purview of the said section:

- (a) The Central Government, a State Government, an Embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign state; or
- (b) A local Authority defined in the Explanation to section 10(20); or
- (c) Importer of goods or any other person notified by the Central Government. Till date no notification covering any exclusion of parties from the above said provision has been introduced by the government.



## Threshold limit of turnover: Including supply of service or not?

The issue for consideration is that whether the sale of service shall also be included in computing the threshold limit of turnover for seller or should the same be excluded from the ambit of this section. It shall be noted that the definition of the term "seller" provides that total sales, gross receipts or turnover **from the business** carried on by such seller shall be considered. In view that the sales/turnover from the business is considered, the same should include both sale of goods and services.

## Turnover of 10 Crores: With GST or without?

The government has elucidated vide circular mentioned above that no adjustment on account of GST is required to be made to calculate sales consideration of **INR 50 Lakhs**, since the collection of tax is made with reference to receipt of amount of sale consideration.

Therefore, one is not required to bifurcate the amount of sale consideration received between that to sale price and GST component. The moment composite amount of sale consideration received exceeds **INR 50 lakhs**, the seller will be required to apply the provisions of **section 206C(1H)**.

However, there is an uncertainty on the computation of threshold limit for seller's turnover i.e. whether the turnover shall be inclusive or exclusive of GST. This is especially in view that the circular clarifies the position with regards to sales consideration and not turnover.

## First year of incorporation/formation: TCS applicable or not?

The definition of the term 'seller' provides as follows, mean a person whose **total sales** from the business carried on by him exceed **ten crore rupees during the financial year immediately preceding the financial year** in which the sale of goods is carried out.

Therefore, TCS provisions should not apply in the year of incorporation/formation as there were no sales, gross receipts or turnover in the preceding financial year.

PARTICULARS	SECTION 194Q	SECTION 206C(1H)
Purpose	Tax to be deducted	Tax to be collected
Applicability	Buyer/Purchaser	Seller
Counter party	Resident Seller	Resident Buyer
Trigger point	<ul style="list-style-type: none"> <li>Turnover/ Gross Receipt/ Sales from the business of <b>BUYER</b> should exceed Rs 10 crore during the year (FY 20-21) (excluding GST)</li> </ul>	<ul style="list-style-type: none"> <li>Turnover/ Gross Receipt/ Sales from the business of <b>SELLER</b> should exceed Rs 10 crore during the year (FY 19-20) (excluding GST)</li> </ul>
W.E.F	1st July, 2021	1st October, 2020
Timing of tax deduction	Payment or credit whichever is earlier	At the time of receipt
Advances	TDS shall be deducted on advance payment made	TCS shall be collected on advance receipts

Rates	<ul style="list-style-type: none"> <li>• 0.1%</li> <li>• 5% (If <b>PAN</b> not available)</li> <li>• on amount exceeding Rs 50 Lakhs</li> </ul>	<ul style="list-style-type: none"> <li>• 0.1% (0.075% for FY 2020-21)</li> <li>• 1% (If PAN not available)</li> <li>• On amount exceeding Rs 50 Lakhs</li> </ul>
Not applicable to	<ul style="list-style-type: none"> <li>• Transactions on which TDS is applicable under other provisions of the act</li> <li>• Transactions on which TCS is applicable under 206C other than 206C(1H)</li> </ul>	<ul style="list-style-type: none"> <li>• Transaction on which TDS/TCS is applicable under other provisions of the act and the same has been complied with (Meaning thereby; in a situation where TDS has been deducted u/s 194Q this section will not apply)</li> </ul>

Over-riding the other TDS/TCS Sections of the Act	Section 194Q(5) provides: <i>The provisions of this section shall not apply to a transactions on which- a) Tax is deductible under any provisions of this Act: and b) tax is collectible under the provisions of Section 206C, other than a transaction to which sub-section (1H) of Section 206C applies</i>	Second proviso to Section 206C(1H) provides “ <i>the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provisions of this Act on the goods purchased by him from the seller and has deducted such amount</i>
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Exclusion	Yet to be notified by Government	<ul style="list-style-type: none"> <li>• If buyer is –</li> <li>• Importer of goods</li> <li>• Center/State Govt., Local Authority</li> <li>• An embassy, High Commission, consulate and trade representation of a foreign state</li> </ul>
TAN requirement	YES	YES
When to deposit/collect	<ul style="list-style-type: none"> <li>• Tax so deducted shall be deposited with government by 7th day of subsequent month</li> </ul>	<ul style="list-style-type: none"> <li>• Tax so deducted shall be deposited with government by 7th day of subsequent month</li> </ul>
Form	26Q	27EQ
Certificate to be issued to seller/buyer	Form – 16A	Form – 27D

