

184*

F. No. 275/109/92-II(B)
Government of India,
Ministry of Finance,
Department of Revenue,
Central Board of Direct Taxes.

New Delhi, the 21st Sept 94.

To

All Chief Commissioners of Income-Tax,
All Directors-General of Income-Tax.

Subject:- Interest payments under the Land Acquisition Act,
1894 - Deduction of tax at source under section
194-A of the Income-Tax Act, 1961 - Authority
responsible for deduction -Regarding -

.....

Sir,

I am directed to say that it had recently come to the notice of the Board that there was no uniform practice in vogue in the matter of deduction of tax at source from interest payments awarded by the Courts of Law in Land Acquisition cases. At certain places, such deduction was being made by the Land Acquisition authority who was responsible for paying the compensation (alongwith interest) to the persons whose land had been acquired under the Land Acquisition Act, while at other places, such deduction was being made by the Court of Law which awarded the compensation (with interest) after the concerned authority had deposited the entire amount with the Court, for payment to the concerned parties in accordance with the decree passed by the Court. In the latter case, it is observed that certain Courts were seeking assistance of the concerned Income-Tax Authorities for effecting tax deduction at source.

2. It has now been decided in consultation with the Ministry of Law & Justice that the responsibility for making deduction of tax at source under section 194-A of the Income-Tax Act, 1961, should be that of the Collector (Land Acquisition) or any other authority empowered under the Land Acquisition Act, 1894, to acquire land for a public purpose as laid down by that Act. When the concerned parties, whose land has been acquired, go to the Court of Law, seeking higher compensation (with interest) and the Court allows their claims, the concerned authority which had acquired their land, shall while paying the compensation deduct tax at source from the amount of interest forming part of the compensation, and deposit the remaining amount with the Court of Law, for disbursement to the successful litigants. The same authority shall also issue the TDS certificates to the concerned parties in the prescribed form (16-A).

contd.....

3. An extract of the advice given by the Ministry of Law & Justice, in the matter. is also enclosed for your perusal and guidance.

4. The Board, accordingly, desire you to bring the contents of this letter to the notice of all the Assessing Officers working under your respective jurisdictions and also to the notice of the various Land Acquisition authorities holding office within your respective regions, so that the procedure outlined in para 2 above is uniformly followed by all of them.

5. Hindi version will follow.

Yours faithfully,

Sd/-

(Rajesh Chandra)
Under Secretary
Central Board of Direct Taxes.

Copy to:-

1. All Ministries/Departments of the Government of India.
2. All State Governments/Union Territory Administrations.
3. All officers and sections in C.B.D.T.
4. DIT (RSP&PR), New Delhi.
5. The Income-Tax Reporter", Madras.
6. The Taxmann", New Delhi.
7. The Company Secretary", Institute of Company Secretaries of India, New Delhi.
8. 'The taxation", 174, Jorbagh, New Delhi.

Sd/-

(Rajesh Chander)
Under Secretary
Central Board of Direct Taxes.

MINISTRY OF LAW, JUSTICE & C.A.
(DEPARTMENT OF LEGAL AFFAIRS)
ADVICE (B) SECTION

The question for consideration is as to who is the person responsible for deduction of tax at source for the purpose of section 204 of the Income-tax Act, 1961 in the case of payment of compensation under the Land Acquisition Act.

A prima facie view was expressed by us in the matter on the assumption that Collector, Land Acquisition is the person making payment and as such he is responsible for making deduction at source in terms of section 204 (iii) of the Income-tax Act. However, we had requested the Department to confirm the factual position from the Ministry of Rural Development.

The Department of Rural Development have stated that the person responsible for payment of compensation under Land Acquisition Act is the Collector. In Baldeep Singh Vs. UOI & Anr. (1993) 199 ITR 628 (P&H) the Punjab High Court held that "the Court is not the person responsible for paying any income by way of interest, the legal incidents, the legal person responsible for paying income by way of interest is the Land Acquisition Collector who had the money in his possession and was responsible for making the payment of that income to the petitioners..... The court is acting only as a conduit for getting the payment to the petitioner in execution of a decree passed in his favour." In view of the above, we confirm the views expressed by us earlier, referred to above.

