

CAPITAL GAINS

NR $\xrightarrow[\text{RDB/ Gov Sec}]{\text{Bonds/ GDR}}$ NR $\xrightarrow{\quad}$ Transferred by NR of capital Assets on RSE located in IFSC

Following securities are notified by CG:

- Units of REIT or InvIT
- Unit of a Scheme/Exchange Traded Fund issued by IFSC Auth (Fund Management)

NON - RESIDENT TAXATION

Section 10(4G) Income received by NR in A/c maintained with OBU of an IFSC

Exempt = Income recd by NR in OBU to the extent does not accrue/arise in India

- From Portfolio of Securities / Investment in Financial Products / Funds
 \rightarrow Administered or Managed by any Portfolio Manager on behalf of such NR
- From Activity notified by CG

CHARITABLE TRUST AND EXIT TAX

Sec 11(5) Modes are basically Govt. securities & risk free investments.

Students are advised to read the list of such Investments in page no. 10.52 of ICAI Study Mat.

Author's Note: Do you need to remember the complete list? No!

You just need to read the list & understand the pattern in which questions are generally asked. You can remember those securities which are generally asked in Questions.

Amendment: A new security is added by amendment to that list:

\rightarrow Investment by Acquiring Units of PowerGRID Infrastructure Investment Trust

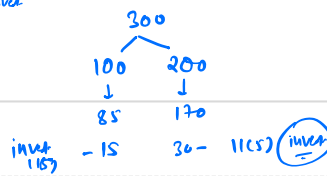
Only 85% of Amount Donated by a Trust to another Trust will be treated as application.

Eg: If Trust has donated Rs. 50,000, Amt. treated as Applied will be $50,000 \times 85\% = 42,500$. 7500 will not be treated as applied.

It is clarified that 15% (7500) of such donations by the donor trust/institution shall not be required to be invested in sec 11(5) modes as the entire amount of 50,000 has been donated to the other trust/institution and is accordingly eligible for exemption under the first or second regime.

$$\begin{array}{r} 1,50,000 \\ - \quad 47,500 \\ \hline 1,02,500 \end{array}$$

7500 - 11(5) mode invest adms



Sr No.	Particulars	Trust 1		Trust 2		Trust 3	
1	Income (A)	300		100		100	
2	Income which is required to be applied		255		85		85
3	Application of Income						
4	Donation to other trusts under the first or second regime (C)	100		100		Nil	
5	Amount to be considered as application of income against the donations at row no. 3 [as per clause (iii) of the Explanation 2 to third proviso to section 10(23C) or clause (iii) of the Explanation 4 to section 11(1) (D = 85% of C)		85		85		
6	Balance income for application (E = A - C)	200		Nil		100	
7	Application other than Sr. No. 4 (F = 85% of E)		170		Nil.		85
8	Remaining income which may be accumulated without Form No. 10/ 9A (G = 15% of E)		30		Nil		15
9	Funds required to be invested in section 11(5) modes (H = G)		30		Nil		15
10	Exemption of income (I = C + F + G)	300		100		100	

12A → 12AB

3m. → 30.9.23 → 30.6.24

SabKarLenge

Provisional Regn to Final Regn. - Time Limit of Application

6m from commencement of activity or 6m prior to expiry of provisional regn w.e.earlier
(If above time limit expires before 30.6.24, it shall be extended to 30.6.24)

TDS & TCS

Sec 194A : Interest Other than Interest on Securities

Mahila Samman Savings Certificate, 2023

A one time scheme available for 2 yrs (till 31/03/2025). The Maximum Deposit shall be ₹ 2 Lakh. The Interest Rate is 7.5% p.a. compounded quarterly.

Consequently, the Interest under this scheme will not exceed ₹ 40K.