### **Why it was required?**

Last year government implemented **TCS provision for Seller** on Receipt of Sales of Goods, more than Rs. 50 Lakhs as sale consideration, during the current financial year. The TCS is payable on the amount of receipt which is greater than 50 Lakhs and received after 1st. Oct. 2020. The rate of TCS is 0.1% and Due to COVID-19 Pandemic Rate of TCS reduce by 25 % until 31 March 2021 and its effective rate is 0.075%. Other Condition for its applicability was “**seller**” means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out.

There were instances where Seller Turnover is less than 10 Crore but his receipt from sales of goods to particular buyer exceeding Rs.50 Lakhs. Therefore, there was no liability of TCS on seller. To handle this situation Government come up with similar type of provision for Purchaser (Buyer) via **TDS applicability**.

## ILLUSTRATION

### Example:

Sr No.	Buyers Turnover	Sellers Turnover	Transaction Value	Section Applicable
1	5Cr	11Cr	55Lakhs	206C(1H)
2	15Cr	7Cr	58Lakhs	194Q
3	12Cr	13Cr	54Lakhs	194Q
4	7Cr	5Cr	58Lakhs	NA
5	12Cr	15Cr	45Lakhs	NA

# TRICKY SITUATIONS

Situations	SECTION 194Q	SECTION 206C(1H)
Buyer has purchased goods or made advance payment	Buyer would be deducting the TDS @ 0.1% on the payment/advance made for purchase of goods after -01/07/2021	As TDS has already been deducted u/s 194Q, seller would not collect any TCS from the buyer
Buyer has paid the dues out of the payable balance as on 30/06/2021	Buyer would not deduct TDS	Seller would collect the TCS on such amount received
Buyer has bought the goods but returned later on without crediting in the Seller's Account	No obligation to deduct TDS	No amount received
Buyer was liable but did not deduct TDS		Seller would be liable to collect TCS as second proviso to Section 206C(1H) fails to operate.

## Section 206AB – Special provision for deduction of tax at source for non-filers of ITR

- This provision would apply notwithstanding anything contained in any other provisions of this Act where tax is required to be deducted under Chapter XVII-B of the Act.
- However, this overriding applicability would not arise where the provisions of **sections 192, 192A, 194B, 194BB, 194LBC or 194N** is applicable. In other words, for these provisions this **206AB** will not have overriding authority.
- This provision would apply to a specified person to whom the payment is made but who has not filed the return of income for both the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted and for which the time limit for filing the return of income **under section 139(1)** has expired.
- The aggregate amount of tax deducted at source and collected at source in the case of such payee is **Rs.50,000 or more** in each of these two preceding previous years.





- If the provisions of **section 206AA** are applicable to the person from whom tax is deductible at source, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA.
- The rate of tax deduction in such cases shall be higher of the following rates –
  - a) **at twice the rate specified in the relevant provision of the Act; or**
  - b) **at twice the rate or rates in force; or**
  - c) **at the rate of 5 percent.**
- This provision is not applicable to a non-resident who does not have a permanent PE in India. This provision is applicable from 1st July, 2021 in respect of all TDS provisions except those listed above

# TAX COLLECTED AT SOURCE



## RATES OF TCS APPLICABLE FOR FINANCIAL YEAR 2021-22 OR ASSESSMENT YEAR 2022-23

<b>SECTION 206C (1)</b>		
<b>TCS Deposit Challan Code</b>	<b>Goods &amp; Services liable to TCS</b>	<b>TCS Rate (%)</b>
6CA	Alcoholic liquor for human consumption	1
6CB	Timber obtained under Forest lease	2.5
6CC	Timber obtained by any mode other than under a forest lease	2.5
6CD	Any other forest produce not being timber or tendu leaves	2.5
6CE	Scrap	1
6C1	Tendu Leaves	5
6CJ	Minerals, being coal or lignite or iron ore	1
<b>SECTION 206C (1C)</b>		
6CF	Parking Lot	2
6CG	Toll Plaza	2
6CH	Mining & Quarrying	2