The Administrative Department have stated that while there may be no objection to IDS being made by Collector, in such cases a practical difficulty that may arise is that the Collector would be required by the Court to deposit the entire amount of compensation and interest with it and if the Collector deducts tax from that amount it would be regarded as disobedience of the courts's order.

In this connection the following observation made by the Supreme Court in Lt. Col. K.D. Gupta Vs UOI (1985) 46 taxmen 124 SC is considered very relevant.

"We see no justification to initiate any contempt proceeding against the respondents for withholding a sum of Rs.1,20,000/- out of the sum of Rs. 4 lakhs directed to be paid to the petitioner. Rs.1,20,000/- have been withheld on the plea that under Chapter XVII of the Income-tax Act, 1961 (the Act), the Union of India has the obligation to deduct income-tax at source. The intention of the prayer in the facts of the case for withholding the amount can not be held to be either mala fide or is there any scope to impute that the respondents intended to violate the direction of this Court."

contd...

If out of the decretal amount the Land Acquisition officer pays the IDS amount to the Central Government and deposits only the balance amount with the Court, in view of the aforesaid ruling, the Court may not hld it as disobedience of its orders.

Sd/-
(C. ACHUTHAN)
Jt. Secretary & L.A.
22.4.1994.

No. 204/1/37/ACQ/WC/DE
Government of India,
Ministry of Defence, (DGDE),
West Block No. 4, R.K. Puram,
New Delhi-110066, Nov 94.

To

The Director, DE,
Ministry of Defence,
Northern/Eastern/Western/Central/Southern/NIMA,
Jammu/Calcutta/Chandigarh/Lucknow/Pune/Meerut.

Subject:- Interest payments under the Land Acquisition Act 1894 - Deduction of Tax at source under section 194-A of the Income-Tax Act 1961 - Authority responsible for deduction.

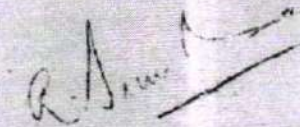
Reference this Dte General letter No. 204/1/37/ACQ/WC/DE dated 21 June 1991 and 09 Oct 1992.

2. Govt of India, Ministry of Finance Deptt. of Revenue, Central Board of Direct Taxes has forwarded an extract of the advice given by the Ministry of Law and Justice and issued instructions vide their letter No. F.No. 275/109/92-IT(B) dated 21.9.94 to all Chief Commissioners of Income-Tax and other Departments/Ministries to follow the procedure outlined therein uniformly in the Land Acquisition cases.
3. It has now been clarified that the responsibility for deduction of Income-Tax at source under section 194-A of the Income-Tax Act, 1961, should be that of the Collector (Land Acquisition) or any other authority empowered under the Act, 1894 to acquire land for the public purpose as laid down by that Act. When the concerned parties, whose land has been acquired, go to the Court of Law, seeking higher compensation (with interest) and the Court allows their claims, the concerned authority which had acquired their land, shall, while paying the compensation, deduct tax at source from the amount of interest forming part of the compensation, and deposit the remaining amount with the Court of Law, for disbursement to the successful litigants. The same authority shall also issue the TDS certificates to the concerned parties in the prescribed form (16 A).
4. Ministry of Law, Justice and Company Affairs (Deptt of Legal Affairs) have also opined vide their note dated 22.4.1994 (copy enclosed) that the Collector Land Acquisition is the person making payment and as such he is responsible for making deduction at source in terms of section 204(iii) of Income-Tax Act. It has also been stated that the deduction of tax by the Collector from the amount of compensation as per

contd....

decree would not constitute disobedience of Court orders as per decision of Apex Court in the case of Lt.Col. K.D. Gupta Vs UOI (1989)46 taxman 124 SC wherein it has been held that the Union of India has the obligation to deduct Income-Tax at source.