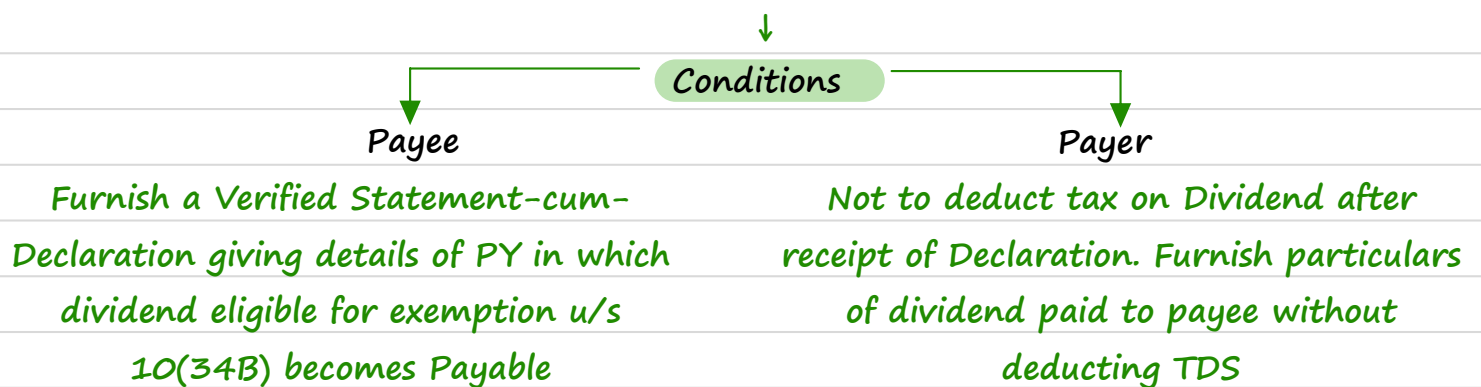
Hence, NO tax shall be deductible by Post Office on interest paid under this scheme.

Sec 194 Dividend read with Sec 197A(1F)

NO TDS where:

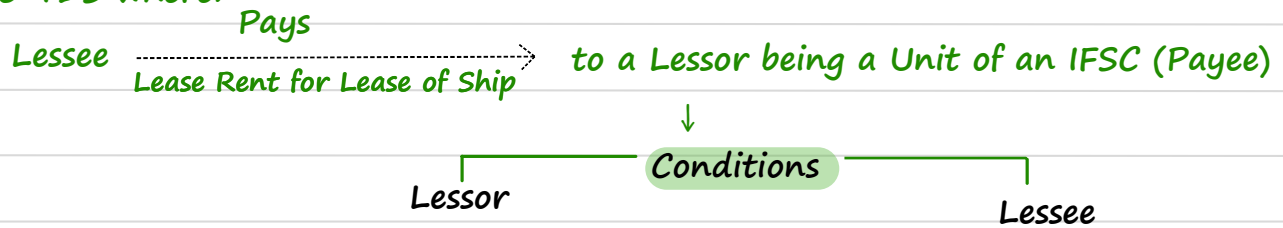
Unit of an IFSC (Payer) $\xrightarrow[\text{Dividend}]{\text{Pays}}$ to a Company being a unit of an IFSC (Payee)

[Both Payer & Payee are primarily engaged in the business of leasing of an Aircraft]



Section 194-I Rent read with Section 197A(1F)

NO TDS where:



The lessor has to furnish and verified a statement-cum-declaration to the lessee giving details of PY relevant to the 10 consecutive AYs for which the lessor opts for claiming dedn u/s 80LA(1A)/(2).

Not to deduct tax on Lease Rent after receipt of Declaration. Furnish particulars of dividend paid to payee without deducting TDS

↓

This relaxation available till the expiry of the 10 Consecutive years as were declared for deduction by the Lessor. } For other Years Lessee is liable to deduct TDS.

Section 1940

- TDS @ 1 % of Gross Amount of Sales
- By an E-Commerce Operator
- Where sales are facilitated by it through its digital or electronic facility

CBDT has issued some Guidelines for some transactions by ECO:

(1) Who should deduct tax at source where there are multiple ECOs are involved?

Case (i)



Seller Side ECO is not Actual Seller

Eg:



Conclusion: In this situation, the TDS u/s 1940 is to be deducted by the seller side ECO who finally makes the payment or the deemed payment to the seller.

