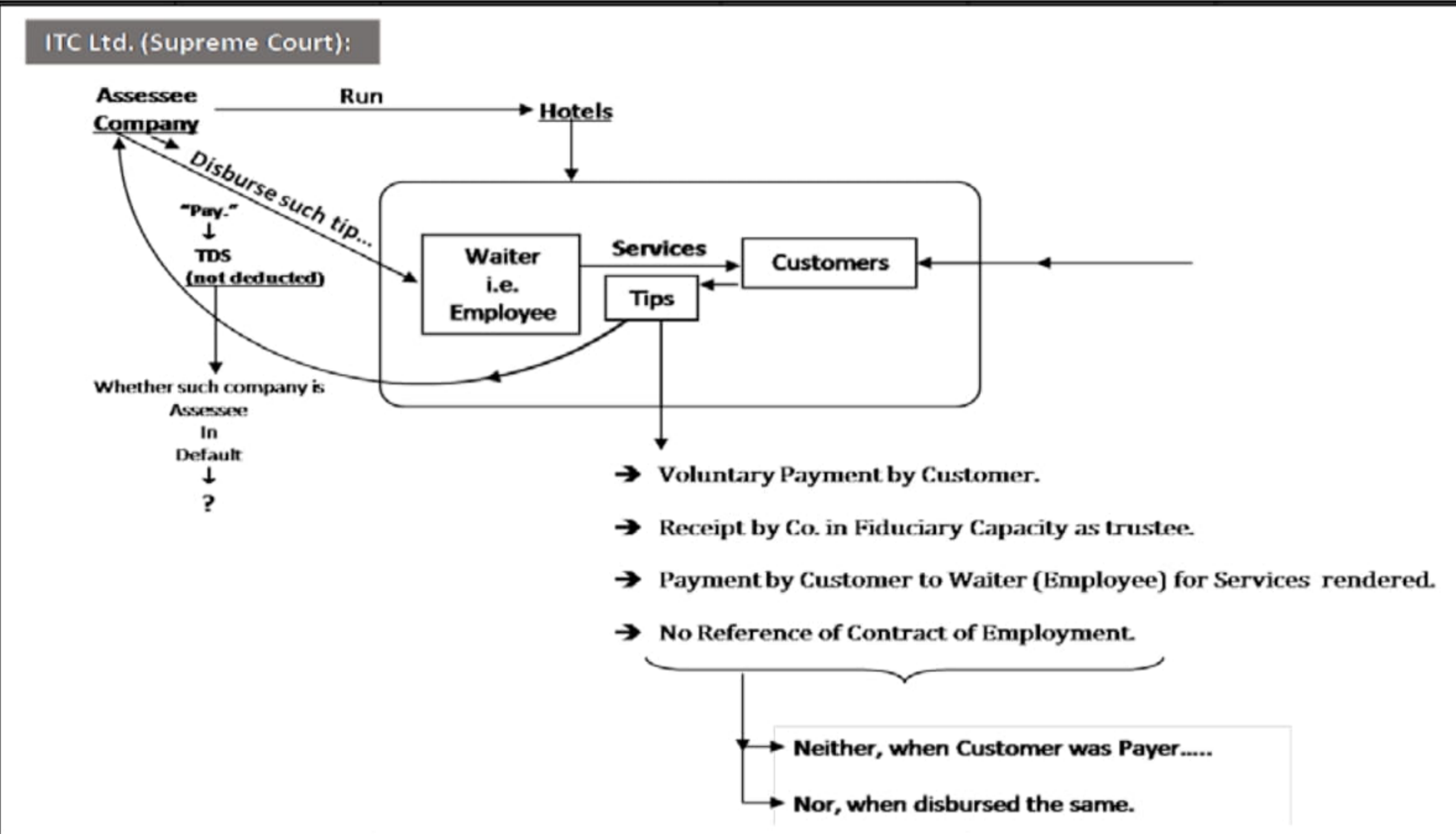


“TAX DEDUCTION AT SOURCE (TDS)”

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	<u>OTHER RELEVANT PROVISIONS</u>
192 (As amended by F.A. 2024)	Salaries	Employer	Employee (i.e. Any Person Resident or NR)	At the time of Payment	Average Rate of Income Tax based on Slab rates* as applicable to estimated income of employee	Basic Exemption Limit	<ul style="list-style-type: none"> ☞ The Employer has an option to deposit tax on the non-monetary perquisites, out of his own pocket, on behalf of employees. Such tax shall be computed at the average rate of income tax <u>and</u> will be treated as an exempted income in hands of employee and Deemed TDS for the employee, but is disallowable expenditure in the hands of employer. ☞ Employer shall consider <u>details (if furnished by employee) of salary from other employer and TDS thereon</u>. ☞ Employee may furnish <ul style="list-style-type: none"> - <u>details of Income of other heads and any TDS/TCS</u> - loss from house property, if the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime provided u/s 115BAC, then, that shall be considered by Employer, but <i>except the case of loss from house property and any TDS/TCS, resultant tax deductible can't be lower</i> than the tax which would have been otherwise deductible. ☞ Employer shall consider relief u/s 89(1) [if detailed by employee]. ☞ Employer <u>shall furnish statement of perquisites</u> to employee. ☞ <i>Employee shall furnish to employer evidence / proof / particulars of the prescribed claim (including claim of setoff</i>
<p>* The TDS is to be made at the <i>average rate of income tax computed on the basis of the rates as given in section 115BAC for the financial year in which the payment is made.</i></p> <p>➤ However, under section 115BAC(6), an employee may exercise an option to opt out of this tax regime. In such a case, <i>average rate of income tax computed on the basis of the rates in force (i.e. optional tax regime) for the financial year in which the payment is made.</i></p> <p>➤ Average rate of income-tax means the rate arrived at <u>by dividing the amount of income-tax calculated on the total income, by such total income.</u></p>							

Nature of claims	Employee shall furnish to his employer, following evidence or particulars:
House Rent Allowance	Name, address and permanent account number of the landlord/landlords where the aggregate rent paid during the previous year exceeds rupees one lakh.
Leave travel concession	Evidence of expenditure.
Deduction of interest under the head "Income from house property".	Name, address and permanent account number of the lender.
Deduction u/c VI-A	Evidence of investment or expenditure.



of house property loss) in the prescribed form and manner.

- An eligible start-up as referred to in section 80-IAC shall deduct tax from perquisites income arising from ESOPs within 14 days of following (whichever is earlier):
 - After the expiry of 48 months from the end of assessment year in which shares are allotted;
 - From the date of which the assessee ceases to be the employee of the organization; or
 - From the date of sale of shares allotted under ESOP by the assessee.

Note: For this purpose, the tax shall be deducted on the basis of rates as applicable for the financial year in which shares are allotted or transferred under ESOPs.

No TDS shall be deducted on tips collected by Hotel from customers and paid to employees as it is not amount to salary from employer. [ITC Ltd. - Supreme Court]

In a case where foreign company seconded some employees to the assessee, an Indian collaborator to work in Indian project, then, Indian tax deductor assessee is duty bound to deduct, from the portion of salary paid by it, tax at source under section 192(1) on the entire salary paid to the employee, including home salary/ special allowance paid abroad to the employee by the foreign company.

[CIT v/s Eli Lilly & Co. (India) P. Ltd. (SC)]

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
192A	Accumulated	Trustees of Employees	Any Person	At the time	10%	If payment	Tax shall be deducted ONLY in a case where such receipt is liable to tax in the hands of employee (i.e. employee has

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
	balance of RPF due to an employee	Provident Fund Scheme or any person authorised under the scheme	i.e. Resident or NR	of Payment		or aggregate payments less than ₹ 50,000	not rendered continuous service of 5 years and his case does not fall in exceptional cases as given in Schedule IV). ☞ <u>If PAN is not furnished</u> then tax shall be deducted @ 20% .
193 (As amended by F.A. 2024)	Interest on securities	Any Person	Resident	Credit to the account of payee or Actual Payment (whichever is earlier)	10%	See Next Column	<p>❖ <u>If such income</u> is credited to any account, whether called Interest payable account or suspense account or by any other name, by the Payer in its books, such crediting shall be deemed to be credit of such income to the account of the payee. (i.e. Deeming fiction).</p> <p><u>TDS shall not be deducted in the following cases:</u></p> <ul style="list-style-type: none"> ☞ Interest on Debentures by Widely Held Company to Individual / HUF through account payee cheque <u>if such interest does not exceed ₹ 5,000 during the financial year.</u> ☞ Interest on Government Securities [<i>except 7.5% Savings (Taxable) Bonds, 2018 or 8% Savings (Taxable) Bonds, 2003 or Floating Rate Savings Bonds, 2020 (Taxable) or any other security notified by the Government, where interest payable exceeds ₹ 10,000 during the financial year</i>]. ☞ Interest paid to LIC, GIC or any other insurance company. ☞ Any interest payable to a "business trust", in respect of any securities, by a special purpose vehicle.
194	Dividend	Principal officer of a domestic company	Resident	At the time of distribution	10%	See Next Column	<p><u>TDS shall not be deducted in the following cases:</u></p> <ul style="list-style-type: none"> ☞ If dividend is paid to an individual by any mode <i>other than cash</i> and <u>aggregate amount of such dividend does not exceed ₹ 5,000 during the financial year.</u> ☞ Dividend distributed to LIC, GIC, any other insurance

Notification No. 52/2023 dated 20.07.2023: No tax is required to be deducted u/s 194 from dividend paid by any unit of an IFSC, primarily engaged in the business of leasing of an aircraft (payer) to a company, being a Unit of an IFSC primarily engaged in the business of leasing of an aircraft (payee) subject to the following:

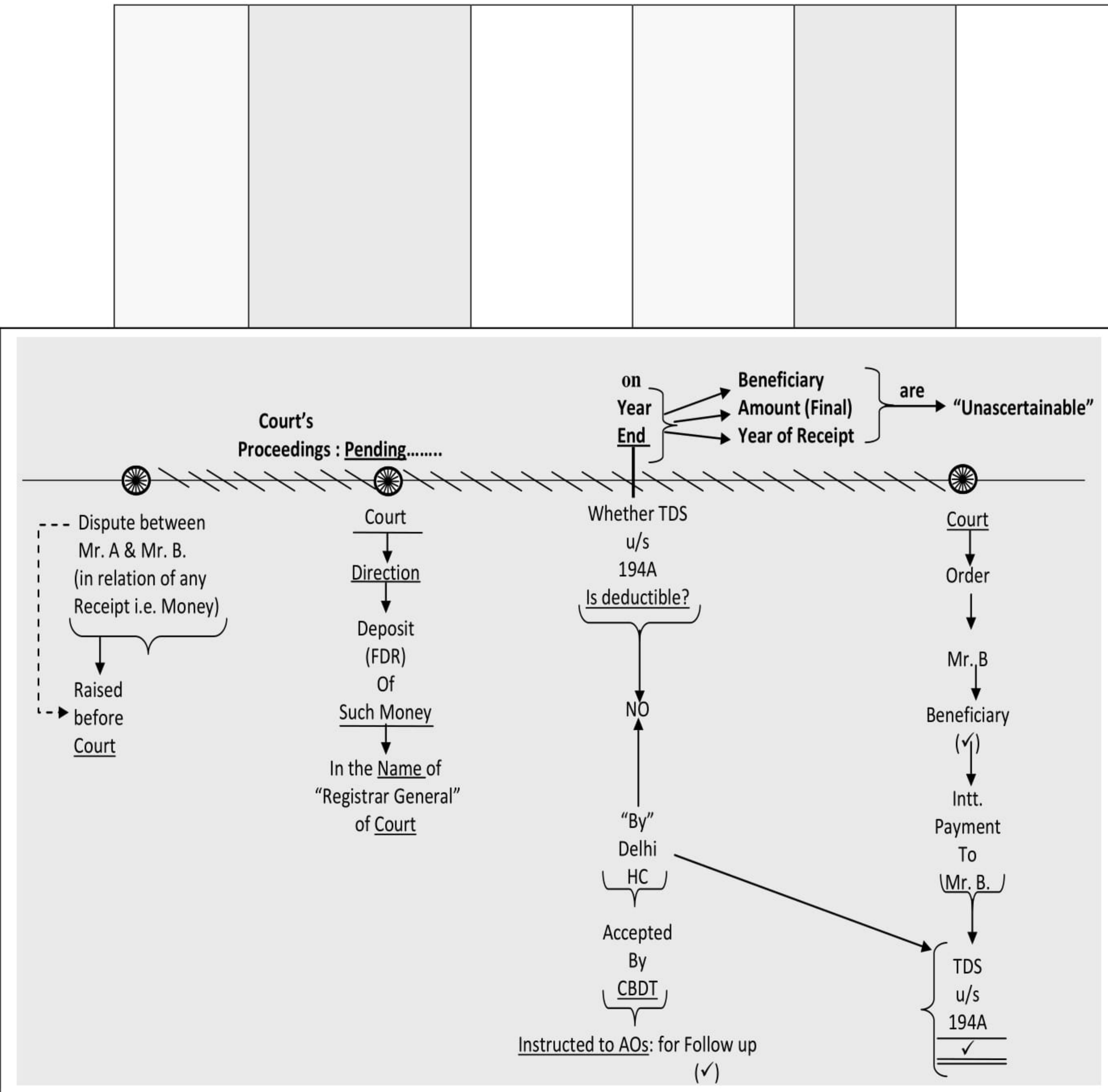
- (1) The payee has to furnish and verified a statement-cum-declaration to the payer giving details of relevant year in which the dividend income eligible for exemption u/s 10(34B) is payable.
- (2) On receipt of such statement-cum-declaration, payer would not deduct tax on dividend and furnish the particulars of all payments made to the recipient of such dividend on which tax has not been deducted in TDS quarterly return.

