

No physical verification under sec. 194LA to check whether land was agricultural land which didn't attract TDS

Summary – The Jaipur ITAT in a recent case of Jaipur Development Authority., (the Assessee) held that Section 194A does not provide any physical verification of assessee to inspect fields and find out whether lands are actually cultivated or not

Facts

- The assessee was an Urban Improvement Trust incorporated by the State Govt. for urban development activities including housing, community facilities and civic amenities in Jaipur Region. It came into existence by the Jaipur Development Authority Act in the year 1982. The assessee had been held to be eligible for registration under section 12A.
- During the course of verification of TDS matters, it was found that the assessee through its Land Acquisition Officer (for short 'LAO') was making payments in lieu of the agriculture land acquired for carrying out its development plans.
- The Assessing Officer found that in some of the cases, TDS had not been deducted by the LAO under section 194LA without making due verification. According to Assessing Officer, though the papers and affidavits were certified by the Tehsildar, said papers were not conclusive as he was not a revenue officer under land revenue code.
- The Assessing Officer thus held that assessee was liable for deduction of TDS *qua* the acquisition of such agriculture land. Since assessee failed to do so, it was held to be assessee-in-default.
- The Commissioner (Appeals) confirmed the order of the Assessing Officer.
- On second appeal:

Held

- From the record, it emerges that the assessee demonstrated its case for no liability of TDS before the ACIT -TDS that not only in terms of plain reading of section 194LA but also furnished the desired information in the proforma and enclosures as advised by the Assessing Officer to be furnished in the order to hold JDA as not liable under *Explanation (i)*.
- Having complied with the requirement, assessee has discharged its onus. Besides, liability of assessee under section 194LA cannot be extended to go beyond the plain meaning of the letters of section and infuse such conditions which are not mentioned in the provisions. In consideration of the entirety of the facts and circumstances of the case, it is opined that :—

- (i) The assessee complied with requirements asked for by the Assessing Officer. There is no adverse comment on this issue.

- (ii) Section 194A does not provide any physical verification of the assessee to inspect the fields and find out whether the lands are actually cultivated or not. What section imposes is determination of the record which has been done by the assessee.
 - (iii) Baran land is a type of agricultural land which is clearly evident from Revenue regulations and record placed on the paper book. The objection raised by the Assessing Officer and Commissioner (Appeals) about Girdawari is irrelevant and no-consequential.
 - (iv) Tehsildar appointed by JDA cannot be denied to be a Revenue Officer inasmuch as he works as a Revenue Officer in terms of JDA Act.
 - (v) The language of section 194LA being plain and simple it provides no physical verification of land by LAO about carrying on of agricultural operations. In the framework of section 194LA, there is no need of applying rules of interpretation and imposing further condition to go beyond the scope of obligation as prescribed under the Act.
- In view thereof, the assessee has been able to demonstrate from the record that impugned agricultural land acquired by the assessee is agricultural land on per records and in terms of section 194LA, *Explanation* (i). There is no obligation to deduct any TDS thereon. Thus there is no question of raising demand against the assessee under section 201(1) and 201(1A) of the Act and hold the assessee to be in default.
 - Consequently, the orders of the lower authorities are reversed and the demands raised in question by the department are quashed.
 - In the result, the appeal of the assessee is allowed.