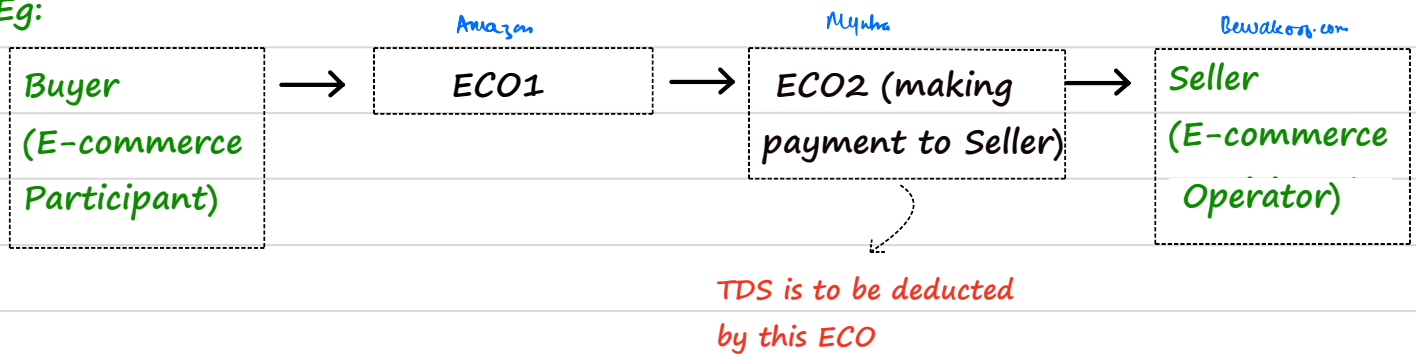
Case (ii)

If there are 2 ECOs & Seller Side ECO is the Actual Seller

Buying Side - ECO1 → Provides Interface to Buyer

Selling Side - ECO2 → Seller itself is an ECO & directly interacting with another ECO (ECO2)

Eg:



Conclusion : In this situation, the seller itself is an ECO and is directly interacting with an ECO2, TDS u/s 1940 is to be deducted by the ECO which finally makes the payment or the deemed payment to the seller.

Author's Note: Moti Moti Baat itni si hai, Ki Jo Final Payment kar raha hai seller ko Vo TDS Kaatega.

Note: In Both the above Cases, TDS will be deducted on Gross Amt. It shall be deducted at the time of Payment or Credit w.e. is Earlier

(2) Whether Selling Expenses(Logistics/Delivery) and ECO Fees/Commission form a part of Gross Amount for levy of TDS?

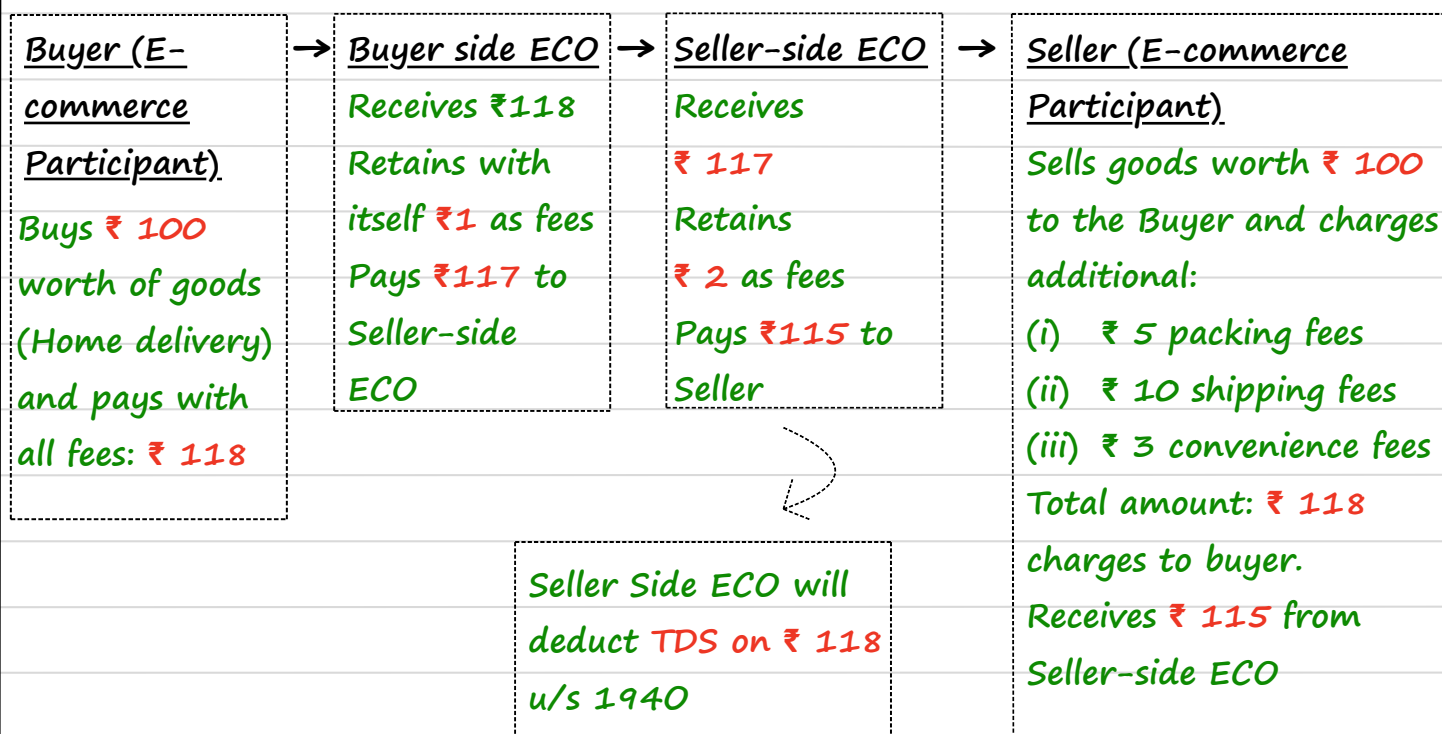
→ In E-Commerce, Seller generally Ships Orders to Buyers for which Seller can charge shipping/delivery charges from the buyer.