company or any other person notified by the Central Govt.

☞ **Dividend distributed by SPV to Business trust.**

Student may kindly note that since w.e.f. 1st October, 2024, an amount received on buy-back of shares will be treated as deemed dividend, the same will also be subject to tax deduction under this section.

194A	Interest other than interest on securities	Any Person, [Except an individual or HUF whose total sales, turnover or gross receipts from the business or profession carried on by him do not exceed ₹ 1 Cr, in case of business (or ₹ 50 Lakhs in case of profession) during immediate preceding Financial Year]	Resident	Credit or Payment (whichever is earlier) [*Deeming Fiction available i.e. Crediting to other account in Payer's books shall be deemed to be the credit of such income to the account of the payee]	10%	See Next Column	<p><u>TDS shall not be deducted in the following cases:</u></p> <ul style="list-style-type: none"> ❖ Where the amount or aggregate amounts of such income credited or paid during the financial year to the payee, does not exceed: <ul style="list-style-type: none"> ➤ ₹40,000/- (₹50,000/-, in case of senior citizen)- <ol style="list-style-type: none"> (i) where payer is banking company/co-operative bank; or (ii) such interest is on deposit with post office in Notified Scheme. ➤ ₹ 5,000/- in any other case. ☞ <u>In case of interest on time deposit (i.e. FDRs)/recurring deposit, where core banking solution (CBS) has been adopted, TDS shall be deducted on aggregate of interest paid by all the branches of the bank if exceeds ₹40,000 (in case of senior citizen, ₹50,000). In otherwise case, such limit will apply branchwise.</u> ❖ Interest on savings account with bank (incl. co-op. bank). ❖ <u>Where such income is credited or paid to-</u> <ul style="list-style-type: none"> ➤ Banking company, or Co-operative bank, or ➤ Any financial corporation established by or under a Central, State or Provincial Act, or ➤ LIC, UTI, or Insurance Company.
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- ❖ If interest is credited or paid by a firm to its partner.
- ❖ If interest is credited or paid by a co-operative society (other than a Co-operative bank) to its member or to any other co-operative society.
- ❖ After the amendment (F.A. 2020), co-operative society will be liable for TDS in a case where its gross receipts in last year exceeds ₹ 50 crores, and aggregate amounts of interest credited or paid during the financial year to the payee, exceeds ₹40,000/- (₹50,000/-, in case of senior citizen).
- ❖ Interest on Post Office Time Deposits/ Recurring Deposits, Post Office Monthly Income Account and NSC.
- ❖ Where interest is credited or paid by the Central Government under the I. T. Act (i.e. interest on refund).
- ❖ Interest on compensation awarded by the Motor Accident Claim Tribunal where the amount or aggregate amount paid during the financial year does not exceed ₹ 50,000.
- ❖ Income in relation to a zero coupon bond.
- ❖ Intt. income of Business trust from Special Purpose Vehicle.

The CBDT has clarified that:

- (1) While calculating interest on time deposits on daily or monthly basis in the CBS software used by banks for the purposes of macro monitoring only, since no constructive credit to the depositor's/payee's account takes place, tax need not be deducted on such provisioning of interest.
- (2) Interest on FDRs made in the name of Registrar General of the Court or the depositor of the funds on the directions

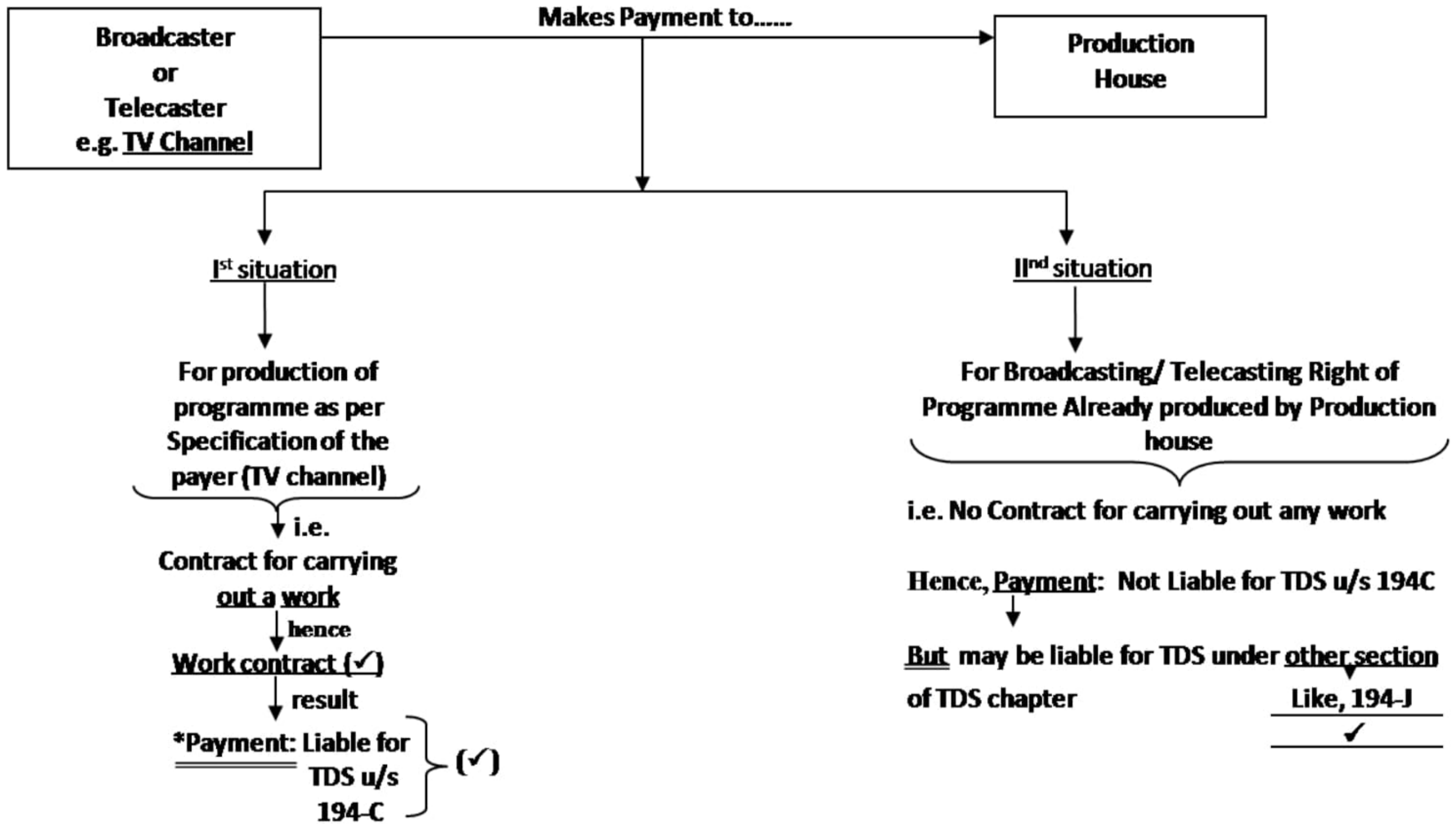
of the Court, will not be liable for TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in deposit, the provisions of section 194A will apply to the recipient of the income.

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
194B	Winning from lottery or crossword puzzle or card game & other game of any sort or from gambling or betting of any form or nature whatsoever	Any Person	Any Person i.e. Resident or NR	At the time of Payment	30%	Amount or aggregate of amounts not exceeding ₹ 10,000 /- during the financial year	<p>☞ <u>In a case where:</u></p> <ul style="list-style-type: none"> - The winnings are wholly in kind; or - Partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, - The person responsible for paying shall, - before releasing the winnings, ensure that - tax has been paid in respect of the winnings. <p>This can be done <u>either</u> by Payee deposit TDS amount with Payer before releasing the in kind winnings to him <u>or</u> by direct payment of such equal sum of tax to Government by the payee and submit proof of payment of Advance Tax on such winning <u>with Undertaking.</u></p> <p>☞ Nothing contained in this section shall apply to deduction of income-tax on <u>winnings from any online game.</u></p>
194BA (As inserted by F.A. 2023)	Winning from any online game	Any Person	Any Person i.e. Resident or NR	At the end of the financial year	30% on the net winnings in his user account as computed in	-	<p>☞ <u>Where there is a withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal, as well as on the remaining amount of net winnings in the user account as computed in prescribed manner, at the end of the financial year.</u></p>

