



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण
(पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)
National Highways Authority of India
(Ministry of Shipping, Road Transport and Highways)

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CIRCULAR

NHAI/13/LA/Policy/2006

17 Jun 2010

Subject: Income Tax on compensation for land.

1. A number of ROs/PIUs have sought clarifications whether Income Tax is deductible at source (under Section 194A of the Income Tax Act, 1961) on interest paid on belated payment of compensation for acquisition of land/immovable property.

2. Sub-Section (1) of Section 194A of the Income Tax Act, 1961, reads as follows:-

'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'.

3. Sub-Section (3) of impugned Section 194A of the Income Tax Act provides a list of interest-payments which are exempt from payment of Income Tax. Interest paid on account of belated payment of compensation for land/immovable property does not feature in this list. Consequently, Income Tax is chargeable on interest-payments due to belated payment of compensation for land.

4. Interest is payable in land acquisition cases when (upon initiation of Arbitration/litigation), compensation awarded by CALA for the land is enhanced by the Arbitrator or by a Court of Law (Para 3H5 of the NH Act provides for payment of interest @ 9% per annum on the amount by which the Arbitrator enhances compensation).

5. Payment of an amount by which an Arbitrator/Court has enhanced compensation due to a landowner, in fact amounts to belated payment of due compensation. Consequently, interest on the enhanced amount is equivalent to interest on account of belated payment of due compensation.

6. The position (that Income Tax is chargeable on interest-payments on account of belated payment of compensation) is supported by Section 194LA of Income Tax Act (governing compensation for land acquisition):-

'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

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 an 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, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed one hundred thousand rupees'.

The terms; (i) 'compensation or the enhanced compensation', (ii) 'consideration or the enhanced consideration', and (iii) 'aggregate amount of such payments' denoting payments on which Income Tax is chargeable, include interest-payments on account of belated payment of compensation.

7. Income Tax is therefore chargeable on the amount by which an Arbitrator or a Court of Law has enhanced compensation, and interest thereon, subject to condition that aggregate amount of such payments; ie (i) compensation awarded by CALA, (ii) enhancement awarded by the Arbitrator/Court and (iii) interest on the enhancement awarded by the Arbitrator/Court, during the financial year, exceeds one hundred thousand rupees.

8. ROs/PIUs may accordingly have Income Tax deducted on the amount by which an Arbitrator or a Court of Law has enhanced compensation and interest thereon, as mentioned at para 07 above.

9. This issues with approval of the Competent Authority in NHAI.


17/06
(VK Sharma)
CGM(LA)

To:

1. All ROs
2. All PIUs
3. All CGMs/GMs at HQ

Copy to:

1. PS to Chairman
2. PS to Members