→ Seller-Side / Buyer-Side ECO charges commission/convenience fees from the Seller to enable the Transaction. Seller generally Charges this from Buyer in the Final Bill.

So Total Price for Buyer = Price of Product + Convenience Fees+ Delivery Charges

TDS u/s 1940 is deducted by Seller Side ECO on the Gross Amount i.e. Total Price Charged from the Buyer.

Example 1:

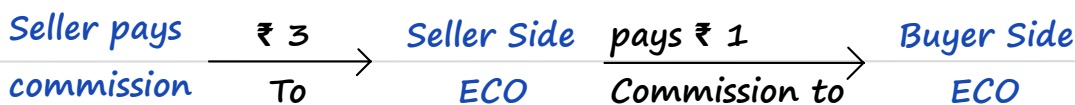


Notes:

(i) If TDS is already deducted u/s 1940 by ECO, such transaction is not liable for TDS under any other Section.

Exception: However, section 194S(4) overrides section 1940 and states that if tax is deducted u/s 194-S, no tax is deductible u/s 1940.

In the Above Example:

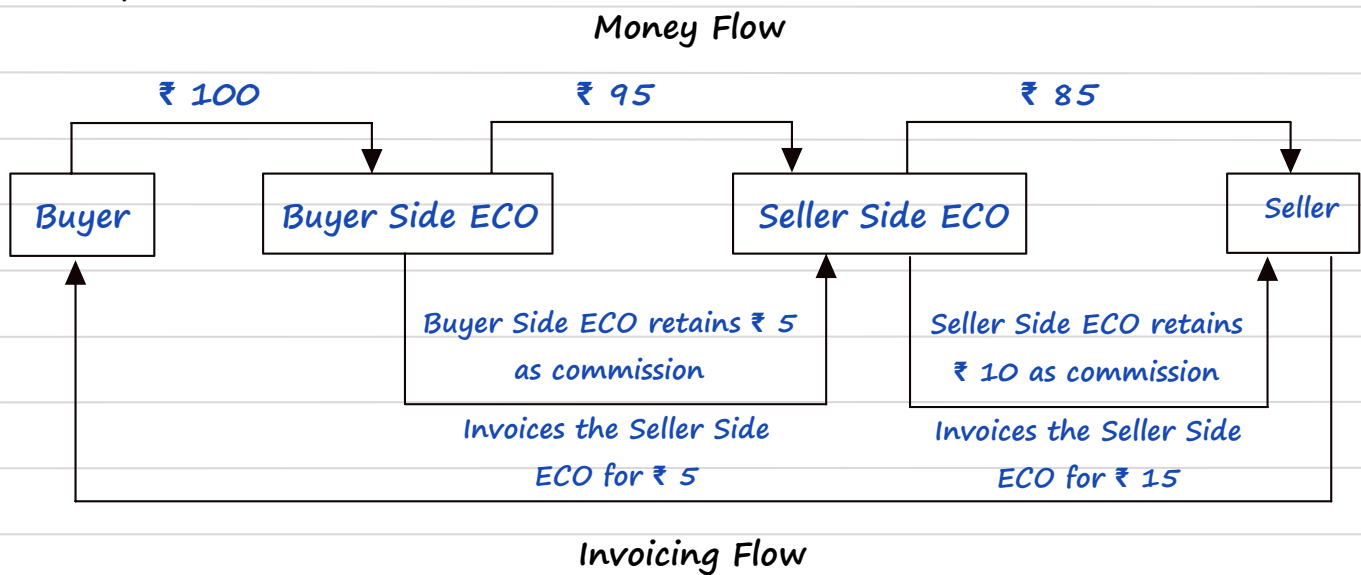


Here, Seller & Seller Side ECO is not liable to deduct TDS u/s 194H on commission of ₹ 3 & ₹ 1 respectively, as TDS u/s 1940 is already deducted on Gross Amount.