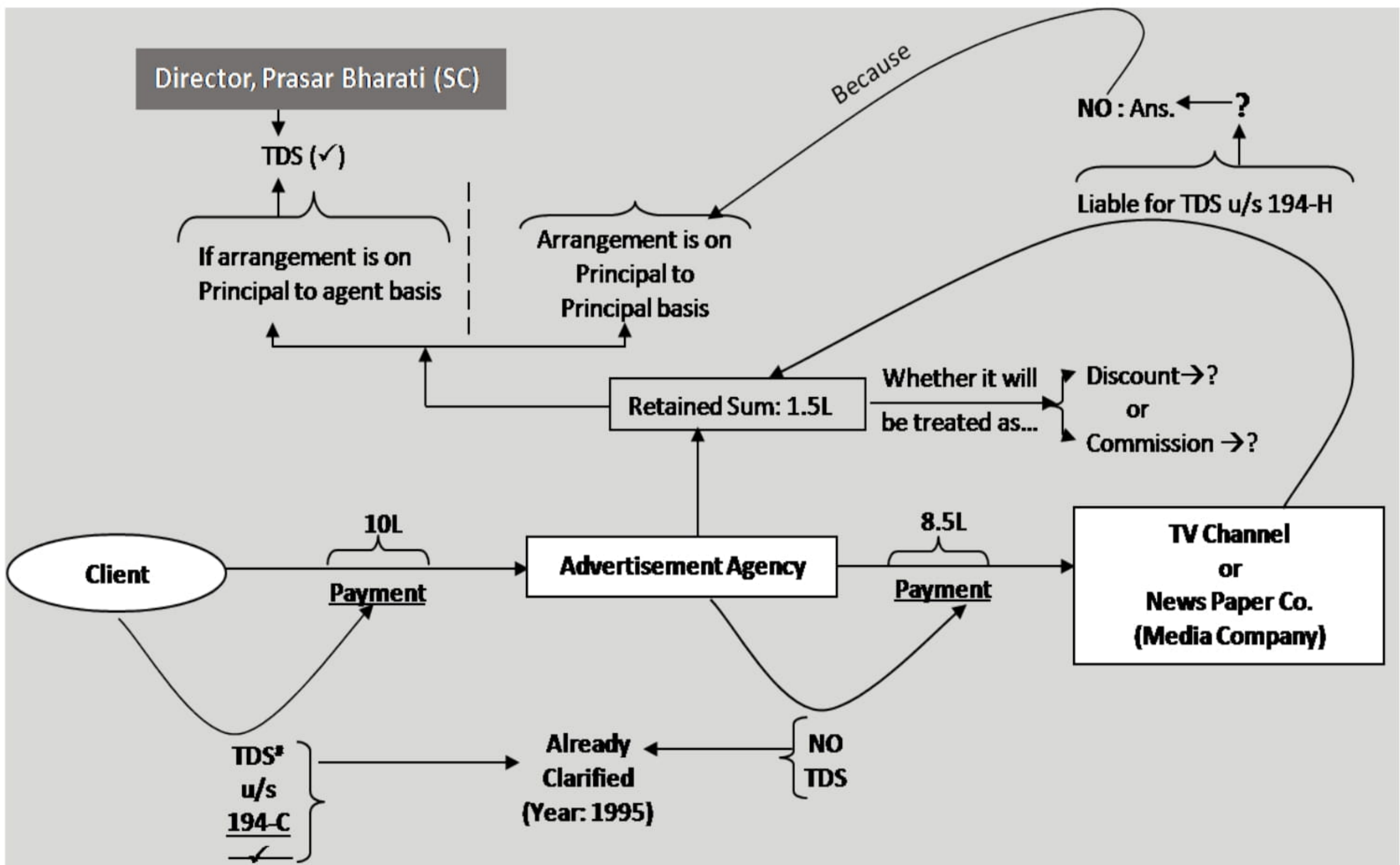
Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
					prescribed manner (Rule 133, as given with text of this section)		<p>☞ <u>In a case where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.</u></p> <p>Section 115BBJ: Tax on winning from online games:</p> <ul style="list-style-type: none"> - Notwithstanding anything contained in any other provisions of this Act - any income by way of winnings from any online game, as computed in prescribed manner (Rule 133), - <i>shall be liable to tax at the rate of 30%.</i>
194BB	Winning from Horse Race	Any Person	Any Person i.e. Resident or NR	At the time of Payment	30%	Not exceeding ₹ 10,000 /- during the financial year	-
194C (As amended by F.A. 2024)	Payment to contractor or Sub-contractor for carrying	Specified Person ↓ i.e. ➤ Government ➤ Local authority ➤ Statutory corporation	Resident	Credit or payment (whichever is Earlier) [*Deeming Fiction	1% If payee is individual or HUF ----- 2% In any other case	See Next Column	<p>☞ No TDS shall be made from payment/credit to a contractor or subcontractor <u>if following two conditions</u> are satisfied:</p> <ul style="list-style-type: none"> ➤ The amount of such payment / credit does not exceed ₹30,000/-; AND ➤ The aggregate of such sums during the financial year <i>does not exceed ₹1,00,000/-.</i> <p>☞ <u>No TDS is required to be deducted by individual or HUF</u> (even if he was subject to tax audit in last year), where such</p>

	<p>out ANY WORK</p>	<ul style="list-style-type: none"> ➤ Company ➤ Co-operative society ➤ Housing Development authority (like, DDA, etc.) ➤ Any registered society ➤ Trust ➤ University ➤ Firm ➤ An individual or HUF or AOP/BOI, whose total sales, turnover or gross receipts from the business or profession carried on by him exceeds ₹1 Cr, in case of business (or ₹ 50 lakhs in case of 		<p>available i.e. Crediting to other account in Payer's books shall be deemed to be the credit of such income to the account of the payee]</p>	<p>NIL Rate if the Transporter (i.e. payee) does not own more than 10 goods carriages at any time during the Previous Year [i.e. on the date of payment or credit (earlier) by the payer - Board Circular]</p> <p>And furnishes a declaration to that effect along with his PAN detail, to the Payer</p>		<p>sum is credited / paid <u>exclusively for his personal purpose.</u></p> <p>☞ The definition of "work" shall also include-</p> <ul style="list-style-type: none"> ➤ Advertising, broadcasting or telecasting (including production of programmes), transportation, or catering; or ➤ Manufacturing or supplying a product <ul style="list-style-type: none"> - As per the requirement or specification of a customer - <i>by using material purchased from such customer or its associate, being a person as referred to in section 40A(2) in relation to such customer.</i> <p><u>TDS shall be deducted:</u></p> <ul style="list-style-type: none"> - <u>If value of material is mentioned separately in invoice:</u> On the invoice value excluding the value of material; or - <u>If the value of material is not mentioned separately in the invoice:</u> On the whole of the invoice value. <p><i>However, <u>work does not include-</u></i></p> <ul style="list-style-type: none"> - Manufacturing or supplying a product - <u>according to the requirement or specification of a customer</u> - by using material purchased from a person, other than such customer or associate of such customer as referred above. <p>☞ <u>Any sum referred to in section 194J does not constitute "work" for the purposes of TDS u/s 194C.</u> F. A., 2024</p> <p>The CBDT has issued clarifications about TDS liability on-</p> <ul style="list-style-type: none"> ➤ <u>Payment for production of content / programme as per the specifications of the broadcaster / telecaster and the copyright of the content/Programme also gets transferred to the telecaster/broadcaster:</u> such contract is covered by the definition of the term 'work' in section 194C and, therefore, subject to TDS under that section.
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Board Clarifications:



Section 194 H: Deduction of tax from commission or brokerage :-



Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
							☞ <u>Payment for acquisition of broadcasting/telecasting rights of the content already produced by the production house: There is no contract for 'carrying out any work', as required in section 194C. Therefore, such payments are not liable for TDS u/s 194C. However, payments of this nature may be liable for TDS under other sections (like section 194-J) under Chapter of TDS.</u>
194D	Insurance Commission	Any Person	Resident	Credit or Payment (whichever is earlier)	<u>If PAYEE is:</u> Domestic Co. - 10% Other: 5% .	See Next Column	☞ No TDS where the amount or aggregate amounts of such income credited or paid <u>during the financial year</u> to the payee, does not exceed ₹ 15,000. ☞ *Deeming Fiction NOT available.
194DA (As amended by F.A. 2024)	Payment** in respect of Life insurance policy	Any Person	Resident	At the time of Payment	5% (2% w.e.f. 1/10/2024) On income component out of such payment**	Payment** less than ₹ 1,00,000 during a Financial Year	➤ No TDS on amount exempt under section 10(10D). ➤ Amount received under LIP <u>will be exempt</u> u/s 10(10D) if: Annual Premium † 20% of sum assured <u>in case policy issued before 1/4/2012</u> Annual Premium † 10%* of sum assured <u>if policy issued on or after 1/4/2012</u> [*15 % in case of person covered u/s 80U/80DDB & if Policy issued after 31/3/2013].
194G (As amended by F.A. 2024)	Commission, etc. on sale of lottery tickets	Any Person	Any Person i.e. Resident or NR	Credit or Payment whichever is earlier. [*Deeming Fiction available]	5% (2% w.e.f. 1/10/2024)	Not exceeding ₹ 15,000	❖ If an authorised lottery ticket agent purchases lottery tickets in bulk at a discount from the State Govt. and sells the same at a price of his choice, section 194G is not applicable , because the case of discount does not come with in the <u>purview of this section.</u> [Kerala – HC]
194H (As	Other Commission	Any Person, [Except	Resident	Credit or	5% (2% w.e.f.	Not exceeding	☞ No TDS on commission or brokerage payable by BSNL or MTNL to their public call offices (PCO) franchisees.

amended by F.A. 2024)	or brokerage	an individual or HUF whose gross receipts from the business or profession in last year do not exceed ₹ 1 Cr, in case of business (or ₹ 50 Lakhs in case of profession)		payment, (whichever is Earlier) [*Deeming Fiction available]	1/10/2024)	₹ 15,000 during a Financial Year	<p>☞ No TDS on brokerage and commission on securities.</p> <p>The CBDT has issued clarifications about TDS liability on payments involved in the Advertising business, as follows:</p> <ul style="list-style-type: none"> ➤ <u>Payment by client to advertising agency- TDS u/s 194C (✓).</u> ➤ <u>No TDS on Payment by advertising agency to the television channel / newspaper company.</u> ➤ <u>No TDS on Payments made by television channels or newspaper companies to the advertising agency for booking or procuring of or canvassing for advertisements, because relationship between the media company and the advertising company is on a principal-to-principal basis, such payments are in the nature of trade discount and not commission and, therefore, outside the purview of TDS u/s 194H.</u>
Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
194-I	Rent	Any Person, [Except an individual or HUF whose total sales, turnover or gross receipts from the business or profession in last year do not exceed	Resident	Credit or payment, (whichever is Earlier) [*Deeming Fiction available] i.e. Crediting to other account in Payer's	2% For use of Plant, or Machinery or equipment ----- 10% For use of	Not exceeding ₹ 2,40,000 during a Financial Year to the payee	<p>“Rent” means:</p> <ul style="list-style-type: none"> - any payment, by whatever name called, - for the use of (either separately or together) any, <ul style="list-style-type: none"> ➤ Land; or building (including factory building); or land appurtenant to a building (including factory building); or ➤ Machinery; or plant; or equipment; or ➤ Furniture; or fittings, - Whether or not any or all of above are owned by the payee. <p>☞ <u>If rent is paid or credited to REIT - No TDS.</u></p> <p>☞ Advance rent, non-refundable deposits and warehousing charges will be liable for TDS. But for the purpose of TDS, only income by way of rent shall be considered,</p>

₹ 1 Cr, in case of business (or ₹ 50 Lakhs in case of profession)	books shall be deemed to be the credit of such income to the account of the payee]	Land, Building, Furniture or fitting
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Meaningthereby, if the municipal taxes etc. are borne by the tenant, no tax will be deducted on such sum. [Board Circular]

The CBDT has also clarified that:

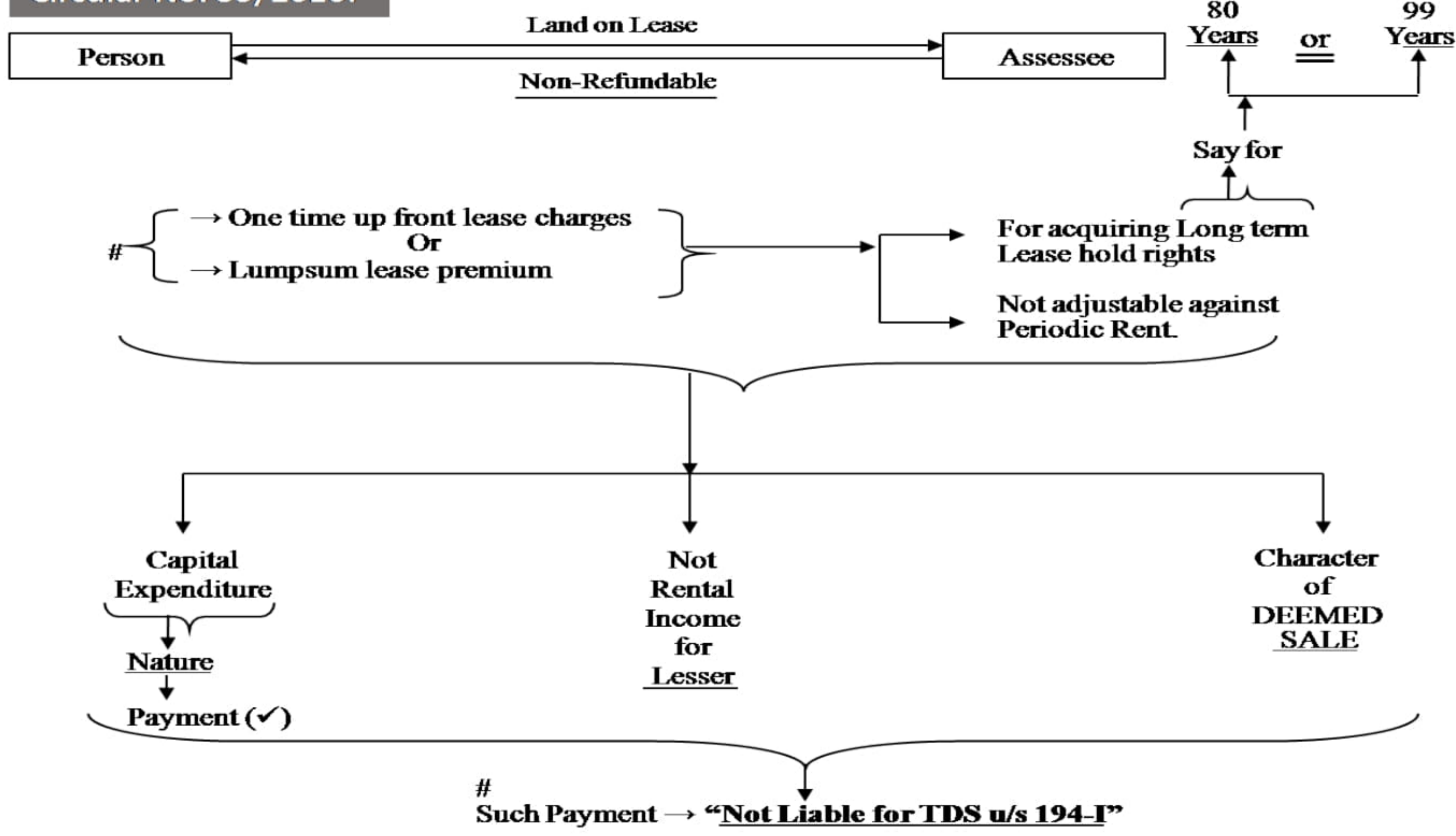
(1) Section 194-I is not applicable to the cooling charges paid by the customers of the cold storage, because the main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. However, since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of section 194C will be applicable.

(2) Lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights* (like 99 years/ 80 years, etc.) over land or any other property are not payments in the nature of rent hence not liable for TDS under this section. [*Such lease assumes deemed sale]

In the case of Japan Airlines Co. Ltd. The Supreme Court has held that -Landing and Parking charges payable Airlines in respect of aircrafts are not for the 'use of land' per se but the charges are in respect of number of facilities provided by the Airport Authority of India.

Thus, landing and parking charges payable by Airlines would attract TDS u/s 194C and not under section 194-I.

Circular No. 35/2016:



Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
194LA	compensation Or	Any Person	Resident	At the time of	10%	Not exceeding	❖ "Immovable property" means any land (other than agricultural land) or any building or part of a building.

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
	enhanced compensation on compulsory acquisition of immovable property			Payment		₹ 2,50,000 during a Financial Year	<ul style="list-style-type: none"> ❖ No deduction shall be made under this section <ul style="list-style-type: none"> - where such payment is made in respect of any award or agreement - which has been exempted from levy of income-tax - under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (i.e. RFCTLARR Act, 2013).
194-IA	Consideration for transfer of immovable Property <u>EXCEPT</u> Rural agricultural land	Any person being transferee i.e. Purchaser (other than person referred to in section 194LA)	Resident (Seller)	Credit or payment, (whichever is Earlier) [*Deeming Fiction NOT available]	1% of the total consideration for transfer of immovable property <u>OR</u> 1% of Stamp Duty Value whichever is higher	Where the sale consideration for the transfer of an immovable property as well as its stamp duty value is <u>less than fifty lakhs rupees</u>	<ul style="list-style-type: none"> ☞ “Consideration for any immovable property” shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property. AS INSERTED BY F. A., 2019 ☞ Section 203A (relating to TAN) shall not apply to a person (i.e. purchaser) required to deduct tax under this section. ☞ In case there is more than one transferor or transferee in respect of immovable property, TDS under this section will not be attracted if aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors of immovable property is less than fifty lakhs rupees. As inserted by F. A., 2024
194-IB (As amended by F.A. 2024)	Rent of land or	Individual or HUF [Except whose total sales / gross receipts	Resident	Credit or Payment (whichever is earlier) of rent, for the	5% (2% w.e.f. 1/10/2024)	Rent not exceeding ₹50,000/-	<ul style="list-style-type: none"> ☞ Section 203A (relating to obtaining tax deduction & collection account number) shall not apply to a person (tenant) required to deduct tax under this section. ☞ In a case where the tax is required to be deducted as per the

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
	building or both	exceed ₹1 Cr. in case of business, and ₹50 lacs in case of profession), in last year]		<u>last month of previous year or tenancy, if property is vacated in previous year</u>		for a month or part of a month during the previous year	provisions of section 206AA (i.e. payee does not furnish his PAN details to the payer), such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be. ☞ *Deeming Fiction NOT available.
194-IC	Monetary Payment under Joint development agreement	Any Person, [Practically, Developer or Builder]	Resident	Credit or payment, (whichever is Earlier)	10%	-	☞ Deeming Fiction [i.e. Crediting to other account in Payer's books shall be deemed to be the credit of such income to the account of the payee] NOT available . ☞ This section overrules section 194-IA.
194J	<p>➤ Fees for professional services, or</p> <p>➤ Fees for technical services, or</p> <p>➤ Royalty, or</p> <p>➤ Any sum referred to in</p>	<p>Any person [Except Individual or HUF whose total sales / gross receipts doesn't exceed ₹1 Cr. in case of business, and ₹50 lacs in case of profession), in last year]</p> <p>Any person [Except Individual or HUF]</p>	Resident	<p>Credit or payment, (whichever is Earlier)</p> <p>[*Deeming Fiction available i.e. Crediting to other account in Payer's books shall</p>	<p>10%</p> <p>-----</p> <p>But 2% on-</p> <p>a) Fees for Technical services; or</p> <p>b) PAYEE is engaged only in business of operation of call centre; or</p> <p>c) Royalty (in nature of</p>	<p>No TDS if the amount or the aggregate amounts of fees for professional OR technical services, OR royalty, OR Non compete</p>	<p>☞ No TDS is required to be deducted by individual or HUF (even if he/it was subject to tax audit in last year), where such fees for professional services is credited / paid exclusively for his personal purpose.</p> <p>☞ <u>The CBDT has clarified that</u> the services rendered by following persons in relation to the sports activities will be treated as "Professional Services": (a) Sports Persons, (b) Umpires and Referees, (c) Coaches and Trainers, (d) Team Physicians and Physiotherapists, (e) Event Managers, (f) Anchors, and (g) Sports Columnists.</p> <p>☞ <u>Payments made by Third Party Administrators (TPAs) to hospitals on behalf of insurance companies for settlement of medical / insurance claims etc. with the hospitals, will be liable for TDS under this section.</u></p> <p>☞ <u>Payment against computer software will amount to Royalty,</u></p>

section 28(va)
i.e., Non-
compete fees
and Non-
sharing fees
or

➤ Payment
to Director
except
taxable u/h
“Salary”

Company

be deemed
to be the
credit of
such income
to the
account of
the payee]

payment for
sale,
distribution/
exhibition of
cinematographic
films)

fees & non
sharing fees
does not
exceed ₹
30000/- in a
financial
year.

But, where payment is made for hardware in which the software is embedded and the software does not have independent functional existence, no amount could be attributed as royalty. [Alcatel Lucent Canada (Del-HC)]

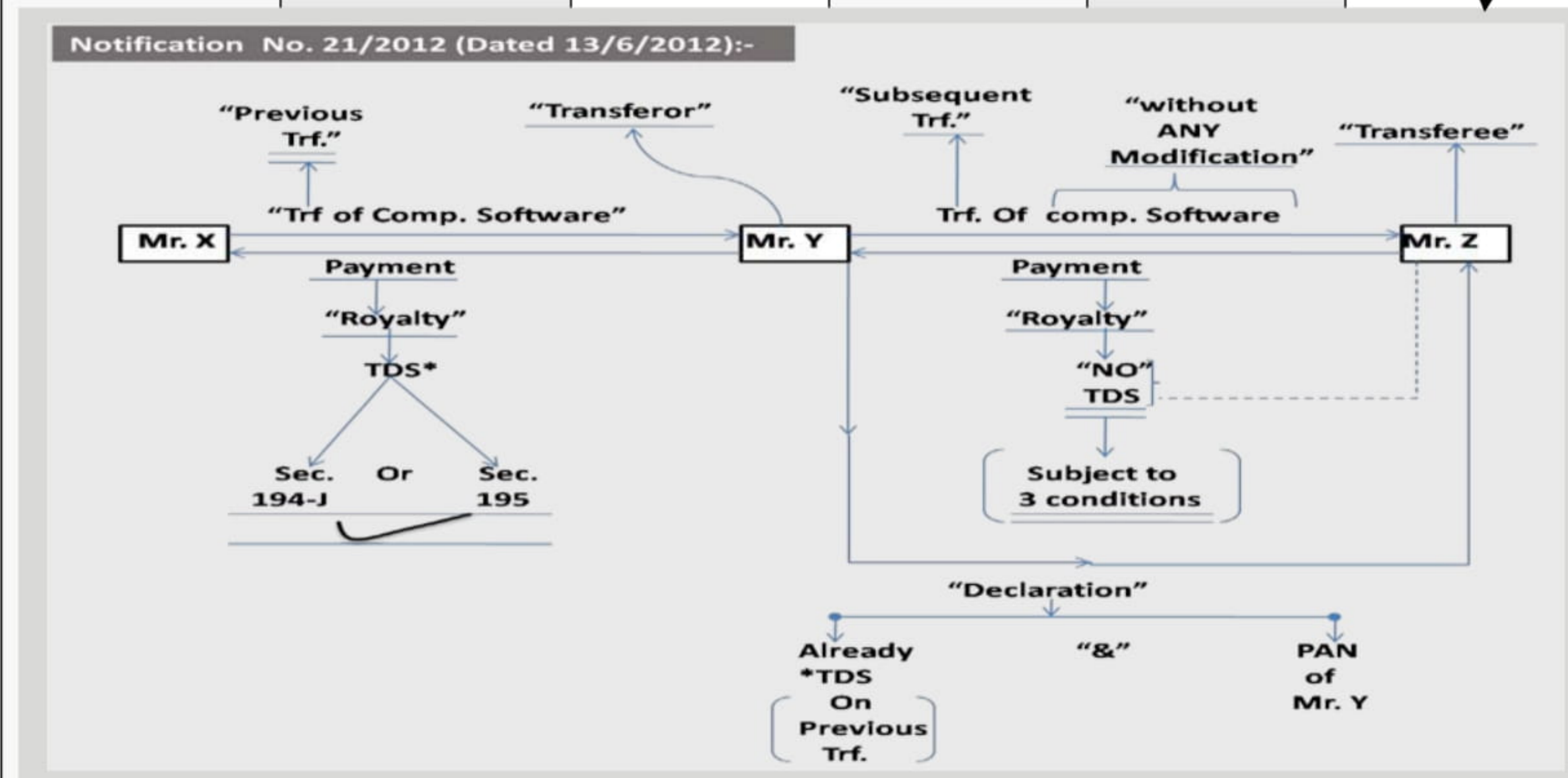
No TDS shall be made on payment by a transferee for acquisition of software from resident transferor, where-

- The software is acquired in a subsequent transfer and the transferor has transferred the software without any modification,
- Tax has been deducted by the transferor on payment for any previous transfer of such software, and
- The transferee obtains a declaration from the transferor that the tax has been deducted on previous transfer along with the Permanent Account Number of the transferor.