**SECTION 206C (IF)**

6CL	Motor Vehicle (any mode of payment) <i>(Seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding 10 lakh Rupees)</i>	1
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**SECTION 206C (IG)**

6C0	Overseas Tour Program Package <i>(Every person being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package)</i>	5 <i>(TCS in case of Non-Furnishing of PAN/Aadhar 10%)</i>
P	Remittance under LRS for education loan taken from financial institution mentioned under section 80E <i>(Amount or aggregate of the amounts in excess of 7 lakh rupees remitted by the buyer in a financial year, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education)</i>	0.50
6CQ	Remittance under LRS (for purpose other than for purchase of overseas tour package or for education loan taken from financial institution mentioned under <b>section 80E</b> ) <i>(Person, being an authorised dealer, who receives an <b>amount/aggregate</b> of amounts exceeding 7 Lakh, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India)</i>	5 <i>(TCS in case of Non-Furnishing of PAN/Aadhar 10%)</i>

**SECTION 206C (111)**

6CR

**Sale of Goods**

*Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding 50 lakh rupees in any previous year, other than the goods being exported out of India or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G)*

**Budget Update**

*In case of transaction on which TDS u/s.194Q is applicable w.e.f 01/07/2021, then TCS u/s.206C(1H) not applicable*

0.1

*(TCS in case of Non-Furnishing of PAN/Aadhar 1%)*

**SECTION 206CCA****Higher Rate of TCS for Non Filer of ITR**

*Proposed section 206CCA of the Act would apply on any sum or amount received by a person (herein referred to as collectee) from a specified person. The proposed TCS rate in this section is higher of the following rates –*

- > twice the rate specified in the relevant provision of the Act; or*
- > the rate of 5%*



## Section 206CCA – Special provision for collection of tax at source for non-filers of ITR

- This provision would apply, notwithstanding anything contained in any other provisions of this Act, where tax is required to be collected under **Chapter XVII-BB** and the person from whom it is collected had not filed his return of income.
- The person from whom tax is required to be collected has not filed ITRs for two assessment years relevant to two previous years immediately prior to the previous year in which tax is required to be collected for which the time limit for filing the return **under section 139(1)** has expired and the aggregate amount of TDS and TCS in his case exceeds **Rs.50,000 or more** in each of these two previous years.
- The person liable to collect tax at source shall collect at the higher of the following two rates viz.
  - a) **at twice the rate specified in the relevant provisions of the Act; or**
  - b) **at the rate of 5 percent.**
- If the provisions of **section 206CC** is applicable to such person in addition to this provision, TCS shall be at higher of the two rates provided in this section and section 206CC.
- This provision will not apply to a non-resident who does not have a PE in India.



# IMPORTANT CASE LAWS

# Section 192

- The Supreme Court held that an employer is under no obligation to collect and examine the supporting evidence to a declaration submitted by an employee to the effect that he has actually utilised the amounts for the specified purposes in deciding the liability to TDS u/s. 192. This was decided by SC in the case of **ITI Limited 221 CTR 619**. Same was also confirmed in the case of **CIT v Larsen & Toubro 181 Taxmann 71**.
- In the case of **Transwork Information Services Ltd. 1 ITR 58 (Trib)** it was held that Employer providing composite free Bus pick up and drop facility to employees, not taxable as perquisites. Value of facilities enjoyed by all employees as it is impossible of computation, computation machinery fails hence the employer cannot be treated as assessee in default for failure to deduct tax at source.
- In the case of **North West Karnataka Road Transport Corporation 22 DTR 237** it was decided that assessee liable to deduct tax at source (TDS) from the salaries paid to its employees, shall not be treated as assessee in default, to the extent of the amount of gratuity which is exempt u/s. 10(10) of the Act, even if gratuity is paid under the provisions of the Payment of Gratuity Act, 1972 or otherwise.

