

75/DJ/NE/KK0  
52/118

OFFICE OF THE DISTRICT & SESSIONS JUDGE (HQs), TIS HAZARI, DELHI

No LAC/Tax 1195-1194-1/2018

Dated: 31 JAN 2018

To

1. Ld. District & Sessions Judge, West District, Tis Hazari, Delhi
2. Ld. District & Sessions Judge, North District, Rohini, Delhi
3. Ld. District & Sessions Judge, North West District, Rohini, Delhi
4. Ld. District & Sessions Judge, New Delhi District, PHC, Delhi
5. Ld. District & Sessions Judge, South West District, Dwarka, Delhi
6. Ld. District & Sessions Judge, South District, Saket, New Delhi
7. Ld. District & Sessions Judge, South East District, Saket, New Delhi
8. Ld. District & Sessions Judge, East District, Karkardooma, Delhi
9. Ld. District & Sessions Judge, North East District, Karkardooma, Delhi
10. Ld. District & Sessions Judge, Shahdara District, Karkardooma, Delhi

Subject : Circulation of letter regarding deduction of Income Tax on Land Compensation

Sr/Madam

Please find enclosed herewith a copy of letter no. FADM/LAC(South)/2012956-961 dated 21.11.2017 received from Office of the Additional District Magistrate, District South, Revenue Department, Govt. of NCT of Delhi, Saket, New Delhi alongwith letter of Office of the Asstt. Commissioner of Income Tax, Cir. 75(1) Room No. 413A, Aryakar Bhawan Launi Nagar, Delhi vide No. F.No ACIT/CIR 75 (1)/2017-18532 dated 20.11.2017 for information and necessary action.

Thanking you.

*ccm*  
*for perusal & reviewing authority, Sr. District Judge Dd/LAC, (11/11/17) all the Courts of South East District as well as for perusal of CIR Computer to upload the same on website.*

Yours sincerely,

*Vinod Kumar*

(Vinod Kumar)

Sp. Judge (NDPS) Central &  
Co-Chairperson Coordination Committee  
Between LAC Branch & Court

DJ, LAC

02/11/18

Enclosures : Copy of above mentioned letters.

No LAC/Tax 1195-1194-1/2018

Dated: 31 JAN 2018

Copy forwarded for information and necessary action to :-

1. PS to Ld. District & Sessions Judge (HQs) Tis Hazari Courts, Delhi.

OFFICE OF THE ADDITIONAL DISTRICT MAGISTRATE, DISTRICT SOUTH  
REVENUE DEPARTMENT, GOVT. OF NCT OF DELHI  
M.B.ROAD, SAKET, NEW DELHI-110068

F.ASM/LAC(SOUTH)/2017/956-961

Dated 21/11/17

To

The District & Sessions Judge (South),  
District Court Saket,  
N. W. Delhi.

Subject: Detailed provisions of section 154LA of the IT, Act-reg.

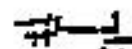
Madam,

This is with reference to meeting held on 18.11.2017 to discuss the issue of outstanding demand of Rs.6,34,97,383/- raised by Income Tax Department against Land acquisition collector. It was clarified by the Assistant Commissioner of Income Tax that for income tax purpose all the agriculture land falling in Delhi as per section 2(14)(B) of Income Tax Act is treated as non-agricultural land therefore the TDS needs to be calculated on the entire compensation and not only the interest component of the Compensation and in view of discussion it was directed by yourself to Income Tax Department to send an official communication in this regard so that all the stake holders could be apprised of and TDS could be deducted on entire compensation.

In this regard, a letter No.F.No.ACT/CR-75(11)/2017-18/532 dated:20.11.2017 received from Income Tax department is forwarded herewith for kind information and further necessary action.

Yours faithfully,

Encs. As above

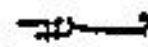
  
21.11.17  
(Tameer Ahmad)  
ADM (South)

Copy to

1. Additional District Judge (South), District Court Saket, New Delhi.
2. The District Judge, District Court Saket, New Delhi.
3. The District Judge, District Court Tis Hazari, Delhi.