5. In view of the above, all DEOs/ADEOs under your command may please be directed to follow the above procedure.



Director General
Defence Estates

Copy to:-

1. Joint Director, DE,
Ministry of Defence,
Shillong.
2. All DEOs.
3. All ADEOs.

Internal

1. All Officers DGDE.
2. All Section DGDE.

F. No. 275/109/92-IT(B)
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(Rajesh Chandra)
Under Secretary
Central Board of Direct Taxes.

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2. All State Governments/Union Territory Administrations.
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7. The Company Secretary", Institute of Company Secretaries of India, New Delhi.
8. "The taxation", 174, Jorbagh, New Delhi.

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(Rajesh Chander)
Under Secretary
Central Board of Direct Taxes.

MINISTRY OF LAW, JUSTICE & C.A.
(DEPARTMENT OF LEGAL AFFAIRS)
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Sd/-
(C. ACHUTHAN)
Jt. Secretary & L.A.
22.4.1994.

65. A

No.204/1/37/ACQ/WC/DE
Govt of India, Min of Defence,
Dte General Defence Estates,
West Block-IV, RK Puram,
New Delhi-66, 09, Oct'92.

To

The Director DE
Ministry of Defence
Western/Central/Eastern/Northern/Southern/NIMA
Chandigarh/Lucknow/Calcutta/Jammu/Pune/Meerut

Sub: DEDUCTION OF INCOME TAX AT SOURCE UNDER
SECTION 194-A OF THE INCOME TAX ACT 1961
IN ACQUISITION OF LAND CASE

Reference this Dte General letter No.204/1/37/
ACQ/WC/DE dated 21 June 1991.

2. Some doubts have been raised by various DEOS because of the differing interpretation of the expression "Person responsible" used in section 194-A of the Income Tax Act. The matter has already been taken up by us with the Chairman Central Board of Direct Taxes New Delhi for their clarification as to who is the "Person responsible" in cases where Income Tax is to be deducted from the 'interest' part of the acquisition compensation. Their clarification/decision as and when received, will be communicated.

3. We have however received a copy of Punjab and Haryana High Court judgment dated 16.3.92 in CR No.624 of 1991 Baldeep Singh etc Vs UOI. The operative part of the judgment is as under:

"For the foregoing reasons, the revision petitions are accepted, the impugned order of the trial Court is set aside and it is held that the Court is not 'the person responsible for paying' an Income by way of interest to the petitioners while executing the decree."

4. In view of the above, till further orders and receipt of decision of CBDT, the following measures may be adopted:-

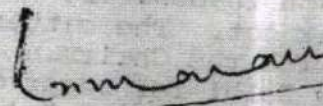
- a) All DEOS/ADEOS may be directed to deduct the Income Tax from the element of interest payable on the enhanced compensation in consultation with the concerned Income Tax Authorities before depositing the compensation in the court and inform the court accordingly.

P.T.O.

b) The amount so deducted may be deposited in the Govt Treasury under relevant head in consultation with and under intimation to the concerned Income Tax Authorities and necessary certificates/reports rendered and also intimated to the court.

c) While depositing the amount of enhanced compensation with the Collectors, the Collectors may be advised to deduct the Income Tax payable by the ex-land owners from the element of interest as per section 194-A of Income Tax Act 1961 and deposit the same in the Government Treasury in consultation with the Income Tax Authorities and to file the returns and also simultaneously intimate the parties.

5. Please acknowledge receipt.



Director General
Defence Estates
(P.K. KUMARAN)

Copy to:

1. JD Shillong
2. All DEOS
3. All ADEOS

Internal

DDG(AQ-I) - 3 copies.

(51-1)

No. 204/1/37/ACQ/WC/DE
Government of India;
Ministry of Defence, (DGDE),
West Block No. 4, R.K. Puram,
New Delhi-110066, 21, Jun 91.

To

The Director, DE,
Ministry of Defence,
Central/Western/Eastern/Northern/Southern Command, NIMA Meerut,
Lucknow/Chandigarh/Calcutta/Jammu/Pune.

Joint Director, DE, Shillong.