- In the case of **CIT v Marubeni India (P) Limited 165 Taxmann 467** it was decided that employer had to deduct TDS at average rate from the month in which employee will submit the details of the previous employer in the Form 12B.
- Short deduction of tax under section 192 for any reason would justify action of the AO in treating the employer as assessee in default – **Drawing & Disbursing Officer v CIT 115 ITD 411.**
- In the case of **B J Service Company Middle East Limited v ACIT 297 ITR 141** it was held that non resident employee was paid salary and tax paid by the company. Held that it was a monetary perquisite requiring salary to be grossed up at multiple stages and it did not come under the ambit of section 10(10C).
- In the case of **CIT v Tej Quebecor Printing Limited 281 ITR 170** it was made very clear that TDS to be done at the time of payment of salary.
- In the case of **Max Muller Bhawan 268 ITR 31** it had been made clear that TDS u/s 192 is applicable to part time employees also. This includes doctors and teachers also.

## Section 194A

- In the case of **Madhusudan Shrikrishna vs. Emkay Exports 188 Taxmann 195** it has been decided that once decree is passed, it is a judgment debtor of the Court, which culminates in to final decree being passed which has to be discharged only on payment of amount due under said decree and therefore judgment debtor is not liable to deduct tax at source on interest component of decree.
- Interest u/s 194A to be deducted on the interest payable on delay payment of compensation. This was decided in the case of **Baldeep Singh v UOI 199 ITR 628**. Same was further confirmed in the case of **University of Agricultural Sc v Fakiragowda 325 ITR 239** and **Sant Ram v Union of India 328 ITR 160**.
- In case of Supreme court judgment of **CIT v Century Building & Industries Limited 293 ITR 194** it was held that any interest payment moved by company is liable to deduct TDS u/s 194A.
- In the case of **CIT v S K Sundaramier & Sons 240 ITR 740** it was decided that TDS u/s 194A is deducted on gross amount and not on any net amount.





- Compensation which was measured as interest is not liable for TDS u/s 194A. This was decided in the case of **Ghaziabad Development Authority V Dr. N K Gupta 258 ITR 337**.
- In the case of **Viswapriya Financial services and securities Limited v CIT 258 ITR 496** it was held that any monthly return in whatever name is interest.
- In case of **CIT v United Insurance Co Ltd 325 ITR 231** it was decided that Interest paid by insurance companies to accident victims is subject to TDS.
- In case of **G.M. Punjab Roadways 178 Taxman 112** it was held that Assessee a department of State Government, is liable to deduct TDS on interest paid, along with compensation to victims as per the order of courts / motor accident claims Tribunal.
- In case of **ITO v Executive Officer cum secretary 6 Taxmann 68** it was held that assessee makes a provision of interest in its account, provision of section 194A applicable.



- Payments to teachers/ lecturers/ staff is covered u/s 192 and not u/s 194J – **Principal Sri Sathya Sai College for Women Vs ITO (ITAT Jaipur) (ITA No.684, 685 & 686/JP/2018)**
- TDS deductible on Salary Paid to missionary teacher irrespective of subsequent use – **Fr. Sabu P.Thomas Vs Union of India (Kerala High Court) (WP(C).No. 22299 of 2014)**
- TDS U/s. 192 deductible on car running & maintenance expenses paid to staff – **TCG Lifesciences Pvt. Ltd. Vs ITO (ITAT Kolkata); I.T.A. Nos. 1234 & 1236/Kol/2016**
- TDS not deductible on salary to Nuns/Fathers/Priests – **Institute of the Fransican Missionaries of Mary Vs Union of India (Madras High Court); W. P. No. 37565 of 2015**
- Salary reimbursement cannot be disallowed for Non-Deduction of TDS – **Pr. CIT Vs. M/s .ITD Cemindia JV (Bombay High Court); ITA No. 1706 of 2016**