Copy for information to

1. PS to Divisional Commissioner, 5 Shyam Nath Marg, Delhi.
2. PA to District Magistrate (South), M.B. Road, Saket, New Delhi.

  
(Tameer Ahmad)  
ADM (South)



OFFICE OF THE  
ASSTT. COMMISSIONER OF INCOME TAX,  
CIR 75(1), ROOM NO 413A, MAYAPUR BHAWAN, LAXMI NAGAR  
DELHI - 110072

CIR 75(1)/2017-18/562

Date: 20/11/2017

The Dy. Commissioner (South)  
Office of the Dy. Commissioner (South)  
M B Road, Saket, South Delhi.  
Delhi-110062

Sub: Detailed provisions of section 194LA of the I.T. Act -rtg.

The scheduled meeting with IAC South and District & Session Judge to discuss the issue of outstanding demand of Rs. 6,34,57,183/- was held on 18-11-2017 in the chamber of District & Session Judge District Court Saket, New Delhi. The meeting was also attended by ACIT Circle 75(1)-TDS, New Delhi.

It was observed that there was some confusion to the concerned authorities about the TDS rate applicable on the provisions of section 194LA in connection with acquisition of land. Henceforth, a letter with detailed provisions of the Income Tax Act, 1961 and Income Tax Rules was sought from the ACIT Circle 75(1)-TDS on the related matter.

It has been noticed by the office of ACIT-Circle 75(1)-TDS, New Delhi from TRACES that your office (IAC-South) is deducting tax @ lower rate than envisaged in the Income Tax Act, 1961. According to section 194LA, compensation for any acquisition other than agricultural land requires 10 percent deduction of tax at source. Relevant provision of Income Tax Act, 1961 is given below:

**Payment of compensation on acquisition of certain immovable property.**

**194LA.** Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land), shall at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct a tax amount equal to ten per cent of such sum as income tax thereon.

Provided that no deduction shall be made under this section where the amount of such payment or in the case may be the aggregate amount of such payments to a resident during the financial year does not exceed (two lakh and fifty thousand) rupees:



Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).

Explanation. — For the purposes of this section,—

- (i) "agricultural land" means agricultural land in India including land situate in any area referred to in clause (a) and (b) of sub-clause (ii) of clause (1) of section 2(14)(i);
- (ii) "immovable property" means any land (other than agricultural land) or any building or part of a building;

Where the person whose tax is to be deducted fails to furnish PAN to the deductor then tax is to be deducted under Section 206AA of Income Tax Act, 1961. Relevant provision is shown below:

**Requirement to furnish Permanent Account Number.**

206AA. (1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIIB (including any credit to a deductor) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely—

- (i) as the rate specified in the relevant provision of this Act or
- (ii) as the rate or rates in force; or
- (iii) as the rate of twenty per cent.

Definition of agricultural land under Income Tax Act, 1961 is given under Section 2(14)(i) as follows:

(i) agricultural land in India, not being land situate—  
 (a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a Cantonment Board and which has a population of not less than ten thousand; or  
 (b) in any area within the distance specified



vertically.—

- (i) not being more than two kilometres, from the local limits of any municipality or town or village board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or
- (ii) not being more than six kilometres, from the local limits of any municipality or town or village board referred to in item (a) and which has a population of more than one lakh but not exceeding ten lakh; or
- (iii) not being more than eight kilometres, from the local limits of any municipality or town or village board referred to in item (a) and which has a population of more than ten lakh.

*Explanation*—For the purposes of this sub-clause, "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

The Income Tax Act, 1952 also prescribes certain duties to the person responsible for deducting the tax under section 200 which is given below—

**Duty of person deducting tax.**

200. [(1)] Any person deducting any sum in accordance with the foregoing provisions of this Chapter shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

[(2) Any person being an employer, referred to in sub-section (1A) of section 192 shall pay, within the prescribed time, the tax to the credit of the Central Government or as the Board directs.]