Royalty shall also include consideration for the sale, distribution or exhibition of cinematographic films. [F.A. 2020]

If under Bill/Invoice, Service tax / GST indicated separately, then TDS will be deducted on amount of Bill except such Service tax / GST component. But if Service tax / GST is not indicated separately, then TDS will be deducted on whole amount of Bill. [APPLICABLE FOR OTHER SECTIONS ALSO]

If under Bill / Invoice, reimbursement of expense is claimed, then that will not be excluded while deducting TDS.



Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
194K	Income on units of Mutual	Any Person	Resident	Credit* or	10%	See Next	TDS shall not be deducted in the following cases: ➤ If aggregate amount of such income credited or paid or

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
				payment, (whichever is Earlier)		Column	likely to be credited or paid during the financial year to the payee does not exceed ₹ 5,000. ☞ If the income is of the nature of capital gains. ➤ *Deeming Fiction is available.
194M (As amended by F.A. 2024)	Payment to contractor or Sub-contractor for carrying out ANY WORK Or Commission or Brokerage Or Fees for professional services	An individual or HUF** who is not required to deduct tax u/s 194C, 194H, or 194J	Resident	Credit or payment, (whichever is Earlier) [*Deeming Fiction NOT available]	5% (2% w.e.f. 1/10/2024)	Not exceeding ₹ 50,00,000 during a Financial Year to the payee	☞ Section 203A (relating to obtaining tax deduction & collection account number) shall not apply to a person required to deduct tax under this section. ** <u>An individual / HUF is required to deduct tax at source in respect of the following under this section-</u> - Payment / credit to a resident contractor or resident professional, when such payment is for personal use. - Payment / credit to a resident contractor or resident professional or to a resident of commission or brokerage [where payer is an individual / HUF who carries on business or profession and whose total sales, turnover or gross receipts from the business or profession carried on by him does not exceed ₹ 1 Cr, in case of business (or ₹ 50 Lakhs in case of profession) in the immediately preceding financial year].
194N	Cash withdrawal from one or more accounts maintained with bank / Co-operative bank / Post office	Bank or Co-operative bank or Post office	Any Person	At the time of payment in cash	2% (For proviso, as inserted by Finance Act 2020, see last column)	Not exceeding ₹ 1 crore during a financial year to the payee from one or	➤ <u>In case of a payee who has not filed his ROI for all of the three preceding years, for which due date u/s 139(1) has expired, immediately preceding the current year in which the payment is made, TDS shall be deducted:</u> @ 2% , where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds ₹ 20 lakhs during the previous year but does not exceed ₹ 1 crore; or @ 5% , where the amount or aggregate of amounts, as the

Summary of rate of TDS:			
If recipient is a non-filer of income-tax return:			
(i)	where recipient is a person other than co-operative society	Cash payment exceeding ₹ 20 lakh but not exceeding ₹ 1 crore	2%
		Cash payment exceeding ₹ 1 crore	5%
(ii)	where recipient is co-operative society	Cash payment exceeding ₹ 20 lakh but not exceeding ₹ 3 crore	2%
		Cash payment exceeding ₹ 3 crore	5%
In otherwise case			
(i)	where recipient is a person other than co-operative society	Cash payment exceeding ₹ 1 crore	2%
(ii)	where recipient is co-op. society	Cash payment exceeding ₹ 3 crore	2%

more accounts as maintained with Payer (For provisos, see last column)

case may be, being paid in cash exceeds ₹ 1 crore during the previous year.

- **Where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words one crore rupees, words "three crore rupees" had been substituted.**
- Tax deducted under this section shall not be deemed to be income received for computing income of recipient. (Sec.198)
- ☞ **No TDS under this section shall be deducted to any payment made to:**
 - (i) Govt., banking company, co-operative bank, post office.
 - (ii) Any business correspondent of a banking company or co-operative bank as per guideline issued in this regard by RBI.
 - (iii) Any white label ATM operator of a banking company / co-operative bank as per the authorization issued by RBI under the Payment and Settlement Systems Act, 2007.
 - (iv) Such other person or class of persons notified by the Central Government in consultation with RBI.

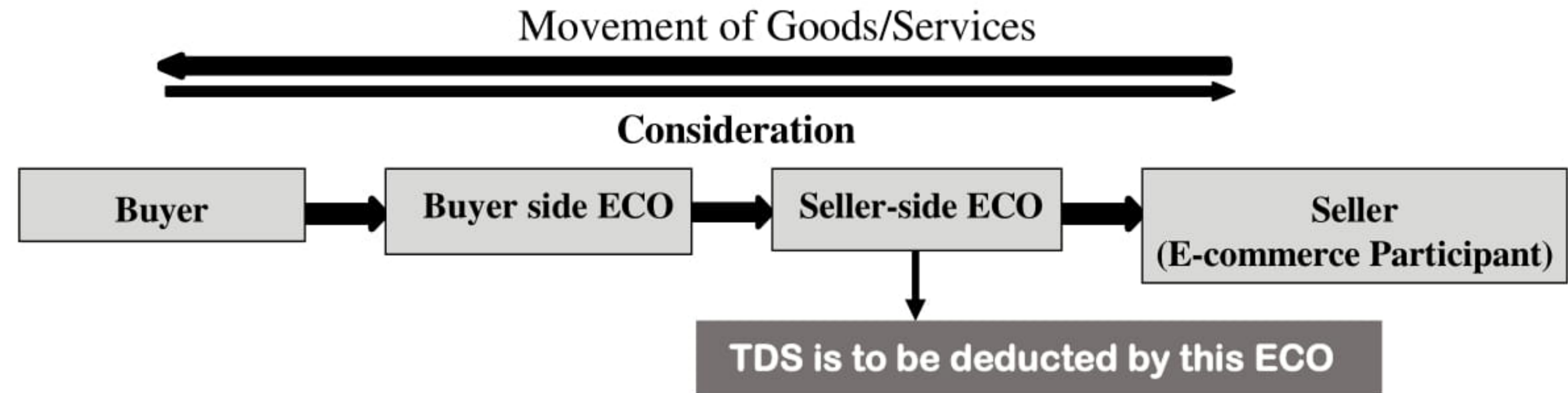
Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
194-O (As amended by F.A. 2024)	Sale of goods or provision of services of an e-commerce participant	e-commerce operator who is facilitating sale of goods or provision of services of an e-commerce	e-commerce participant (Resident)	<i>at the time of credit of amount of sale or services or both to the account of an e-commerce</i>	1% (0.1% w.e.f. 1/10/2024) of the gross amount of such sales or services or both	See Next Column	<p>Explanation: For the purposes of this section, any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount for the purpose of TDS under this section.</p> <ul style="list-style-type: none"> ➤ <u>No deduction under this section shall be made from any sum</u>

		<p>participant through its digital or electronic facility or platform</p>		<p>participant or at the time of payment by any mode thereof to such e-commerce participant, whichever is earlier</p>	<p>(For Explanation, See last column) In case the E-commerce participant does not furnish his PAN to the e-commerce operator, TDS shall be deducted @ 5% (instead 20%) u/s 206AA.</p>	<p>credited/paid or likely to be credited/paid during the previous year to the account of an e-commerce participant, being an individual/HUF, where the gross amount of such sale or services or both during the previous year does not exceed ₹ 5 lakh and such e-commerce participant has furnished his PAN/Aadhaar Number to the e-commerce operator.</p> <ul style="list-style-type: none"> ➤ A transaction in respect of which tax has been deducted by the e-commerce operator under this section, or which is not liable to deduction under aforesaid point, shall not be liable to tax deduction under any other provision of this Chapter. ➤ Provisions of this section shall not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale or services referred to in this section.
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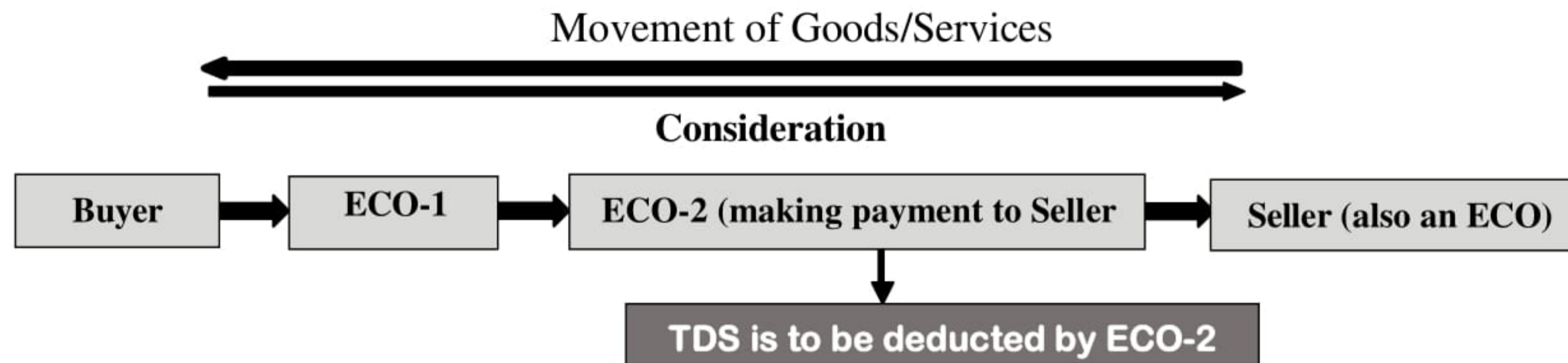
Circular No. 20/2023 dated 28.12.2023 : Guidelines u/s 194-O on withholding tax on e-commerce transactions involving multiple e-commerce operators and other issues:

(1) Who should deduct tax at source where there are multiple e-commerce operators (ECO) involved in a transaction?

Situation 1: Where multiple ECOs are involved in a single transaction of sale of goods or provision of services through ECO platform or network (like, the Open Network for Digital Commerce i.e. ONDC where buyer side ECO involved in buyer side functions and a seller side ECO involved in seller side functions) and **where the seller-side ECO is not the actual seller of the goods or services:**



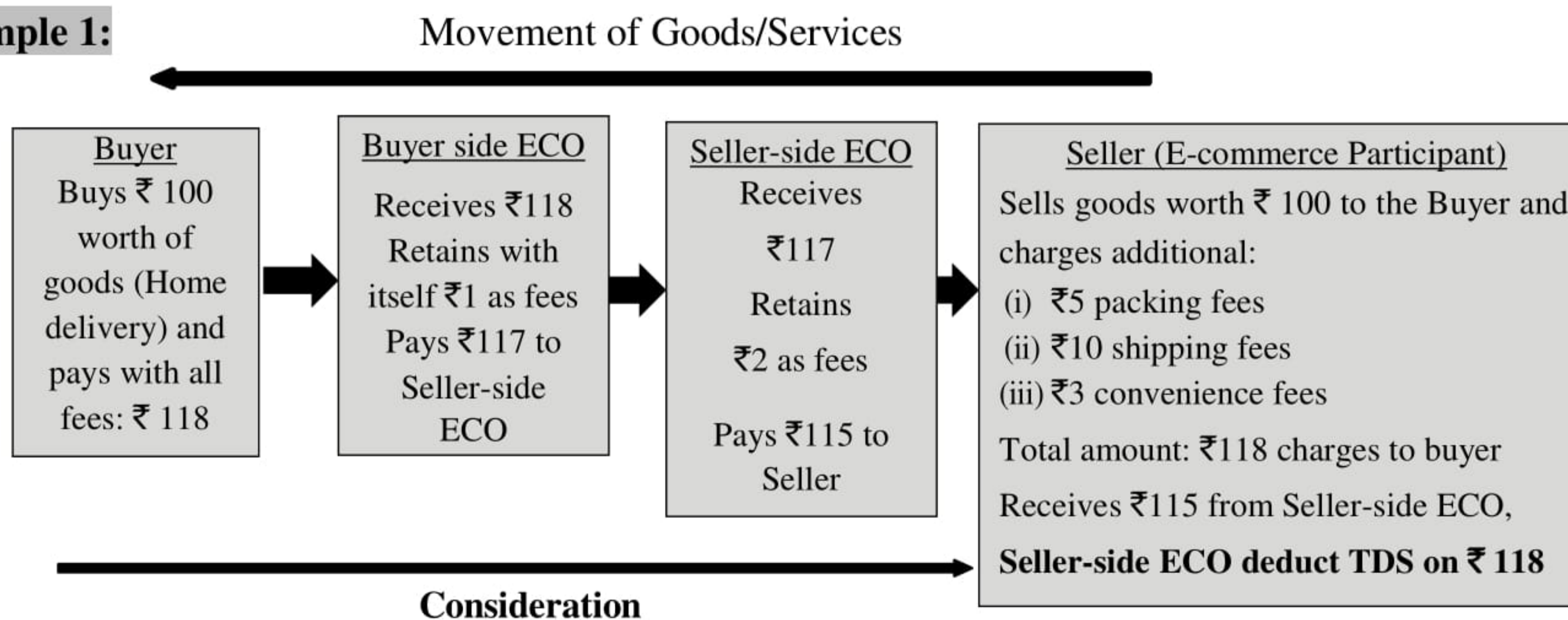
Situation 2: Where multiple ECOs are involved in a single transaction of sale of goods or provision of services through ECO platform or network and **where the seller-side ECO is the actual seller of the goods or services** (like, Transaction through ONDC where buyer side ECO could be providing an interface to the buyer and on the selling side, the seller itself is an ECO and is directly interacting with an ECO):



