

BBMP NOT REQUIRED TO DEDUCT TDS ON PROVIDING DEVELOPMENT RIGHTS CERTIFICATE ON LAND ACQUISITION: ITAT

FACT OF THE CASE

- In the present problem the assessee, Bruhat Bengaluru Mahanagara Palike (BBMP) is a local authority overseeing the development and provision of civic amenities of the city of Bengaluru against the orders of the lower authorities.
- The income tax department was of the view that the Assessee ought to have deducted tax at source on the market value of the DRC under section 194LA of the Income Tax Act, 1961
- Since the assessee failed to do so, it shall be treated as an assessee-in-default for the purpose of section 201 of the Act.

DECISION OF THE CASE

- Hon'ble High Court held that since BBMP is not paying consideration for the acquisition of land in the form of cash, cheque, DD or any other mode prescribed under section 194LA but is only issuing CDR, the provisions of section 194LA of the Act are not attracted
- The Hon'ble Court also held that when CDRs are issued, it is not possible to quantify the value in monetary terms, and therefore TDS obligations cannot operate
- For all the above reasons, the Hon'ble High Court held that the provisions of section 194LA of the Act are not attracted to a case of issue of DRCs by the BBMP for the acquisition of land and therefore the assessee cannot be considered as an assessee in default under section 201(1) of the Act
- The Tribunal bench comprising ITAT Vice President N.V. Vasudevan and Accountant Member B.R. Bhaskaran held that Citing the decision of the Karnataka High Court in the assessee's own case for Assessment Years 2010-11 and 2011-12, the Tribunal held that the provisions of section 194LA of the Act would apply only in the case of compulsory acquisition and not to a case where lands were surrendered by landowners under section 14B of KTCP Act.