[(2A) In case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan issued by an Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, the person who is responsible for crediting such sum or tax to the credit of the Central Government shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorized by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be



(13) Any person deducting any sum on or after the 1st day of April, 1963 in accordance with the foregoing provisions of this Chapter or, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority, or the person authorised by such authority such statements in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.]

[Provided that the person may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statements verified under this sub-section in such form and verified in such manner as may be specified by the authority.]

Section 192 of Income Tax Rules prescribes following deadlines for the tax payment:

*Time and mode of payment to Government accounts of tax deducted at source or tax paid under sub-section (1A) of section 192.*

192. All taxes deducted in accordance with the provisions of Chapter XXII-B or an office of the Government shall be paid to the credit of the Central Government -

... on the same day where the tax is paid without production of an income-tax challan; and  
 ... on or before seven days from the end of the month in which tax deduction is made or income-tax is due under sub-section (1A) of section 192, where tax is paid accompanied by an income-tax challan.



Yours faithfully,

*Varunesh Mishra*  
 (Varunesh Mishra)

ASST. Commissioner of Income Tax  
 TDA, Circle-7411, Delhi

ASST. Commissioner of Income Tax  
 TDS-2, 7411, Delhi  
 20/04/2007

OFFICE OF THE ADDITIONAL DISTRICT MAGISTRATE: DISTRICT SOUTH  
REVENUE DEPARTMENT: GOVT. OF NCT OF DELHI  
M.B.ROAD: SAKET, NEW DELHI-110 068

F.ADM/LAC(SOUTH)/2017/ 988-97

Date: 01/17/17

Minutes of meeting held on 18.11.2017 at 1.00 PM to discuss the issue of huge penalty raised by Income Tax Department

A meeting was held on 18.11.2017 at 1.00 PM in the Chairmanship of District & Session Judge (South) in her chamber to discuss the issue of huge penalty raised by Income Tax Department against Land Acquisition Collector on the TDS deducted by Additional District Judge Court (District Court Saket) in the cases of enhanced compensation as per section 19 of land acquisition Act, 1894.

2. Following persons attended the meeting:

- a. Dr. Ajay Gupta, Additional District Judge
- b. Sh. Yashir Ahmad, Additional District Magistrate (South)
- c. Sh. Varunesh Mishra, Assistant Commissioner of Income Tax.

3. The Additional District Magistrate (South) apprised the District & Sessions Judge (South) that there is a huge penalty of Rs. 6,34,97,183.30 against Land Acquisition Branch of District South. The major components of this penalty consist of short recovery of TDS on the enhanced compensation, late payment of TDS amount in the account of Income Tax Department and late filing of return for the amount deposited. He apprised that the Court had been deducting TDS only on the interest part of the enhanced compensation but Income Tax is demanding TDS at 10% on the total amount of the compensation leading to short recovery of TDS. Dr. Ajay Gupta informed that since the land for which enhanced compensation was determined was of agriculture nature therefore the District Judge of The Hazari Court did not include the complete enhancement and only compute TDS on the interest component. Sh. Varunesh Mishra however clarified that for Income Tax purpose all the agriculture land falling in Delhi as per section 2(14)(iii) of Income Tax Act is treated as non-agriculture land therefore the TDS needs to be calculated on the entire compensation and not only the interest component of the compensation. In view of the above discussion District & Sessions Judge directed the Income Tax Department to send an official communication in this regard so that all the stake holders including District Judge, The Hazari and the lawyers could be apprised of and TDS could be deducted on entire compensation.