Note: In both the above situations, the tax shall be deducted on the "gross amount" of such sale of goods or provision of services and shall be deducted by seller-side ECO/ECO-2, as the case may be, at the time of credit to the account of a seller (being e-commerce participant) or at the time of the payment or the deemed payment thereof to such seller by any mode, whichever is earlier

(2) In e-commerce, it is common for an order to be shipped to the buyer from the seller. It is therefore common for the sellers to charge the buyer additionally for shipping in the form of logistics/delivery/shipping/ packaging fees. Further, the buyer-side ECO and seller-side ECO may charge a commission to the seller to enable the online transaction, Payments may also be made to the platform or network (e.g. ONDC) provider for facilitating the transaction, and the seller may choose to recoup all or part of that amount from the buyer. *Would these form part of the "gross amount" for the purposes of TDS u/s 194-O?*

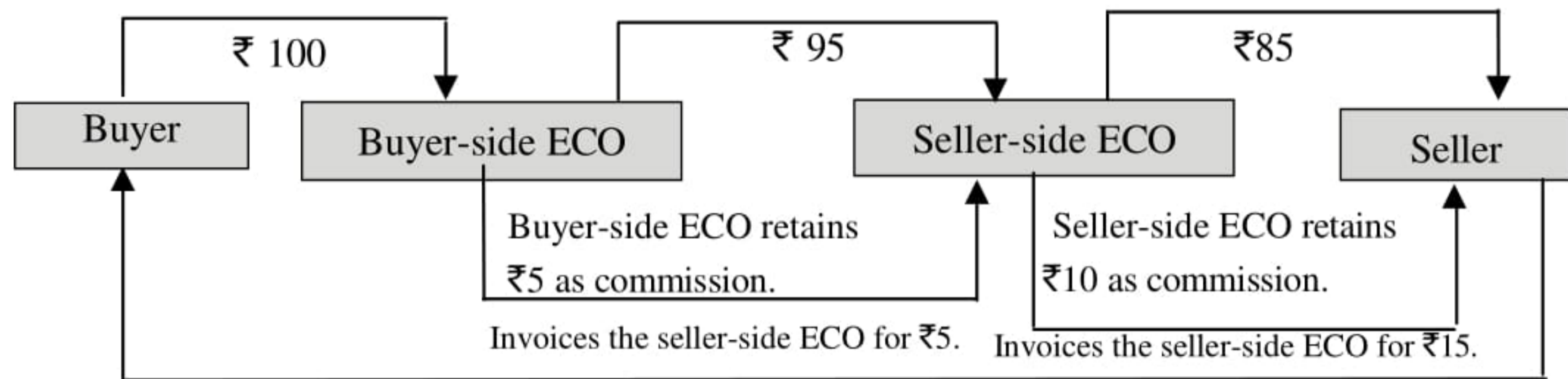
Example 1:



Note: As per section 194-O(3), a transaction on which tax has been deducted by an ECO u/s 194-O(1), such transaction shall not be liable to TDS under any other section. Accordingly, since in this case tax has been deducted u/s 194-O (1) on the gross amount of ₹ 118 (which includes **buyer-side ECO fee of ₹ 1 and seller-side ECO fee of ₹ 2**) will not be subject to TDS under any other provision (like, section 194H). In addition, Payments may also be made to the platform or network (e.g. ONDC) provider for facilitating the transaction. These would form part of the "gross amount" for the purposes of TDS u/s 194-O if they are included in the payment for the transaction. If these payments are being paid on a lump-sum basis and are not linked to a specific transaction, then these need not be included in the "gross amount".

Example 2:

Money Flow

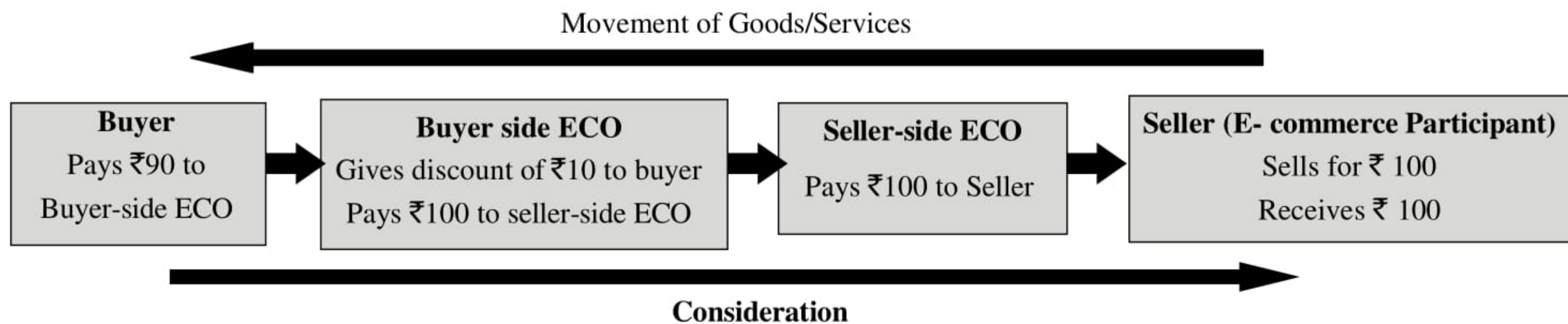


Invoicing Flow

The Seller's label-price for a product is ₹ 85, the seller-side ECO's fee (for listing the Seller catalogue and facilitating the transaction) is ₹ 10, and the Buyer side ECO's fee (to provide an interface to enable the Buyer to discover the seller/product and to enable them to place an order) is ₹ 5. The Seller charges the Buyer a total of ₹ 100 (₹ 85 + ₹ 10 + ₹ 5) and issues an invoice for ₹ 100 (gross amount) as shown in the above diagram. **The TDS under section 194-O 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 under section 194H.**

(3) Treatment of discounts offered by the actual seller: Where the discount is given by the seller itself, the seller would reduce the price of the products sold or services provided. For example, if the label-price of a product is ₹ 100, and the seller offers a discount of ₹ 10, ₹ 90 will be receivable from the buyer. In this case, the seller will invoice the buyer for ₹ 90, and hence the TDS has to be calculated on ₹ 90.

Treatment of discounts offered by the buyer ECO or Seller ECO: Where discount is given by the buyer ECO/seller ECO, usually the seller receives full consideration for the product, however part of it is received from the buyer and the balance is discharged to the seller by the buyer ECO/seller ECO, as the case may be.



In the above diagram, if the price quoted by the seller is ₹ 100, and the buyer ECO gives a discount of ₹ 10, ₹ 90 (i.e. 100 - 10) will be collected from the buyer and remitted to the seller, and the buyer ECO will pay the remaining ₹ 10 to the seller via the seller ECO. The invoice on the buyer will be raised for ₹ 100 and **tax will therefore be deducted by the seller-side ECO on ₹ 100, which is the gross amount of sales.**

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
194-P	TI of specified senior citizen as computed by the specified bank (after considering deductions u/s 80C-80U and rebate u/s 87A)	Specified bank (i.e. Banking company as notified by the Central Government)	Specified senior citizen	-	Tax payable on total income at the rate in force	BEL	<p>Specified senior citizen means:</p> <ul style="list-style-type: none"> ✓ Resident individual; (+) ✓ Age ≥ 75 years; (+) ✓ Having income from pension as credited in pension account with Specified bank; (+) ✓ Not having any other income except interest income from account with Specified bank in which he gets pension; (+) ✓ Required to furnish a declaration in prescribed form and manner to the specified bank. <p>☞ <u>If the tax has been deducted under this section</u>, then, specified person need not to file his/her return u/s 139(1).</p>
194-Q	Consideration for Purchase of any goods	Buyer	Resident seller	Credit or payment, (whichever is Earlier)	0.1% of amount paid or payable in excess of ₹ 50 Lakh <u>In case seller does not furnish his PAN to the Buyer, TDS</u>	Not exceeding ₹ 50,00,000 during a Financial Year to the Seller	<p><u>TDS shall not be deducted in the following cases:</u></p> <ul style="list-style-type: none"> (i) If tax is deductible under any other provisions of this Act; (ii) If tax is collectible under the provisions of section 206C except section 206C(1H). <p>Meaning there by, if a particular transaction is covered by section 194-Q as well as section 206C(1H), then, TDS u/s 194-Q shall apply, and not TCS u/s 206C(1H).</p> <p>☞ Buyer means any person whose total sales, turnover or gross receipts from the business carried on by him exceeds ₹10 Cr, during the financial year immediate preceding the financial</p>

shall be deducted at the rate of 5% u/s 206AA.

year in which the purchase of goods is carried out, **Except** the person as notified by the Central Government.
 ☞ **Deeming Fiction** [i.e. Crediting to other account in Buyer's books shall be deemed to be the credit to the account of Seller] **is available.**

GUIDELINES UNDER SECTION 194Q OF THE INCOME-TAX ACT, 1961

(1) Applicability on transactions carried through various Exchanges:

In order to remove practical difficulties in implementing the provisions of this section as in case of certain exchanges and clearing corporations, sometime in these transactions, there is *no one to one contract between the buyers and the sellers*, it is provided that **this section shall not be applicable** in relation to,—

- (i) **transactions in securities and commodities which are traded through recognized stock exchanges** or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;
 - (ii) **transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges** registered in accordance with Regulation 21 of the CERC.
- [Same Guideline is also applicable in case of TCS u/s 206C(1H)]**

(2) Adjustment for GST, purchase returns:

Same Guideline is also applicable in case of TDS u/s 194-O

Although no adjustment on account of GST is required to be made for collection of tax u/s 206C(1H) since the collection is made with reference to receipt of amount of sale consideration. However, the situation is different so far as TDS is concerned. With respect to TDS u/s 194Q, clarified as follows:

	Condition	Amount on which tax is to be deducted u/s 194Q
(i)	Where tax is deducted <u>at the time of credit of amount</u> in account of seller and GST component is indicated separately in invoice	<i>Tax has to be deducted on the amount credited (without including such GST)</i>
(ii)	Where tax is deducted on <u>payment basis</u> (if payment is earlier than the credit) <i>like</i> in case of advance payment	<i>Tax has to be deducted on the whole amount (since it is not possible to identify the payment with the tax component to be invoiced in the future)</i>
(iii)	In case of purchase returns, <u>where the money is refunded by the seller</u>	<i>Tax deducted earlier u/s 194Q on such purchase (which is now returned) may be adjusted against the next purchase from the same seller</i>
(iv)	In case of purchase returns, <u>where goods are replaced by the seller</u>	<i>No adjustment is required.</i>

