PRACTICAL ASPECTS ON SECTION 194-IB

[AS AMENDED BY FINANCE ACT, 2017]

CA MEHUL THAKKER

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ASSESSMENT YEAR 2017-18

Special Thanks to CA Chetan V Chaudhary

Law stated in this book is as amended by the Finance Act, 2017

AMENDMENT MADE BY FINANCE ACT, 2017

Practical Aspects on Section 194-IB

SECTION 194-IB -EFFECTIVE FROM A.Y.2017-18

Deduction of tax at source on payment of rent by certain Individual / HUF.

PRACTICAL 1

Mr. Madhukant is an employee of M/s. PQR Ltd. He had taken property on rent from Mr. Suresh, resident, for his residential purpose for the monthly rent of Rs. 70,000 w.e.f. **1st February, 2018**. He claims that he is not required to deduct tax at source since (i) he is not an assessee covered by tax audit under section 44AB(a)/(b) (ii) rent for the financial year 2017-18 does not exceed Rs. 1,80,000 (limit prescribed under section 194-I).Advise him with regard to his TDS obligation.

PRACTICAL 2

Mr. Ramakant, senior Chief Financial officer of M/s. DANGAR Ltd. He had taken property on rent from Mr. Ganesh, resident, for his residential purpose for the monthly rent of Rs. 1,50,000 w.e.f. **1st July, 2018**. Advise Mr. Ramakant for deduction of tax under section 194-IB with regard to the time of deduction and the amount, assuming that Mr. Ganesh does not provide PAN.

PRACTICAL 3

Mr. Jaykant runs proprietorship in the name and style M/s. MASIKOTAR TRADING. He pays shop rent to Mr. Shrenik, resident Rs. 20,000 p.m. with effect from 1st April 2017. Advise him with regard to TDS obligation under following alternatives:

(a) Total turnover of M/s. MASIKOTAR TRADING for the previous year 2016-17 was Rs. 2.5 Cr.

(b) Total turnover of M/s. MASIKOTAR TRADING for the previous year 2016-17 was Rs. 95 Lakhs.

Before we reach to the solution of the abovementioned three technical issues, let's comprehend the provisions of section 194 I and 194 IB respectively.

***Section 194-I :-** Deduction of tax at source from income by way of rent.*

(A) Person liable to deduct tax at source:- Any person, not being an individual or a HUF, who is responsible for paying rent to a resident is required to deduct tax at source under the provisions of section 194 – I .

An individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (*a*) or clause (*b*) of section 44AB during the financial year immediately preceding the financial year in which such rent is credited or paid, shall be liable to deduct income-tax under this section.

(B) Time of deduction:- Tax shall be deducted under this section, either at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier.

(C) Tax rates:-

Particulars	Rate of Tax
For the use of any machinery or plant or equipment	2%
For the use of any land or building (including factory building) or furniture or fittings	10%

(D) Threshold limit: No deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of the payee, **does not exceed Rs. 1,80,000.**

Section 194-I :- Deduction of tax at source on payment of rent by certain Individual / HUF.

(A) Person liable to deduct tax at source:- Any person, being an individual or a Hindu undivided family, responsible for paying to a resident any income by way of rent, shall deduct an amount equal to five per cent of such income as income-tax thereon.

The provisions of this section shall not be applicable to the individual or Hindu undivided family who are liable to deduct tax at source under section 194-I.

(B) Time of tax deduction – Tax is deductible at the time of credit of rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(C) Threshold limit – Tax is deductible if rent is exceeding fifty thousand rupees for a month or part of a month during the previous year**.**

(D) Rate of TDS- Tax is deductible at the rate of 5 per cent of Rent

(E) Ceiling on TDS :- In a case where the tax is required to be deducted as per the provisions of section 206AA (i.e. if payee does not provide PAN), such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

SOLUTION 1

- The contention of Mr. Madhukant is true with regard to provisions of Section 194-I. However, with effect from 1st June, 2017, section 194-IB has been inserted by Finance Act, 2017 requiring individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-I), to deduct tax at source at the rate of five percent if he or it is responsible for paying rent to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of a month during the previous year.

- Therefore, Mr. Madhukant is required to deduct tax at source under section 194IB in the month of March, 2018 on Rs.1,40,000 at the rate of 5%.

SOLUTION 2

- With regard to the time of deduction, Mr. Ramakant shall deduct tax at source annually in the last month of the financial year (i.e. March, 2018) on total rent of Rs. 13,50,000 (i.e. 1,50,000 X 9 months). However, rate of TDS shall be 20% since Mr. Ganesh has not provided PAN.
- With regard to amount of TDS, it shall be ideally Rs. 2,70,000 (20% of Rs.13,50,000). But the rent of last month is only Rs. 1,50,000. Therefore, as per the ceiling suggested under section 194 IB, Mr. Ramakant shall not exceed tax more than the rent of last month i.e. Rs. 1,50,000.

SOLUTION 3

Alternative (a):

- Since turnover for the previous year 2016-17 exceeded monetary limit for tax audit under section 44AB(a), Mr. Jaykant is subject to Section 194-I. Under this section, he is not required to deduct tax at source on rent, if rent paid during the financial year does not exceed Rs. 1,80,000.
- In the present case, annual rent is Rs. 2,40,000, (it exceeded limit of Rs. 1,80,000). Therefore, Mr. Jaykant shall deduct tax at source at 10% under section 194-I, at the time of credit to Mr. Shrenik or at the time of payment whichever is earlier.

Alternative (b):

- Since turnover for the previous year 2016-17 has not exceeded monetary limit for tax audit under section 44AB(a), Mr. Jaykant is not governed by the provisions of Section 194-I but his case falls under the provisions of section 194-IB.
- However, provision of section 194-IB is made applicable only when rent is exceeding fifty thousand rupees for a month or part of a month during the previous year.
- In the present case, monthly rent is Rs. 20,000 (not exceeding Rs. 50,000), Mr. Jaykant is not required to deduct tax at source under section 194-IB also.

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E NOTES

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