(Action: Income Tax Department)

4. The issue of the past short TDS deduction by the Court was discussed and Additional District Judge informed that the payment had already been given to

Bhumidars as per the finalisation of Execution Petition and the file had been consigned in the record room therefore, it is not possible to track the Bhumidars and recover the short deduction of TDS from them by the Court. However, the branch of Land Acquisition may try to contact the Bhumidars to recover the short deduction and if any information is required regarding the details of the Bhumidars then the Court may try to provide the information from the concerned file

(Action: LA Branch)

5. The Additional District Magistrate (South) informed that whatever the amount received from the Court as Tax Deducted at Source had been deposited in the Income Tax Department and return had been filed as per the information provided by the Court. The Land Acquisition Branch had not kept any TDS amount in its account but all had been deposited in the Income Tax Department. If there is any short deduction then Income Tax Department know about it and can recover the same from the individual Bhumidar directly as per the final Income Tax assessment done by the Income Tax Department. The Assistant Commissioner of Income Tax suggested that the list of all the Bhumidars including their PAN no. may be sent to CPC, Bangalore asking to provide the income Tax return to verify if they filed the return correctly mentioning receiving of the complete enhancement amount and depositing full Income Tax as per their Income Tax slab. If the assessee have themselves paid the short deduction then the liability of Land Acquisition Branch will be waived off.

(Action: LA Branch)

6. The Additional District Magistrate (South) informed that the District Nazir is sending the cheque for the TDS amount which is more than the TDS calculated by the Court. On analyzing the information provided by the court it seems that the TDS on the interest given by the bank on the enhanced compensation is clubbed with the TDS on enhanced compensation and sent to Land Acquisition Branch for depositing in the Income Tax Department. The TDS on the interest on fixed deposit should be deducted under 194A of the Income Tax Act and should be deposited by Bank directly and should not be clubbed with TDS deduction on enhanced compensation under section 194IA of Income Tax Act. The District & Sessions Judge directed henceforth the designated Court will only send the TDS deduction on enhanced compensation to Land Acquisition Branch and directed Bank to deposit TDS on interest on fixed deposit to Income Tax department directly. The Land Acquisition Branch will file return under section 194IA and bank will file return under section 194A separately.

(Action: ADJ Court, LA Branch, Bank)

7. The Additional District Magistrate (South) further informed that the South District had been bifurcated into two districts namely South and South-East in 2012. Even after bifurcation some of the reference cases and execution

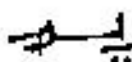


petition of the villages falling in the jurisdiction of South-East district is being heard and decided by designated Court for South district which leads to delaying in TDS payment pertaining to South-East district since first TDS amount received from the court is deposited in the Land Acquisition (South) account and then transfer to Land Acquisition (South-East) causing delay leading to delay penalty by the Income Tax Department. The District & Sessions Judge directed to send a request letter to transfer the cases of villages of South-East district from the designated court of South to South-East.

8. To improve the Tax administration and for avoiding the penalty by the Income Tax Department the Additional District Judge Court and Land Acquisition branch should work together for simplification of the procedure and timely information flow.

(Action: LA Branch & ADJ Court)

9. Meeting ended with vote of thanks to Chair.


  
Tahir Ahmad  
ADM (South)  
Dated: 01/17/17

F.ADM/LAC(South)/2017/985-97

- 1 P.S. to District & Sessions Judge (South), District Court Saket, New Delhi.
- 2 Additional District Judge (South), District Court Saket, New Delhi.
- 3 Assistant Commissioner of Income Tax, Circle 75(1), Room No. 413(A), 4<sup>th</sup> Floor, Arya Nagar Bhuban, Laxmi Nagar District Centre, Delhi-110092.
- 4 The Manager, State Bank of India, District Court Complex Saket, New Delhi.
- 5 The Manager, Dena Bank (Saket Branch), 181-A, Khirki Estn. Press Enclave Road, Saket New Delhi-110017
- 6 District Nazir, Tis Hazari Court, New Delhi
- 7 District Nazir, Saket Court, New Delhi
- 8 Concerned file/Guard file

Copy for information to:

1. PS to Divisional Commissioner, S. Sham Path Marg, New Delhi
2. PA to District Magistrate (South), M.B. Road, Saket, New Delhi.

  
Tahir Ahmad  
ADM (South)