

Note – No TDS on service-tax component included in the bill, as per CBDT Circular

The Central Board of Direct Taxes (CBDT) has issued Circular No.1 of 2014, dt.13.1.2014 [360 ITR (St) 53], relating to the issue of TDS on service-tax component comprised in the payments made to residents. The aforesaid Circular has been issued in the light of the judgement of Rajasthan High Court, in the case of *CIT (TDS) Vs Rajasthan Urban Infrastructure Development Project [2013] 359 ITR 385 (Raj)*.

As per the aforesaid judgement of Rajasthan High Court, the words “*any sum paid*”, used in section 194J of the Income-Tax Act, 1961 (the Act), relate to fees for professional services or fees for technical services. According to the terms of the agreement, the amount of service-tax was to be paid separately and was not included in the fees for professional services or fees for technical services and accordingly, no tax was required to be deducted at source, in respect of service-tax component included in the bill, in respect of fees for professional services or fees for technical services.

As per the aforesaid Circular, the CBDT 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.

In connection with the above subject, a reference may also be made to two Articles authored by me, the details in respect of which are as follows :

1. Article under the title, “*Whether tax is deductible at source, in respect of service-tax included in the bill*”, published in 212 CTR (Art) 81, and
2. Article under the title, “*No tax is deductible at source from service-tax included in a bill*” published in 312 ITR (Journ.) 9.

As per the aforesaid Article 1, no tax is deductible at source, in respect of service-tax or any other tax included in the bill, for services rendered by a service provider.

Similarly, the conclusion of the aforesaid Article 2, may be reproduced as follows :

“VI. Conclusion

In the light of the discussion in the preceding paragraphs, it is quite clear that :

- (i) *Service-tax is never a part of income or profit of the service provider.*
- (ii) *The service provider acts only as a collecting agent, in respect of the service-tax.*
- (iii) *The service-tax is payable by the consumer or recipient of the service.*
- (iv) *As service-tax is not part of income or profit of the service provider, no tax is deductible at source therefrom, even if the same is included in the bill raised by the service provider on the recipient of service, in respect of the taxable service.”*

It may also be stated here that in a bill for professional services, etc, the amount of service-tax payable in respect thereof, is separately added / indicated.

Therefore, in view of the aforesaid Circular No.1 of 2014, dt.13.1.2014, no tax will be required to be deducted at source under Chapter XVII-B of the Act, in respect of service-tax component comprised in the amount payable to a resident.

In other words, no tax will be required to be deducted at source, in respect of service-tax component included in a bill raised by way of fees for services rendered by a service provider, because service-tax component is always indicated separately in such a bill.

This is for your perusal and guidance.

Place : Pune

(S.K.Tyagi)

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