Subject:- Deduction of Income-Tax at source under Section
194-A of the Income-Tax Act 1961 in acquisition
of land cases.

In one case of acquisition of land, the Income-Tax Department had requested the DEO to deduct the Income-Tax at source as required under section 194-A of Income-Tax Act on the interest paid in satisfaction of court orders to the ex-landowners whose land was acquired by Ministry of Defence under the provisions of LA Act. As there exists no provision in LA Act/RAIP Act under which acquiring department can deduct the interest before making payment as per Collectors award/Court decrees, we had referred the matter to LA(Def) for his considered opinion in the matter.

LA(Def) has opined as under:-

"Any person who pays any income by way of interest is required to deduct Income-Tax before making payment to the individual. Non-deduction of income-tax at source will make the person liable to pay interest besides other legal liabilities. This being a specific provision, this is required to be complied with irrespective of the fact whether there is any provision in the LA Act or not. In the instant case, since the amount has been deposited in the court, an application is required to be filed before the court that the income-tax on the income of interest is required to be deposited to the Income-Tax Authorities as per their directions, the court may, therefore, allow UOI to withdraw the said amount in order to satisfy the requirements of Income-Tax Authorities. After filing such an application, Income-Tax Authorities be informed accordingly."

The above advice may be brought to the notice of all DEOs/ADEOs for compliance. As per the provisions of the Income-Tax Act, it is the duty of the Disbursing Officer to deduct from the payment due on account of interest the amount due towards Income-Tax and deposit the same in the Govt. Treasury under the appropriate Head. Monies on account of acquisition compensation which may include the element of interest due to delayed payment or on the enhancement granted by any of the courts are disbursed by the Collectors/SLACs/SLAOs or the courts.

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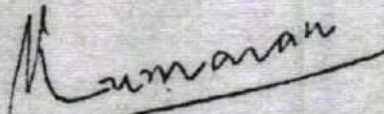
It will, thus, be their duty to deduct the Income-Tax payable by the ex-landowners from the element of interest in such payments and to credit to the Income-Tax Department the amount and render the certificates and reports.

It will, however, be the duty of all the officers (DEOs/ADEOs) who place funds at the disposal of Collectors/SIACs/SIAOs or the courts to inform the authorities to make such deductions on account of Income-Tax while disbursing the amounts and to render the certificates and reports. This will be done every time money is released to any one of those authorities by incorporating the following para in the letter through which the cheque for the amount is sent to them,

"It is the duty of the Disbursing Officer under section 194-A of the Income-Tax Act to deduct from the interest part of the payment being released, the element of Income-Tax payable by the person to whom the payment is being released. This provision may please be kept in view for strict compliance while releasing the amount. The amount so deducted may be deposited in the Govt. Treasury under the relevant Head under intimation to the Income-Tax Authorities concerned and necessary certificates and reports rendered."

Texts of sections 194-A, 197, 197-A, 199, 200, 201, 202, 203, 203-A, 204, 205, 206, 206-A of the Income-Tax Act, 1961 as in 1990-91 which are relevant in this case are enclosed herewith.

Please acknowledge receipt.



Director General
Defence Estates.

Copy to:-

ALL DEOs/ADEOs.

Internal case file No. 831/13/POLICY/ACQ/DE.

51-B

Abstract from Income Tax Act - 1990

Interest other than "Interest on securities".

194 A. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income (by way of interest on securities) shall, at the time of credit of such income 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, deduct income-tax thereon at the rates in force:

Provided that no such deduction shall be made in a case where the person (not being a company or a registered firm) entitled to receive such income furnishes to the person responsible for making the payment-

- (a) an affidavit, or
- (b) a statement in writing,

declaring that his estimated total income assessable for the assessment year next following the financial year in which the income is credited or paid will be less than the minimum liable to income-tax.