# Section 194C

- Tests laid down to determine when contract manufacturing will amount to a contract of sale for section 194C TDS in the case of **CIT vs. Glenmark Pharmaceuticals 324 ITR 199**.
- In case of **Sands Advertising Communication (P) Ltd v DCIT ITA No 790** Bang dated 22-1-2010 it had been decided that when an advertising agency reimburse advertising charges to the accredited advertising agency for release of its advertisements in newspaper, provisions of section 194C have no role to play.
- In case of **Entertainment One India Ltd. vs. ITO 39 DTR 26** it was held that Finance agreement of assessee with producer/director of films is not a contract within the meaning of section 194C, but only a financing arrangement therefore neither section 194C nor section 194J is applicable for composite contracts for financing film project.
- In case of **Mythri Transport Corporation vs. ACIT 124 ITD 40** it was held that the payment made to lorry owners at par with payments made towards salaries, rents etc, therefore, payment made to hired vehicles would not be considered as towards sub-contractor with lorry owners. As the provisions of section 194C is not applicable payment made cannot be disallowed by applying the provision of section 40(a)(ia).

- The provisions of section 194C is well applicable to the work assigned by an event management company. Same was decided in the case of **EMC v ITO** in case **Nos. ITA Nos. 2269** dated 20-1-2010 MUM.
- In the case of **East India Hotel Ltd V CBDT 179 Taxmann 17** it was held that Misc Services provided by hotels does not constitute work under section 194C.
- In case of **CIT v Cargo Linkers 179 Taxmann 151** no TDS on Clearing & Forwarding agent.
- In case of **BDA Ltd v ITO 281 ITR 999** it was decided that supply of Printed label is supply not work.
- In case of **Dy. CIT vs. Laxmi Protein Products P. Ltd 3 ITR 768 (Ahd.)(Trib)** it was held that when payment made to laborer through their representative, single payment not exceeding Rs. 20000/-. Tax need not be deducted at source.

- In the instant case, assessee hired trucks for a fixed period on payment of hire charges which were utilized in its business of civil construction. There was no agreement for carrying out any work or to transport any goods or passengers from one place to another. Hiring of trucks for the purpose of using them in assessee's business did not amount to contract for carrying out any work as contemplated in s. 194C. It was held that once the contract was not for carrying out any work, the provisions of s. 194C were not attracted and no disallowance u/s. 40(a)(ia) can be made. (**Satish Aggarwal & Co. 27 DTR 34.**)
- Payments made by assessee society to the truck owners who are its members after receiving the payments from the companies for transporting their goods are not subject to TDS u/s. 194C(2), as there is no sub contracts with the said companies on behalf of its members. Judgment of **Ambuja Darla Kashlog Mangu Transport Co-op. Society 2009) 31 DTR 49 (HP).**
- In the case of **The East India Hotels Ltd. & Anr. 223 CTR 133** it was held that facilities /amenities made available by a Hotel to its customers do not constitute “work” within the meaning of s. 194C and consequently, Circular No 681 dt. 8th March, 1994 to the extent it holds that services made available by a hotel to its customers are covered u/s. 194C must be held to be bad in law and is liable to be quashed.

- In the case of **Shemaroo Video (P) Ltd. 31 SOT 65**, the DVDs etc. were manufactured by entrepreneurs in their own establishment, in accordance with specifications of assessee, (ii) the raw material cost and other ancillary costs were also incurred by them, (iii) excise duty was paid by them and it was only when goods were sold to assessee that property in goods passed over to it, such agreements of the assessee with entrepreneurs could not be termed as works contract within the scope of s. 194C and hence no TDS was required.
- As the payments were made directly to drivers or truck owners by assessee and through suppliers and further they were charging commission from truckwals and not from the assessee. Further it was found that no payment exceeding Rs. 20000/- was paid to truck owners or drivers, provisions of s. 194C can not be made applicable. This was decided in the case of **Bhoruka Roadlines Ltd. 117 ITD 311**.
- In the case of **Dewan Chand 17 DTR 337** Payments made by the assessee to the employees employed by it on daily wage basis cannot be said to be a contractual payment, as such the assessee in such cases was not required to deduct tax from such payments u/s. 194C of the Act. Where the asses see had produced confirmation from the parties to whom payments were made, confirming the fact that they have included the amount received from the assessee as their income and paid taxes thereon, the assessee cannot be treated as assessee in default under the provisions of s. 201(1) of the Act for non deduction of tax at source.

