



I.T. CIRCULARS - TDS U/S 194C Not APPLICABLE ON PRINTED MATERIAL "SOLD"

CIRCULAR -INCOME-TAX ACT

Section 194C of the Income-tax Act, 1961 - Deduction of tax at source - Payments to contractors and sub-contractors - Applicability of TDS provisions of section 194C on Contract for Fabrication of Article or Thing as per Specifications given by the Assessee - Contradiction between two Circulars of CBDT - Resolution thereof

Circular No. 13/2006, dated 13-12-2006

1. Representations have been received in the Board seeking clarification on the applicability of section 194C on such transactions, where the assessee has outsourced certain work relating to fabrication or manufacturing of article or thing in accordance with the specifications given by the assessee. Circular No. 681, dated 8-3-1994 of the Board clarifies in para 7(vi) that the provisions of section 194C would not apply to contracts for sale of goods and further clarifies that where the property in the article or thing so fabricated passes from the fabricator-contractor to the assessee only after such article or thing is delivered to the assessee, such contract would be a contract for sale and so outside the purview of section 194C. However, in reply to question No. 15 in Circular No. 715, dated 8-8-1995 on the subject of applicability of section 194C, in respect of contract for supply printed material as per prescribed specifications, it has been said that such contracts would also be covered under section 194C. It has been represented that the views expressed in these two circulars, to the extent as pointed out above, are in contradiction to each other.

2. The matter has been examined by the Board and it is considered that exclusive reliance on Question/Answer No. 15 of Circular No. 715, without taking into account the principles laid down in Circular No. 681 is not justified. Before taking a decision on the applicability of TDS under section 194C on a contract, it would have to be examined whether the contract in question is a 'contract for work' or a 'contract for sale' and TDS shall be applicable only where it is a 'contract for work'.

3. It is, therefore, clarified that *the provisions of section 194C would apply in respect of a contract for supply of any article or thing as per prescribed specifications only if it is a contract for work and not a contract for sale as per the principles in this regard laid down in para 7(vi) of Circular No. 681, dated 8-3-1994.*



Circular: No. 681, dated 8-3-1994.

SECTION 194C / PAYMENTS TO CONTRACTORS AND SUB-CONTRACTORS

1114. Applicability of section 194C to service contracts - Clarification regarding Supreme Court judgment in Associated Cement Co. Ltd. v. CIT [1993] 67 Taxman 346/201 ITR 435

7. The conclusion flowing from the aforesaid judgments of the Supreme Court and the Patna High Court is that the provisions of section 194C would apply to all types of contracts, including transport contracts, labour contracts, service contracts etc. In the light of these judgments, the Board has decided to withdraw their above-mentioned Circular Nos. 86 and 93 and para 11 of Circular No. 108 and issue the following guidelines in regard to the applicability of the provisions of section 194C:

(vi) The provisions of this section will not cover contracts for sale of goods —

(b) Where, however, the contractor undertakes to supply any article or thing fabricated according to the specifications given by Government or any other specified person and the property in such article or thing passes to the Government or such person only after such article or thing is delivered, the contract will be a contract for sale and as such outside the purview of this section.

Circular: No. 714, dated 3-8-1995.

1126. Clarifications on various provisions relating to tax deduction at source regarding changes introduced through Finance Act, 1995

The Finance Act, 1995, has enlarged the scope of income-tax deduction at source by making various amendments. In regard to the changes introduced through the Finance Act, 1995, a number of queries have been received from the various associations and professional bodies on the scope of tax deduction at source. It would be desirable to clarify the doubts by issuing a public circular in the form of question answers as under:

¹Question 15: Whether section 194C would apply in respect of supply of printed material as per prescribed specifications?

Answer: Yes.

Note: Only Clauses/Portions of Circular Nos. 681 & 714 justifying non-applicability of TDS on Printed material re-produced here. Full text of circulars available under circulars in Income Tax Web site