(Explanation: For the purposes of this section, where any income by way of interest as aforesaid is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly)

(2) The statement in writing referred to in subsection (1) shall also contain such other particulars as may be prescribed, be verified in the prescribed manner, be signed in the presence of :-

- a) a Member of Parliament or a State Legislature; or
- b) a Member of a District Council or a Metropolitan Council, a Municipal Corporation or Municipal Committee; or
- c) a Gazetted Officer of the Central or a State Government; or
- d) an officer of any banking company (including a co-operative bank) of the rank of sub-agent, agent or manager,

and bear an attestation by such member or officer to the effect that the person who has signed the statement is known to him).

Contd...2/-

- (3) The provisions of sub-section (1) shall not apply:-
- (i) 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 by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed (two thousand five hundred rupees);
 - (ii) to such income credited or paid before the 1st day of October, 1967;
 - (iii) to such income credited or paid to:-
 - a) any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or
 - b) any financial corporation established by or under a Central, State or Provincial Act, or
 - c) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or
 - d) the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or
 - e) any company or co-operative society carrying on the business of insurance, or
 - f) such other institution, association or body (or class of institutions, associations or bodies) which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette;
 - (iv) (to such income credited or paid by a firm to a partner of the firm);
 - (v) to such income credited or paid by a co-operative society (to a member thereof or) to any other co-operative society;
 - (vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette;
 - (vii) to such income credited or paid in respect of deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or with a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);

(viii) to such income credited or paid by the Central Government under any provision of this Act or the Indian Income-tax Act, 1922 (11 of 1922), or the Estate Duty Act, 1953 (34 of 1953) or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Super Profits Tax Act, 1963 (14 of 1963), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974).

(4) The person responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

Explanation: In this section, "Gazetted Officer" includes a Tehsildar or a Mamlatdar of a Taluka or Tehsil or any other officer performing functions similar to those of a Tehsildar or Mamlatdar.)

....4/-

Certificate for deduction at lower rate.

197. (1) (Subject to rules made under sub-section (2 A), where, in the case of any income of any person other than a company);-

- (a) income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194 A, 194 D and 195,
- (b) being a non-resident, (income-tax) is required to be deducted at the time of payment at the rates in force under the provisions of section 194,

the (Assessing) Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the (Assessing) Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the (Assessing) Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

(2 A) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, made rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (1) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.)

Duty of person deducting tax.

200. Any person deducting any sum in accordance with the provisions of sections 192 to 194, section 194A (, section 194B) (, section 194BB) (, section 194C) (, Section 194D) (, section 194E) (, section 195 and section 196A) shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

No deduction to be made in certain cases.

- 197A. (1) Notwithstanding anything contained in section 193 or section 194 or section 194A, no deduction of tax shall be made under any of the said sections in the case of an individual, who is resident of India, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 193 or section 194 or, as the case may be, section 194A, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that (the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.)
- 1r....
- (2) The person responsible for paying any income of the nature referred to in sub-section (1) shall deliver or cause to be delivered to the (Chief Commissioner or Commissioner) one copy of the declaration referred to in sub-section (1) on or before the seventh day of the month next following the month in which the declaration is furnished to him.)

Credit for tax deducted.

199. Any deduction made in accordance with the provisions of (sections 192 to 194, section 194A) (section 194B) (section 194BB) (section 194C) (section 194D), (section 194E), (section 195 and section 196A) and paid to the Central Government shall be treated as a payment of (tax) on behalf of the person from whose income the deduction was made, or of the owner of the security or of the shareholder, as the case may be, and credit shall be given to him for the amount so deducted on the production of the certificate furnished under section 203 in the assessment (made under this Act for the assessment year for which such income is assessable);

Provided that-

- 1) in a case where such person or owner or shareholder is a person, whose income is included under the provisions of section 60, section 61, section 64, section 93 or section 94 in the total income of another person, the payment shall be deemed to have been made on behalf of; and the credit shall be given to, such other person;
- ii) in any other case, where the dividend on any share is assessable as the income of a person other than the shareholder, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person in such circumstances as may be prescribed:
- 1r....

Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, each such person in the same proportion in which the interest on such security or dividend on such share is assessable as his income.)

Consequences of failure to deduct or pay.