- Mumbai High court in the case of **Mukta Arts Limited 31 SOT 244** decided that Provisions of s. 194C would not apply to the film financing arrangements.
- In case of **Samanwaya 34 SOT 332** it was held that Labour sardars could not be called labour contractors, within the meaning of s. 194C(2), hence provisions of s. 40(a)(ia), can not be made applicable.
- Supply of outsourced manufactured goods by contract manufacturers constituted outright sale and not contract of work within the scope of s. 194C, hence assessee was not liable to deduct tax at source from the purchase price of goods paid by assessee to contract manufacturers, therefore, such payment could not be disallowed by invoking s. 40(a)(ia). It has been decided in the case of **Tureg Marketing (P) Ltd. 112 TTJ 343**.
- In case of **Bhagwati Steels 326 ITR 108** it was held that assessee not paid any amount to procurement agencies on account of transportation, interest or storage charges – No liability for deduction of tax u/s 194C.



- Since the assessee, a transporter was not liable to get his accounts audited under section 44AB., in the immediately preceding assessment year, he was not required to deduct tax at source under section 194C from the payments could not be disallowed under section 40(a) (ia) on account of non deduction of TDS. This was decided in the case of **ITO v Dhirubhai Dajibhai Patel 133 TTJ (Ahd) (UO) 1.**
- Section 194C TDS on Advertisement Expenses paid to News Paper Agencies – **Mehra Eyetech Pvt. Ltd. Vs Add. CIT (ITAT Mumbai); ITA No. 1760/Mum/2019.**
- Retention money taxable in year of contract condition fulfilment – **DCIT Vs EMC Limited (ITAT Kolkata); ITA No. 2149/Kol/2017.**
- No TDS on harvesting charges paid on behalf of farmers as agent – **Parry Sugar Industries Limited Vs DCIT (ITAT Bangalore); ITA No. 2814/Bang/2018.**
- Section 194C TDS not applicable on terminal handling charges – **DCIT Vs Keshodwala Foods (ITAT Rajkot); ITA No. 1133/Rjt/2010.**

# Section 194H

- In case of **CIT vs Singapore Airlines Limited 319 ITR 29** Airlines selling tickets to travel agents and amounts realized by travel agents in excess of net fare retained by them under passenger sales agency agreement. Same amounts to commission and TDS to be deducted on it. However free tickets does not comes under commission.
- In case of **Vodafone Essar Cellular Ltd. vs. ACIT 35 DTR 393** it had been decided that margin earned by the assessee company on supply of prepaid SIM cards and recharge coupons etc was in the nature of commission and therefore the assessee service provider is liable to deduct tax at source under section 194H. Same was also confirmed in the case of **Idea Cellular Limited in case no. ITA Nos. 146 of 2009** dated 19-2-2010 Delhi.
- In the case of **CIT v Director, Prasar Bharati 325 ITR 205** it was held that Payment made by Doordarshan to advertisement agencies in the form of discount held as commission.

- The assessee sold the products billing them at gross amount and trade discount was given at the rate of 50% or 30% or 17.20% as the case may be. The net amount was shown as price payable and sales tax was collected on the said amount. Held that trade discount debited by the assessee in its accounts is not covered u/s 194H. Since there was no liability to deduct tax, the disallowance u/s. 40(a)(ia) was deleted. It had been decided in the case of **S.D. Pharmacy Pvt. Ltd. Case No. ITA Nos. 948/Coch/2008**, A.Y. 2005-06, dt. 5-5- 2009.
- In case of **Jahangir Biri Factory (P) Ltd. 126 TTJ 567** Payment of Biri binding charges made through Munshis who are part of the labourers can not be considered as commission in terms in Expln (i) to s. 194H, therefore the said payment could not be disallowed u/s. 40(a)(ia).
- In case of **ITL Tours and Travels (P) Limited v ITO 7 taxmann.com 75** it was decided that In order to bring service or transaction within expression 'Commission and Brokerage' u/s 194H element of Agency must be present.
- Section 194H TDS not applicable on Payment gateway charges paid to banks/credit card agencies – **ACIT Vs. Head Infotech India Pvt. Ltd. (ITAT Hyderabad); I.T.A. No. 2372/HYD/2018**

