

F. No. 275/59/2012-IT(B)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, the 13th January 2014

Subject: TDS under Chapter XVII-B of the Income-tax Act, 1961 on service tax component comprised in the payments made to residents - clarification regarding

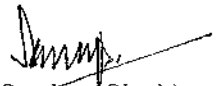
The Board had issued a Circular No.4/2008 dated 28-04-2008 wherein it was clarified that tax is to be deducted at source under Section 194-J of the Income-tax Act, 1961 (hereafter referred to as 'the Act'), on the amount of rent paid/payable without including the service tax component. Representations/letters has been received seeking clarification whether such principle can be extended to other provisions of the Act also.

2. Attention of CBDT has also been drawn to the judgement of the Hon'ble Rajasthan High Court dated 01.07.2013, in the case of CIT(TDS) Jaipur vs Rajasthan Urban Infrastructure (Income-tax Appeal No.235, 222, 238 and 239/2011), holding that if as per the terms of the agreement between the payer and the payee, the amount of service tax is to be paid separately and was not included in the fees for professional services or technical services, no TDS is required to be made on the service tax component u/s 194J of the Act.

3. The matter has been examined afresh. In exercise of the powers conferred under section 119 of the Act, the Board has decided that wherever in terms of the agreement/contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without including such service tax component.

4. This circular may be brought to the notice of all officers for compliance.

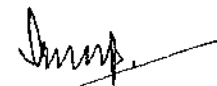
5. Hindi version shall follow.


(Sandeep Singh)

Under Secretary to Government of India

Copy to:

1. The Chairperson, Members and all other officers of the CBDT of the rank of Under Secretary and above
2. All Chief Commissioners of Income-tax(CCA) & All Directors General of Income-tax
3. The Director (PR, PP & OL), Mayur Bhawan, New Delhi for printing in the quarterly tax bulletin and for circulation as per usual mailing list (100 copies)
4. The Comptroller and Auditor General of India (40 copies)
5. All Directors of Income Tax, New Delhi
6. All CsIT(TDS)
7. The Director General of Income-tax, NADT, Nagpur
8. Guard file


(Sandeep Singh)

Under Secretary to Government of India