201. (1) If any such person and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax: Provided that no penalty shall be charged under section 221 from such person, principal officer or company unless the (Assessing) Officer is satisfied that such person or principal officer or company, as the case may be, has (without good and sufficient reasons) failed to deduct and pay the tax.

(1A) Without prejudice to the provisions of sub section (1), if any such person, principal officer or company as is referred to in that sub section does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest at (fifteen) per cent per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.)

(2) Where the tax has not been paid as aforesaid after it is deducted (the amount of the tax together with the amount of simple interest thereon referred to in sub section (1A) shall be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub section (1)).

Tax deduction account number.

203A. (1) Every person deducting tax in accordance with the provisions of sections 192 to 194, section 194A, section 194B, section 194BB, section 194C, section 194D, section 194E, section 195 and section 196A, if he has not been allotted any tax deduction account number, shall within such time as may be prescribed, apply to the (Assessing) Officer for the allotment of a tax deduction account number.

- (2) Where a tax-deduction account number has been allotted to a person, such person shall quote such number,:
- a) in all challans for the payment of any sum in accordance with the provisions of section 200;
 - b) in all certificates issued in accordance with the provisions of section 203;
 - c) in all the returns delivered in accordance with the provisions of section 206, 206A and 206B to any income tax authority; and
 - d) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.)

Meaning of "person responsible for paying".

204. For the purposes of (sections 192 to 194, section 194A (,section 194B) (,section 194BB) (,section 194C) (,section 194D) (,section 194E), sections 195 to 203 and section 285, the expression "person responsible for paying" means:-

- i) in the case of payments of income chargeable under the head "Salaries", other than payments by the Central Government or the Government of a State, the employer himself or, if the employer is a company, the company itself, including the principal officer thereof;
- ii) in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, corporation or company, including the principal officer thereof;
- ii a) in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short term capital asset, the authorised dealer responsible for remitting such sum to the non-resident Indian or for crediting such sum to his non-resident (External) Account maintained in accordance with the Foreign Exchange Regulation Act, 1973 (46 to 1973) and any rules made thereunder;
- iii) (in the case of credit, or, as the case may be, payment) of any other sum chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

Explanation : For the purposes of this section-

- a) "non-resident Indian" and "Foreign exchange asset" shall have the meanings assigned to them in Chapter XII-A;
- b) "authorised dealer" shall have the meaning assigned to it in clause (b) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973).

...9/-

Deduction only one mode of recovery.

202. The power to (recover) tax by deduction under (sections 192 to 194, section 194A (, section 194B) (, section 194BB) (, section 194C) (, section 194D) (, section 194E) (, section 195 and section 196A)) shall be without prejudice to any other mode of recovery.

Certificate for tax deducted.

203. Every person deducting tax in accordance with the provisions of sections 192 to 194, section 194 A (, section 194B) (, section 194BB) (, section 194C) (, section 194D) (, section 194E) (, section 195 and section 196A), (shall, within such period as may be prescribed from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any dividend to a share holder), furnish to the person to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.)

Bar against direct demand on assessee.

205. Where tax is deductible at the source under (sections 192 to 194, section 194 A (, section 194B) (, section 194BB) (, section 194C) (, section 194D) (, section 194E), (section 195 and section 196A)), the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from the income.

Persons deducting tax to furnish prescribed returns.

206. The prescribed person in the case of every office of Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, every private employer and every other person responsible for deducting tax under the foregoing provisions of this Chapter shall prepare, within the prescribed time after the end of each financial year, and deliver or cause to be delivered to the prescribed income-tax authority, such returns in such form and verified in such manner and setting forth such particulars as may be prescribed.)

Person paying interest to residents without deduction of tax, to furnish prescribed return.

206A. Any person responsible for paying any income referred to in section 194A shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the (Assessing) Officer in the prescribed form and verified in the prescribed manner, a return in writing showing:-

- a) the name and address of every person who has furnished to him an affidavit or a statement under the proviso to sub-section (1) of section 194A;
- b) the amount of the income credited or paid during the financial year to each such person and the time or times at which the same was credited or paid, as the case may be; and
- c) such other particulars as may be prescribed.)