- Payment of Foreign Agency Commission not liable for TDS in India – **M/s. Divya Creations vs ACIT (ITAT Delhi); ITA.No. 5959/Del./2017**
- Section 194H TDS not applies on Bank Guarantee Commission – **M/s. Navnirman Highway Project Pvt. Ltd. vs DCIT (ITAT Delhi); ITA No.117/Del./2017**
- No Section 194H TDS on discounts on prepaid SIM Cards or Talktime – **ACIT vs Vodafone South Ltd (ITAT Chennai); ITA No. 1348 & 1349/Chny/2018**

# Section 194I

- In case of **CIT v NIIT Limited 318 ITR 289** the assessee providing computer education and training under franchisee agreement under which fees collected from students by assessee and shared with Franchisee. Same is not a payment of rent and hence no TDS
- In case of **CIT v Japan Airlines Co Ltd 325 ITR 298** it was held that landing fee & parking fee for aircraft amounts to rent.
- In case of **Bharat Hotels Limited 28 DTR 337** it was decided that A person who is responsible for paying to a resident any income by way of rent is required to deduct tax at source u/s. 194I at the time of credit of such income to the account of the payee even if it is not the income of the payee previous year in which it is paid; upfront fee paid by assessee to the lessor which is adjustable against 50% of the annual license fee payable to the lessor was rent and therefore assessee was required to deduct tax at source u/s. 194I at the time of the credit of such amount.

- TDS on Payment made to jewellery market exhibition for stall at exhibition – **OTM Jewellery (P) Ltd. Vs ITO (ITAT Delhi); ITA.No.1095/Del./2017**
- Section 194I: Rent for use of Land includes lease, sub-lease, tenancy payment – **CIT (TDS) Vs Jaypee Sports International Ltd. (Allahabad High Court); ITA No. 63 of 2018**
- Machinery rent cannot be taxed as Income from House Property for TDS deduction under wrong head – **Heritage Hospitality Ltd. Vs DCIT (ITAT Hyderabad); ITA No. 874/HYD/2012**
- TDS not deductible on Payment of Wharfage Charges – **M/s. Angre Port (P) Ltd. Vs ITO (ITAT Pune); ITA No.2148/PUN/2013**
- TDS on payment to Carrier under contracts for transporting petroleum products in business is deductible U/s. 194C and not U/s./ 194I – **Commissioner of Income Tax Vs M/s Indian Oil Corporation Ltd. (Uttarakhand High Court); IncomeTax Appeal No. 37 of 2014**



# Section 194J

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- In case of **CIT vs Bharati Cellular Limited 210 taxmann 420** it has had been decided that payment for interconnection charges for interconnection provided through port is not liable for TDS u/s 194J.
  - The summary of case of **Expeditors International (India) P. Ltd 2 ITR 153** is that Payment of unlinking charges by assessee to parent company not in the nature of fees for technical services hence not liable to deduction of tax at source. Further, Reimbursement of expenditure incurred in respect of Global accounts manger cannot be treated as payment of salary. Similarly reimbursement of common expenses incurred of parent company for benefit of group concerns not liable for deduction of tax at source.
  - In case of **ACIT vs. Indraprastha Medical Corp. Ltd. 128 TTJ 500** it has been decided that where a hospital engaged consulting doctors and provided them with chambers with secretaries assistance and fee collected from out patients and paid to consultants each day after deducting certain amount towards rent and secretarial assistance, it was not a case of payment of professional fees and neither section 192, nor section 194J was attracted and the hospital cannot be treated as assessee in default for not deducting tax from such payments.

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- In the case of **Dedicated Health Care Services TPA vs. ACIT 324 ITR 345** it has been decided that though a hospital by itself, being an artificial entity, is not a “medical professional”, yet it provides medical services by engaging the services of doctors and qualified medical professionals. These are services rendered in the course of the carrying on of the medical profession. S. 194J applies to payments made to non-professionals such as hospitals. CBDT Circular on TPA liability is valid except for view on penalty.
  - In case of **CIT V Angel Broking Limited 3 ITR (Trib) 294** it has been decided that when assessee is a member of stock exchange and any payment towards VSAT charges, lease line charges or infrastructure facility etc would not amount to fees for technical service.
  - In the land mark case of **Medi Assist India TPA (P) Limited V DCIT 324 ITR 356** it was held that TPA have to deduct TDS u/s 194J on payment made to hospitals.
  - In the case of **Kotak Securities Ltd.** It was decided that Transaction fee paid to stock exchange on the basis of volume of transaction is payment for use facilities provided by stock exchange and not for any services, either technical or managerial, hence, provisions of s. 194J are not attracted and no disallowance can be made by invoking s. 40(a)(ia).