✓ Same treatment as mentioned in aforesaid table will apply in case of purchase of goods which are not covered within the purview of GST, but

	which are subject to VAT/Sales tax/Excise duty/CST.
(3)	Whether non-resident can be buyer under section 194Q of the Act? It is clarified that the provisions of section 194Q shall not apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non-resident in India.
(4)	Whether tax is to be deducted when the seller is a person whose income is exempt? Same Guideline is also applicable in case of TDS u/s 206C(1H) To remove difficulty, it is clarified that the provisions of section 194Q shall not apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).
(5)	Whether provisions of section 194Q of the Act shall apply to buyer in the year of incorporation? It is clarified that u/s 194Q a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall not apply in the year of incorporation.
(6)	Whether provisions of section 194Q of the Act shall apply to buyer if the turnover from business is 10 crore or less? In case of a buyer whose turnover or gross receipt exceeding Rs. 10 crore but total sales or gross receipts or turnover from business is Rs. 10 crore or less, it is clarified that for section 194Q, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding Rs. 10 crore during the financial year immediately preceding the financial year in which the purchase of good is carried out. Hence, the sales or gross receipts or turnover from business carried on by him must exceed Rs. 10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.
(7)	Applicability of section 194Q in cases where exemption has been provided under section 206C(1A): Section 194Q does not apply in respect of transactions where tax is collectible u/s 206C [except sale of goods under section 206C(1H)]. Section 206C(1H) requires collection of tax at source in respect of sale of goods other than goods which have been covered u/s 206C(1)/(1F)/(1G). In accordance with section 206C(1A), tax is not required to be collected in the case of a resident buyer who furnishes declaration to the effect that the goods u/s 206C(1) are to be utilised in manufacturing, processing or producing articles or things or in generation of power and not for trading purposes. In case of goods which are covered u/s 206C(1) but exempted u/s 206C(1A), tax would not be collectible u/s 206C(1)/(1H). It is clarified that the provisions of section 194Q will apply in such cases covered u/s 206C(1A) and the buyer is to be liable to deduct tax u/s 194Q, if the conditions specified therein are fulfilled.

Section	TDS on -	Responsible Payer (Deductor)	Payee (Deductee)	Timing of Deduction	Rate of TDS	Limit for Non-Deduction	Other Relevant Provisions
194-R (As amended by F.A. 2023)	Any benefit or perquisite, whether convertible into money or not	Any person [Except Individual or HUF whose total sales/gross receipts doesn't exceed ₹1 Cr. in case of business, and ₹50 lacs in case of profession), in last year]	Resident	Before providing such benefit or perquisite	10% of the value or aggregate of value of such benefit or perquisite	If value or aggregate of value of such benefit or perquisite does not exceed ₹ 20,000 during the Financial Year	<ul style="list-style-type: none"> ☞ Such benefit/perquisite must arise from business or exercise of a profession, by the resident who have availed the same. ☞ <i>For the removal of doubts, it is clarified that the provisions of this section shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.</i> As inserted by F. A., 2023 ☞ <u>In a case where:</u> <ul style="list-style-type: none"> - The benefit or perquisite is <i>wholly in kind</i>; or - Partly in cash and <i>partly in kind</i> but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, - the person responsible providing such benefit or perquisite - shall, before releasing the benefit or perquisite, ensure that - required tax has been paid in respect of benefit / perquisite.

Circular No. 12/2022 Dated 16-6-2022 Read with Circular No. 18/2022 Dated 13-9-2022: GUIDELINES u/s 194R:

Q-1	Is it necessary that the person providing benefit or perquisite needs to check if the amount is taxable u/s 28(iv), before deducting tax u/s 194R?
Ans.	No. The deductor is not required to check whether the amount of benefit or perquisite that he is providing would be taxable in the hands of the recipient u/s 28(iv). <i>Infact, there is no further requirement to check whether the amount is taxable in the hands of the recipient or under which section it is taxable.</i>
Q-2	Is there any requirement to deduct tax under section 194R, when the benefit or perquisite is in the form of capital asset?
Ans.	It can be seen that the <i>asset given as benefit or perquisite may be like car, plot, etc. but in the hands of the recipient it is benefit or perquisite and various Courts have accordingly been held to be taxable.</i> In any case, as stated earlier in question no. 1, the deductor is not required to check if the benefit or perquisite is taxable. <i>Thus, the deductor is required to deduct tax u/s 194R in all cases where benefit or perquisite (of whatever nature) is provided.</i>
Q-3	If loan settlement/waiver by a bank is to be treated as benefit/perquisite, it would lead to hardship as the bank would need to incur the additional cost

of tax deduction in addition to the haircut that he has taken. Will section 194R apply in such a situation?

Ans. It is true that waiver or settlement of loan by the bank may be an income to the person who had taken the loan. It is also true that subjecting such a transaction to tax deduction u/s 194R would put extra cost on such bank, as this would require payment of tax by the deductor in addition to him taking a haircut already. *Hence, to remove difficulty, it is clarified that one-time loan settlement/waiver of loan granted would not be subjected to tax deduction at source u/s 194R*

Q-4 Whether sales discount, cash discount and rebates are benefit or perquisite?

Ans. Sales discounts, cash discount or rebates allowed to customers are also benefits though related to sales/purchase. **Since TDS u/s 194R is applicable on all forms of benefit/perquisite, tax is required to be deducted.** However, it is seen that subjecting these to tax deduction would put seller to difficulty. *To remove such difficulty it is clarified that no tax is required to be deducted u/s 194R on sales discount, cash discount and rebates allowed to customers.*

This relaxation should not be extended to other benefits provided by the seller in connection with its sale. To illustrate, **the following are some of the examples of benefits/perquisites on which tax is required to be deducted under section 194R (the list is not exhaustive):**

- ✓ *When a person gives incentives (other than discount, rebate) in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc.*
 - ✓ *When a person sponsors a trip for the recipient and his/her relatives upon achieving certain targets or provides free ticket for an event.*
 - ✓ *When a person gives medicine samples free to medical practitioners.*
- It is of no consequence that *these benefits/perquisites may be actually used by owner/director/employee of the recipient entity or their relatives who in their individual capacity may not be carrying on business or exercising a profession.*
 - To illustrate, the **free medicine sample** may be provided by a company to a doctor who is an **employee** of a hospital. The TDS u/s 194R is required to be deducted by the company in the hands of hospital as the benefit/perquisite is provided to the doctor on account of him being the employee of the hospital. Thus, in substance, the benefit/perquisite is provided to the hospital. The hospital may subsequently treat this benefit/perquisite as the perquisite given to its employees (if the person who used it is his employee) u/s 17 and deduct tax u/s 192.
 - Similarly, the tax is required to be deducted u/s 194R if the benefit or perquisite is provided to a doctor who is working as a **consultant** in the hospital. In this case the benefit or perquisite provider may deduct tax u/s 194R with hospital as recipient and then hospital may again deduct tax u/s 194R for providing the same benefit or perquisite to the consultant. **To remove difficulty, as an alternative, the original benefit or perquisite provider may directly deduct tax u/s 194R in the case of the consultant as a recipient.**
 - The provision of section 194R *shall not apply* if the benefit or perquisite is being provided to a Government entity, like **Government hospital**, not carrying on business or profession.

Q-5	How is the valuation of benefit/perquisite required to be carried out?
Ans.	<p>The valuation would be based on fair market value of the benefit or perquisite <u>except in following cases</u>:</p> <p>(i) The benefit/perquisite provider has <i>purchased</i> such benefit/perquisite, in that case the purchase price shall be the value for such benefit/perquisite</p> <p>(ii) The benefit/perquisite provider <i>manufactures</i> such benefit/perquisite, then, price that it charges to its customers for such items shall be considered.</p> <p>It is further clarified that GST will not be included for the purposes of valuation of benefit/perquisite for TDS under section 194R.</p> <p>➤ Similar guidelines have been issued for valuation of winnings in kind and TDS u/s 194BA (which deals with TDS on winnings from online games).</p>
Q-6	Many a times, a social media influencer is given a product of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media. Is this product given to such influencer a benefit or perquisite?
Ans.	<p>If such product is returned to the manufacturing company after using for the purpose of rendering service, then, it will not be treated as a benefit / perquisite. However, <u>if the product is <i>retained</i>, then, it will be in the nature of benefit/perquisite</u> and tax is required to be deducted u/s 194R.</p>
Q-7	Whether reimbursement of out of pocket expense incurred by service provider in the course of rendering service is benefit/perquisite?
Ans.	<p>Let us understand this with a situation assume that a service provider is rendering service to his client "X". In the course of rendering that service, he pays for boarding and lodging expense incurred exclusively for the purposes of rendering the service to his client "X". Now, we need to check that invoice in whose name is obtained which will decide that who is liable to pay this (or from whom hotel can recover this).</p> <p>➤ <u>If such invoice is in the name of client "X" and directly paid by client "X" to hotel or if paid by the service provider, is reimbursed by his client "X"</u>, in this case, in substance, this expense is the liability of client "X" and not of service provider. It is client "X" who gets input credit of GST included in the expenses incurred. Therefore, direct payment by client "X" to hotel or reimbursement of such an expense by client "X" to the service provider will not be considered as benefit/perquisite provided by client "X" to the service provider for the purposes of section 194R.</p> <p>➤ <u>If such invoice is in the name of service provider (and the payment is made by client "X" directly to hotel or reimbursed to service provider)</u>, then, in substance (irrespective of the terms of the agreement under which the expense incurred by the service provider is the cost of service recipient and such cost is reimbursed by the service recipient to service provider), this expense is the liability of the service provider and not of client "X". It is service provider who gets input credit of GST included in the expenses incurred by him. If it was the liability of the client "X", then, GST input credit would have been allowed to him (client "X") and not to service provider. Therefore, such direct payment by client "X" to hotel or reimbursement of such an expense by client "X" to the service provider will be considered as benefit/perquisite provided by client "X" to the service provider for which deduction is required to be made under section 194R.</p>

Exceptions:

- (1) Since in GST, if service provider incurs an expense as "pure agent", then, GST input credit is allowed to service recipient and not to service provider, therefore, it is clarified that amount incurred by "pure agent" for which he is reimbursed by the recipient would not be treated as benefit/perquisite for the purpose of section 194R.
- (2) If out of pocket expenses (reimbursement) are already part of the consideration in the bill on which tax is deducted under the relevant provisions (like, u/s 194-C or 194-J which refer to *any sum* paid) of the Act, other than section 194R, **it is clarified that there will not be further liability of TDS u/s 194R.**

Q-8 If there is a dealer conference to educate the dealers about the products of the company - Is it benefit/perquisite?

Ans. The expenditure pertaining to dealer/business conference *would not be considered as benefit/perquisite* for the purposes of section 194R **in a case where dealer/business conference is held with the prime object to educate dealers/customers about any of the following or similar aspects:**

- (i) *new product being launched*
 - (ii) *discussion as to how the product is better than others*
 - (iii) *obtaining orders from dealers/customers*
 - (iv) *teaching sales techniques to dealers/customers*
 - (v) *addressing queries of the dealers/customers*
- **It is not necessary that all dealers are required to be invited in a dealer/business conference** for the expenses to be not considered as benefit/perquisite for the purposes of tax deduction under section 194R.