No 202/4/36/ACQ/CC/DE

Govt of India, Min of Def
Dte General of Defence Estates
West Block-4, R.K. Puram
New Delhi-110066, 25/July, 1994

To

The Director, DE
Ministry of Defence
Western/ Central/ Eastern / Northern/Southern/ NIMA
Chandigarh/Lucknow/ Calcutta/ Jammu/ Pune/ Meerut

Sub : ACQUISITION OF LAND FOR THE DEFENCE SERVICES :
REFERENCE TO COURTS UNDER THE LAND ACQUISITION
ACT, 1894

It has been noted that sometimes the Defence Estates Officer initiate proposals for issue of Govt sanction to defend the LAR/ Arbitration cases and to meet the incurring of expenditure connected therewith and the same are recommended by the Director, DE. In this connection it is intimated that specific sanction of the Central Government for the defence of such Reference/Arbitration case is not necessary. The expenditure incurred in these cases is to be debited to the cost of acquisition of the projects in question for which sanction of the Central Government is invariably issued. In this connection a copy of Govt of India, Min of Def letter No 26/383/ACQ/MLC/2475/D(lands) dated 18 Sep, 1963 is enclosed herewith for your reference and guidance.

For Director General
Defence Estates

Copy to :-

All DEO's/ ADEO's - Alongwith a copy of above Govt letter

Joint Director,
Shillong

INTERNAL : DDG (ACQ-1)

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166/B

No. 26/383/ACQ/MLC/2475/D(Lands)
Government of India,
Ministry of Defence,
New Delhi, the 18th Sept, 63

To

The Director,
Military Lands and Cantonments,
NEW DELHI

SUB: ACQUISITION OF LAND FOR THE DEFENCE SERVICES
REFERENCES TO COURTS UNDER THE LAND ACQUISITION
ACT, 1894

Sir,

I am directed to say that in view of the fact that all Collectors are competent to acquire properties under the Land Acquisition Act, 1894, for the Central Government references to court of Law under Section 18 and 19 of the Act are normally made against the collectors.

2. It has, therefore, been decided that specific sanction of the Central Government for the Defence of such references is not necessary and that the expenditure incurred on these reference is to be debited to the cost of acquisition of the projects in question for which sanction of the Central Govt. is invariably issued.

3. This issues with the concurrence of the Ministry of Finance(Defence) vide their u.o. No. 192/S/W of 1963.

Yours faithfully,

Sd/- x x x x x
(KASTURI LAL)

Under Secretary to the Govt of India.

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(12)

No. PC-1. 275-S/ACQ/CC/DE
Govt of India, Min of Defence
Dte Gen Defence Estates
West Block-4, RK Puram
New Delhi-66. Feb '89

To

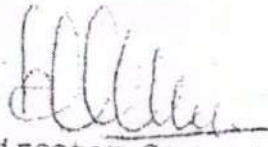
The Director, DE
Ministry of Defence
Central/Southern/Western/Eastern/Northern Command
Lucknow/Pune/Panchkula/Calcutta/Jammu

NIMA
Meerut

Sub: Defence of application filed by the parties
u/s 28A of the LA Act 1894 before the
Collector/SLAO/DM.

.....

Instances have come to our notice where a DEO have engaged Govt Pleaders to defend the applications filed by the interested parties u/s 28A of the LA Act 1894 before the Collector/SLAO/DM for determination of compensation as per the rate awarded by the District Court notwithstanding that they had not made any written application to the Collector/SLAO/DM u/s 18, within three months from the date of award of the court. This practice is not correct and payment of legal fee to the Govt Pleader cannot be sanctioned. Further under the provision of LA Act 1894, the office of the Collector/SLAO/DM are not considered as court. Hence application filed by the parties have to be defended by the DEO/ADEO and position explained to Collector personally. All DEOs/ADEOs should note this for strict compliance.


Director General
Defence Estates

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Copy to:

The Jt Director, DE
Shillong.

All DEOs/ADEOs.

\$TKS