- Fees for technical services would not include purchase of material by the assessee for the purpose of imparting computer education at their centre, hence, provisions of s. 194J and for that purpose s. 201(1) and 201(1A) are not attracted. Taxes having been duly paid by the deductee same can not be recovered from the assessee for failure to deduct tax at source. It had been decided in the case of **Frontline Software Services (P) Ltd. 24 DTR 232.**
- In the Case **No. ITA Nos. 1607 to 1609/Mum/2006**, Bench-D, A.Y. 2003-04 to A.Y. 2005-06 BC&AJ p. 795, Vol. 40-B, Part 6, March 2009. **Of Pacific Internet (India) Pvt. Ltd.** It was decided that Payments for bandwidth and network services cannot be said to be Technical services liable to TDS u/s. 194J.
- In the case of **Mahesh Enterprise v ITO** it was held that Description of payment as royalty in profit and loss account is not decisive for purpose of section 194J
- No Section 194J TDS on IUC charges paid to other telecom companies – **DCIT Vs Vodafone India Ltd. (ITAT Mumbai); ITA No. 6159 & 6160/Mum/2018**

- In the Landmark Supreme Court Judgment of **CIT v Bharti Cellular Ltd** it was held that Department having not adduced any expert evidence to show that any human intervention is involved during the process when calls takes place so as to bring the payments of interconnect charges /access/pot charges made by the assessee to BSNL/MTNL within within the ambit of “fees for technical services” under section 194J, matter is remitted to AO to examine a technical expert and to decide a fresh. Department is not entitled to levy interest under section 201(1A), or impose penalty for non deduction of TDS on the facts and circumstances of the case for the reasons that there is no loss of revenue as tax has been paid by the recipient and the moot question involved in the case is yet to be decided.
- TDS u/s 194J Applicable on Payments by TPA to Hospitals on behalf of Insurance Companies – **Family Health Plan (TPA) Ltd. Vs ITO (ITAT Chennai); I.T.A Nos. 733 to 744 /CHNY/2019**
- TDS u/s 194J not applicable on modeling services rendered by Actor or Actress – **DCIT (TDS) Vs Kodak India (P) Ltd. (ITAT Mumbai); ITA No. 4812 & 4813/Mum/2013**
- Sec 194J TDS deductible on Toll Free Telephone charges (Royalty) – **Vidal Health Insurance TPA (P.) Ltd. Vs JCIT (ITAT Bangalore);ITA Nos.1213 to1215/Bang/2018**

# Section 194LA

- In case of **Infopark Kerala vs. ACIT 38 DTR 180** it was decided that mere issuance of notification under section 4 of the land Acquisition Act, provision of section 194LA was not attracted.
- In the case of **Karnail Singh v State of Haryana 326 ITR 501** it was held that Deduction of TDS on enhanced compensation of Agricultural Land u/s 194LA

# Others

- In the case of **Ahluwallia and Associates vs. ITO 2 ITR 582** it has been decided that Credit for tax deducted at source must be given to the assessee, though the certificate furnished by the deductor has not shown the date of payment to Central Government.
- In case of **MTAR Technologies (P) Ltd v Asst CIT 39 SOT 465** it was held that any payment is made to a non shareholder section 194 does not apply.
- In case of **Smt J Rama v CIT** it was held that Law does not stipulate existence of a written contract as a condition precedent for payment of TDS
- Once Tax is deducted at source, Amount becomes money due to Central Government and either deductor or deductee cannot appropriate amount so deducted on any ground. This had been decided in the case of **ITO (TDS) v India Vision Satellite Communication Limited 7 taxmann 65.**
- In the case of **ITO v Hans Road Carriers (P) Limited 7 taxmann 39** it was decided that Deduction of Tax at source is not a levy of Tax , It is merely one of the modes of collection of Tax.