(ii) Payments may also be made to the platform or network provider (e.g. ONDC) for facilitating the transaction.

If that Amt. is included in the payment for the Transaction	Include in Gross Amt. for TDS u/s 1940
If these amts are paid on a lump-sum basis & are not linked to a specific transaction	Do Not include in Gross Amt. for 1940

Example 2:



In the above Example, The TDS u/s 1940 has to be calculated on ₹ 100 (gross invoice value) @1% by the seller ECO. The buyer ECO's fees (₹ 5) charged to seller- side ECO and seller ECO's fees (₹ 15) charged to the Seller will not be subject to further TDS u/s 194H.

(3) How will the GST/VAT/Excise be treated when calculating Gross Amount of Sales?

Where Tax is indicated Separately in Invoice & TDS is deducted at the time of Credit	Deduct TDS on Amt. excluding GST
Where Advance Payment is Done before the Credit	Deduct TDS on Whole Amt.

(4) Adjustment of Purchase Return?

Tax is deducted at the time of Payment or Credit, whichever is earlier.

Hence, before purchase return happens, the TDS is already deducted.

Case 1 - Money is refunded against Purchase Return:

Adjust the tax against next transaction - Same Deductee - in Same FY

Tax Deducted and Deposited = Give Credit to the Seller for this

2000 - add

Case 2 - Goods are replaced against Purchase Return

In such case there is no need for Adjustment as an equal transaction is completed with goods being replaced.

(5) Treatment of Discounts by Seller, Seller-Side ECO or the Buyer-Side ECO

Case 1: Discount is given by Actual Seller

In this case, the Seller will reduce the overall Price.

Hence, TDS will be deducted on such reduced Price.

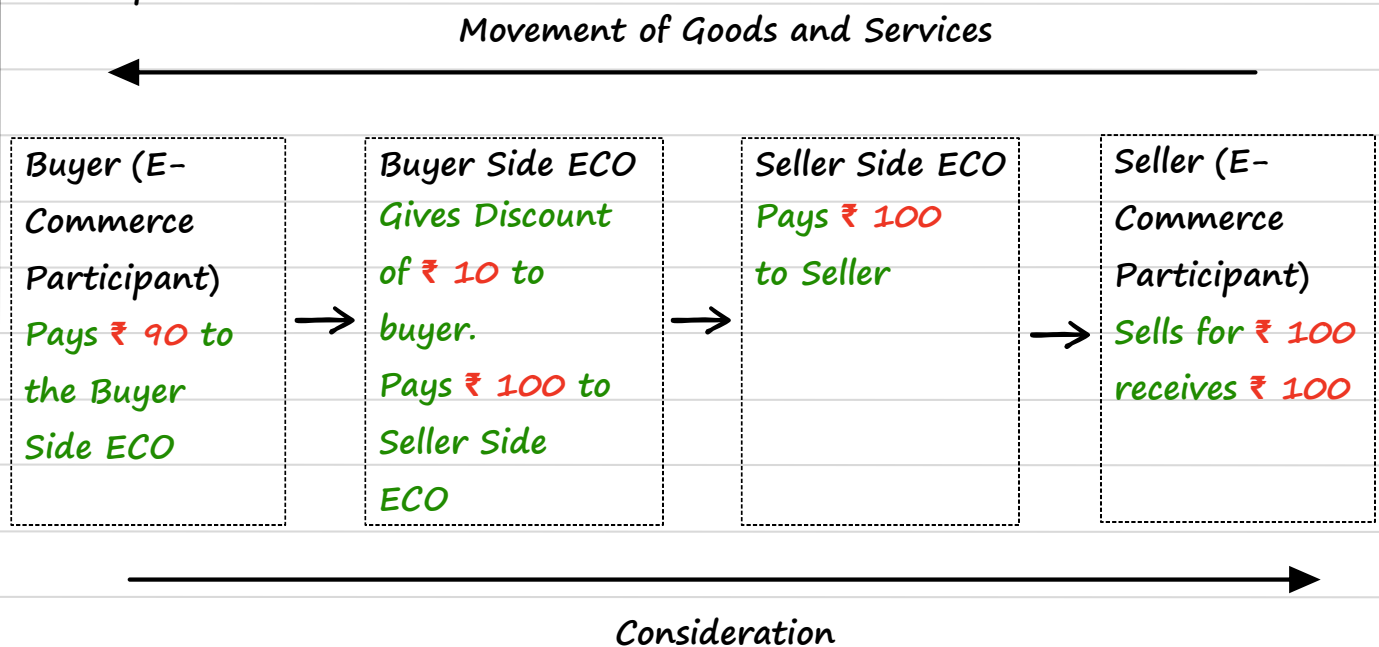
Case 2: Discount by Seller-Side or Buyer-Side ECO

