



CENTRAL WAREHOUSING CORPORATION
(A GOVT. OF INDIA UNDERTAKING)



BY SPEED POST

No.CWC/FD-Taxation/IT/Misc/13-14

57

06.09.2013

INCOME TAX CIRCULAR NO. 31

Subject = Clarification on Deduction of Tax at Source on Service Tax component u/s 194 of the Income Tax Act.

A copy of the Government of India's (CBDT) Circular No.4/2008 dated 28.04.2008, with regard to the Non-deduction of Tax at Source on Service Tax Component of Rental Income i.e., Warehousing Income u/s 194-I of the Income Tax Act, 1961, along with a clarification on TDS on other provisions was sent vide this office Email dated 22.05.2008 as an Attachment.

It has come to the notice of Corporate Office that some of the Regional Offices are making Short Deduction of TDS on Service Tax for Specified Payments made specially under section 194 J of the Income Tax Act, 1961 making the Corporation as an Assessee in Default resulting in payment of Interest and Penalty.

The copy of instructions issued vide E-mail as stated above are being reproduced below again for its strict compliance.

Instructions issued vide email dated 22.05.2008

A copy of the Government of India's (CBDT) Circular No.4/2008 dated 28.04.2008, with regard to the Non-deduction of Tax at Source on Service Tax Component of Rental Income u/s 194-I of the Income Tax Act, 1961, is sent herewith for information and guidance of all concerned, as Annexure 'A'.

Perusal of the Circular would imply that the Service Tax charged by the Corporation from its Customers/Depositors on Warehousing Charges, wherever applicable, would not be liable to Tax Deduction at Source (TDS) by such Customers/Depositors. The Field Units would, therefore, have to ensure that the Customers/Depositors do not resort to Tax Deduction at Source on the Service Tax Component included in the Warehousing Charges Bills.

Likewise, while releasing Payment of Godown/Office Rent to the respective Building Owners, Tax Deduction at Source would have to be effected only on the Rent Component and not on the Gross Amount of the Rent Bill, or in other words, Service

Tax Component would have to be excluded while effecting Tax Deducting at Source u/s 194 – I of the Income Tax Act.

Please also note that this Exclusion of Service Tax for effecting Tax deduction at Source is applicable only u/s 194 – I on Rental Income and for all other provisions of Tax Deduction at Source viz. 194A, 194C & 194J, applicable in the case of the Corporation, Tax Deduction at Source would continue to be made on the Gross Amount payable to such payee/Tax Deductee.

Please acknowledge Receipt of this Circular/Communication and bring its Contents to Notice of all concerned for Scrupulous Compliance.



Dy. Gen. Manager (F&A)

Distribution to:

1. All the Regional Managers of the Central Warehousing Corporation.
2. All the Superintending/Executive Engineers incharge of all Construction Cells of the Central Warehousing Corporation.
3. All the AGMs/Managers/(Sr.) Asstt. Managers (Accts.) incharge of Finance, Accounts & Internal Audit Wings of all Regional Offices & Construction Cells of the Central Warehousing Corporation.

Copy for information to:

1. All the DGMs/AGMs/Managers/(Sr.) Asstt. Managers (Accts.) in Finance, Accounts & Internal Audit Wings of the Corporate Office.
2. PS to Director (Finance), CWC Corporate Office, New Delhi
3. PS to GM(F&A) I, Sr. PA to GM (F&A) II, Corporate Office, New Delhi

Copy also to:

1. PS to GM (Systems), CWC, CO, New Delhi with a request to place this Circular on CWC's Website.
2. Sr. Asst. Manager (Rajbhasha), CWC, CO, New Delhi with a request to arrange Hindi version to this Circular.

Corporate Office: 4/1, Siri Institutional Area, August Kranti Marg, Hauz Khas, New Delhi-110016. Telefax No. 26512788, EPABX No 26566107 Extn. 252/325

**Clarification on deduction of tax at source (TDS) on service tax component on rental income under section 194-I of the Income-tax Act
CIRCULAR NO. 4/2008, DATED 28-4-2008**

Representations/letters have been received in the Board seeking clarification as to whether TDS provisions under section 194-I of the Income-tax Act will be applicable on the gross rental amount payable (inclusive of service tax) or net rental amount payable (exclusive of service tax).

2. The matter has been examined by the Board. As per the provisions of 194-I, tax is deductible at source on income by way rent paid to any resident. Further rent has been defined in 194-I as

Rent means any payment, by whatever name called, under any lease, sub-lease, tenancy or any

other agreement or arrangement for the use of (either separately or together) any,-

- (a) Land; or
- (b) Building (including factory building); or
- (c) Land appurtenant to a building (including factory building); or
- (d) Machinery; or
- (e) Plant; or
- (f) Equipment; or
- (g) furniture; or
- (h) fittings,

whether or not any or all of the above are owned by the payee;

3. Service tax paid by the tenant doesn't partake the nature of the income of the landlord. The landlord only acts as a collecting agency for Government for collection of service tax. Therefore it has been decided that tax deduction at source (TDS) under sections 194-I of Income-tax Act would be required to be made on the amount of rent paid/payable without including the service tax.

4. These instructions may be brought to the notice of all officers working in your region for strict compliance.

5. These instructions should also be brought to the notice of the officers responsible for conducting internal audit and adherence to these should be checked by the auditing parties.

{F.No.275/73/2007-IT (B)}