

# What's New

## News Flash



January 2014

### ***No TDS on service tax on payments made/ due to resident payee if service tax component is indicated separately in the agreement/ contract***

#### CBDT Circular in brief

The Central Board of Direct Taxes (CBDT) had previously issued a Circular No. 4/2008 dated 28-04-2008 wherein it was clarified that tax had to be deducted at source under section 194-I of the Income-tax Act, 1961 (the Act), on the amount of rent paid/ payable without including the service tax component.

The CBDT received representations seeking clarification whether this principle could be extended to other provisions of the Act also.

The Hon'ble Rajasthan High Court, in the case of CIT (TDS) *v.* Rajasthan Urban Infrastructure (ITA No. 235, 222, 238 and 239 of 2011), held that tax was not required to be deducted on the service tax component under section 194J of the Act if the amount of service tax was to be paid separately and was not included in the fees for professional services or technical services as per the terms of the agreement between the payer and the payee.

The CBDT, in the light of the aforesaid representation and the decision of the Hon'ble Rajasthan High Court, examined the matter afresh and 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, the tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/ payable without including the service tax component.

Source: <http://www.itatonline.org/info/index.php/cbdt-accepts-high-court-verdict-of-no-tds-on-service-tax-component/>

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