The Seller will receive in full amount as discounts are not given by him.

In such case, Buyer pays the discounted price to intermediary ECO and the balance is discharged such ECO to the Seller.

As Seller received the whole Consideration, TDS will be deducted on such Gross Amount of Sales made by him.

Example:



ASSESSMENT PROCEDURE

Section 139A read with Rules

- Sec 139A = Mandatory to quote PAN for transactions prescribed in Rule 114B.
- Second Proviso to Rule 114B = No PAN required - Only declare in Form No. 60

Amended by CBDT Notification

- Domestic Company or a Firm → Relaxation withdrawn hence PAN Mandatory
- Foreign Company → Relaxation available i.e. File Declaration in Form No. 60 when
 - Not Taxable Income in India
 - No PAN
 - Entering in following transactions in IFSC Banking Unit
 - (a) Opening A/c other than Time Deposit / Savings → Any Value
 - (b) Time Deposit with Banking Company → ≥ 50K or 5 Lakh
Post Office/ Nidhi Company / NBFC in aggregate

Section 139A read with Rule 114BA and 114BB

Every person who has not been allotted a PAN shall apply for PAN if he intends to enter into such a transaction.

Rules 114BA and 114BB provide such transactions

CBDT has amended Rules 114BA and 114BB to include the following:

Application for PAN to be made prior to

- (1) Withdrawing/ Depositing Cash in his Account with a Banking Co/ Co-op Bank/ PO Exceeding ₹ 20 Lakhs in aggregate during an FY
- (2) Opening a Current A/c or Cash Credit (CC) A/c with a Banking Co/ Co-op Bank/ PO

No requirement to Apply for or Quote PAN

- (1) Where person making Deposit/ Withdrawal / Opening Current ~~or CC A/c~~ = NR or Foreign Co. (NR-FC)
- (2) Transaction is entered with an IFSC Banking Unit
- (3) Such NR-FC does not have any Income chargeable to Tax in India

Special Audit:

Every CCIT would maintain a panel of:

- (1) Accountants as per Sec 288(2)
- (2) Cost Accountants as per Sec 142

Range of Expenses (including Remuneration) : It should be **Min ₹ 3,750 & Max ₹ 7,500 per hour**

→ The period of Audit shall be specified by AO in terms of hours required to complete the Audit Report.

Rule 114AAA provides that if PAN of a person has become inoperative, he will not be able to furnish, intimate or quote his PAN and would be liable to all the consequences under the Act for such failure. This will have a number of implications such as:-

- (i) The person would not be able to file return using the inoperative PAN
- (ii) Pending returns will not be processed
- (iii) Pending refunds cannot be issued to inoperative PANs
- (iv) Pending proceedings as in the case of defective returns cannot be completed once the PAN is inoperative
- (v) Tax will be required to be deducted at a higher rate as PAN becomes inoperative

In addition to the above, the tax payer might face difficulty at various other for a like banks and other financial portals, as PAN is one of the important KYC criterion for all kinds of financial transactions.

The CBDT has, vide this Circular, specified that the consequences specified above will be effective from 1.7.2023 and continue till the PAN becomes operative.

However, this Circular was modified by CBDT specifying that for the Transactions entered upto 31/05/2024, Deductor / Collector is not liable to Deduct / Collect at Higher Rate

PAN - inoperch - Higher rate TDS debit
valr