Further, in the following cases the expenditure would be considered as benefit or perquisite for the purposes of section 194R:

- (i) Expense attributable to **leisure trip** or leisure component, *even if it is incidental to the dealer/business conference.*
- (ii) Expenditure incurred for **family members** accompanying the person attending dealer/business conference
- (iii) Expenditure on participants of dealer/business conference **for days which are on account of prior stay or overstay beyond the dates of such conference.** It has been further clarified that **a day immediately prior to actual start date of conference and a day immediately following the actual end date of conference would not be considered as over stay.**

☞ **If benefit/perquisite is provided in a group activity** during such dealer/business conference, **there may be practical difficulties in identifying such benefit/perquisite to each participant due to the fact that it is a group activity and reasonable allocation is not possible.** *Non-compliance of the provision of section 194R, in such a case, would not only result in disallowance u/s 40(a)(ia) but may also result in treating the benefit/perquisite provider as assessee in default u/s 201 with all other consequences.*

	<p>✓ In order to remove these practical difficulties, <u>it is clarified that if benefit/perquisite is provided in a group activity in a manner that it is difficult to match such benefit/perquisite to each participant using a reasonable allocation key, the benefit/perquisite provider may at his option NOT CLAIM THE EXPENSE, representing such benefit/perquisite, as deductible expenditure for calculating his total income. If he decides to opt so, he will not be required to deduct tax u/s 194R on such benefit/perquisite and therefore he will not be treated as assessee in default u/s 201.</u></p>
Q-9	<p>Section 194R provides that if the benefit/perquisite is in kind or partly in kind (and cash is not sufficient to meet TDS) then the person responsible for providing such benefit or perquisite is required to ensure that tax required to be deducted has been paid in respect of the benefit or perquisite, before releasing the benefit or perquisite. How can such person be satisfied that tax has been deposited?</p> <p>And if Company "A" gifts a car to its dealer "B" which has been considered as benefit under section 194R. Dealer "B" uses this car in his business. Will he get deduction for depreciation in calculating his income under the head "profits and gains of business or profession"?</p>
Ans.	<p>The requirement of law is that if a person is providing benefit in kind and tax is required to be deducted u/s 194R, the person is required to ensure that required TDS has been paid by the recipient. <i>Such recipient would pay tax in the form of advance tax. The tax deductor may rely on a declaration along with a copy of the advance tax payment challan provided by the recipient confirming that the tax required to be deducted on the benefit/perquisite has been deposited.</i></p> <p>Once gifting of car by Company "A" has been considered as benefit under section 194R and dealer "B" has included this benefit as income in his income tax return, it would be deemed that the "actual cost" of the car for the purposes of section 32 of the Act shall be the amount of benefit included by dealer "B" as income in his income-tax return. Hence, dealer "B" can get depreciation on fulfillment of other conditions for claiming depreciation.</p>
Q-10	<p>Whether issuance of bonus share/right share is a benefit or perquisite if issued by a company in which the public are substantially interested as defined in clause (18) of section 2 of the Act and whether tax is required to be deducted under section 194R?</p>
Ans.	<p>In case of <u>bonus shares</u> which are issued to all shareholders by a company, it has been represented that this does not result in any benefit to shareholders as the overall value and ownership of their holding does not change. <i>Further cost of acquisition of bonus share is taken as nil for capital gains computation when this share is sold. Similar representations have been received seeking clarity on issuance of right shares.</i></p> <p><u>It is clarified that the tax u/s 194R is not required to be deducted on issuance of bonus / right shares</u> by a company in which the public are substantially interested, where bonus shares are issued to all shareholders by such a company or right shares are offered to all shareholders by such a company.</p>

Section 196: NO TDS from any sums payable to Government, RBI or certain corporations :-

- No TDS on ANY SUM payable to
- the Government or the RBI or a Exempted Corporation (established by or under a Central Act) or a Mutual Fund as specified u/s 10(23D).

EFFECT OF SURCHARGE ON TDS RATES [IMPORTANT NOTE (w.r.t. SECTION 192 TO 196D)]:

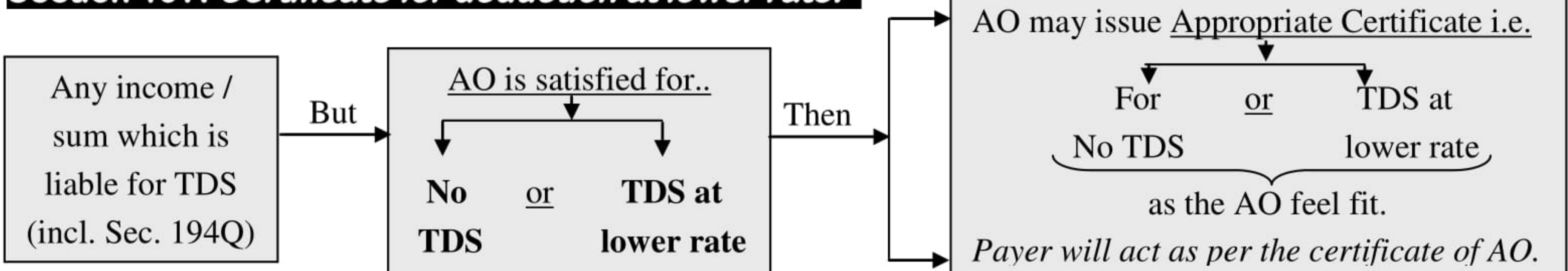
(A)	IN CASE OF SALARY:	
	Where payment is being made to a RESIDENT or a NON-RESIDENT –	
	<u>Situation</u>	<u>Rate of surcharge</u>
	50 Lacs < Amount liable for TDS during the financial year † 1 CRORE	10 %
	1 CRORE < Amount liable for TDS during the financial year † 2 CRORE	15 %
	2 CRORE < Amount liable for TDS during the financial year	25 %**
	** 37 % if employee shifts out from section 115BAC and amount liable for TDS during the financial year > 5 Cr.	
(B)	IN CASE OF ANY OTHER SUM:	
(1)	Where payment / credit is being made to a NON-RESIDENT Individual/HUF/AOP/BOI/AJP:	
	<u>Situation</u>	<u>Rate of surcharge</u>
	50 Lacs < Amount liable for TDS during the financial year † 1 CRORE	10 %
	1 CRORE < Amount liable for TDS during the financial year † 2 CRORE	15 %
	2 CRORE < Amount liable for TDS during the financial year	25 %**
	** 37 % if payee shifts out from section 115BAC and amount liable for TDS during the financial year > 5 Cr.	
	Note: If tax is deductible on STCG as referred to in section 111A, LTCG u/s 112/112A or dividend income, then, surcharge on such income shall not exceed 15% in any case.	
(2)	Where payment / credit is being made to any other NR (except FOREIGN COMPANY): Surcharge is applicable @ 12% of tax if amount liable for TDS during the financial year 2024-25 exceeds ₹1 cr.	
(3)	Where payment / credit is being made to a FOREIGN COMPANY:	
	<u>Situation</u>	<u>Rate of surcharge</u>
	1 CRORE < Amount liable for TDS during the financial year ≤ 10 CRORES	2 %
	Amount liable for TDS during the financial year > 10 CRORES	5 %
(4)	IN OTHER CASE: NO SURCHARGE WILL BE APPLICABLE FOR TDS.	

EFFECT OF HEALTH & EDUCATION CESS ON TDS RATES:

The rates of TDS shall be increased by Health and Education cess @ 4% only in the following cases:

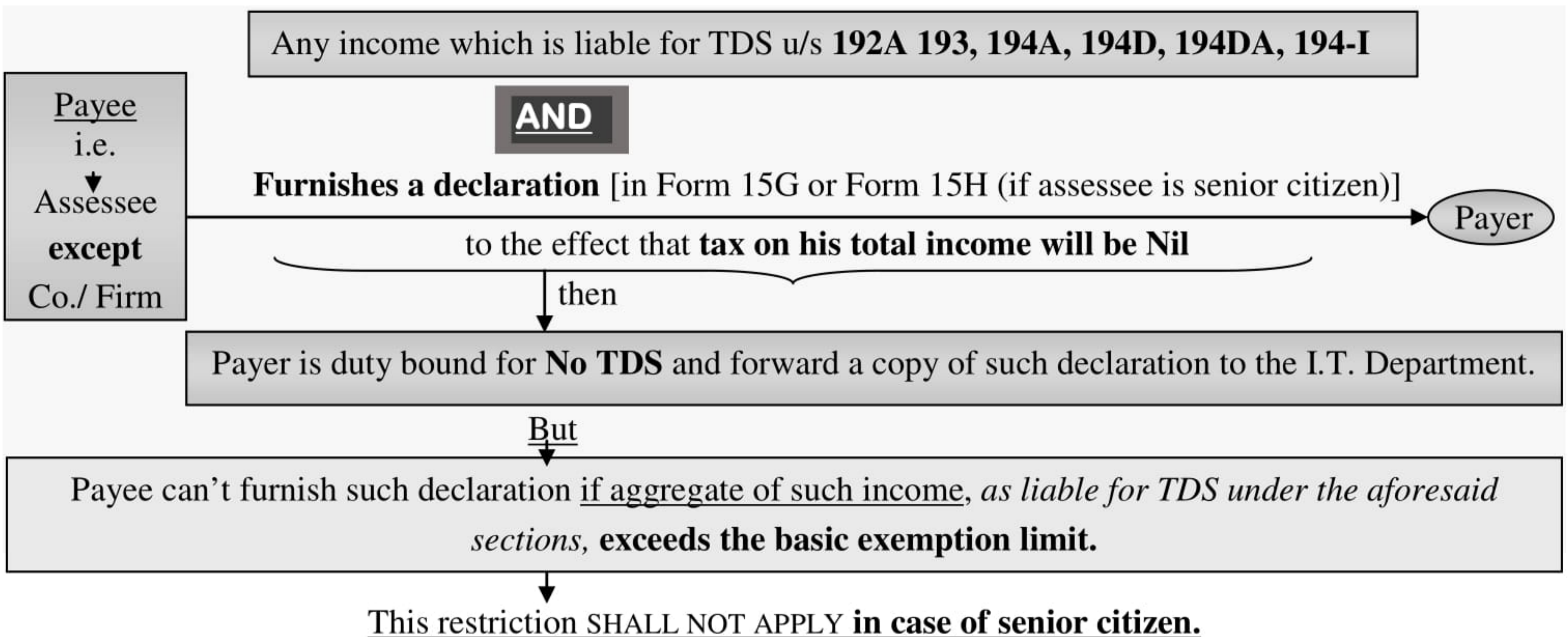
IN CASE OF SALARY	Where payment is being made to a RESIDENT or a NON-RESIDENT.
IN CASE OF ANY OTHER SUM	Where payment/credit is being made to a NON-RESIDENT or a FOREIGN Co.

Section 197: Certificate for deduction at lower rate: -



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Section 197A: No deduction to be made in certain cases: -



Under this section, CG has the power... to specify Payee and his payment on which tax will NOT be deducted which are given below:

Certain payment like, **bank guarantee commission**, cash management service charges, clearing charges (MICR Charges) and debit / credit card commission etc. to schedule banks or to any payment systems company as authorised by the RBI.

Section	Subject Matter
198	Amount of TDS <u>whether in India or withheld outside India</u> (except as deducted u/s 194N) – will be deemed income of the payee. Underlined words have been added by F. A., 2024
200	<p>(1) Payer will deposit TDS within the prescribed time, broadly, viz.:</p> <ul style="list-style-type: none"> ➤ 7 days from the end of month of TDS; If month of TDS is March, then, upto 30th April. ➤ If TDS is of section 194-IA/194-IB/194M/194S: 30 days from the end of month of TDS. <p>In the case of TDS u/s 194-IA/194-IB/194M/194S, challan of depositing TDS (Form 26QB / 26QC/26QD/26QE/26QF) is itself taken as quarterly statement of TDS</p> <p>(2) Payer will furnish quarterly return within the following time limit:</p> <ul style="list-style-type: none"> ➤ For first 3 Quarters: within one month from the end of the quarter. ➤ For last quarter: Upto 31st May. <p>☞ Payer may also furnish a correction statement (i.e. revised return) for rectification of any mistake or to add, delete or update the information furnished in quarterly return.</p> <p>But no correction statement shall be delivered <i>after the expiry of six years from the end of the financial year in which original statement is required to be delivered.</i> As inserted by F. A., 2024</p>
234E	If payer fails to furnish quarterly return with in due time:

He will be liable to pay Interest @ 1% from date of deductible to the date of filing of ROI by payee.

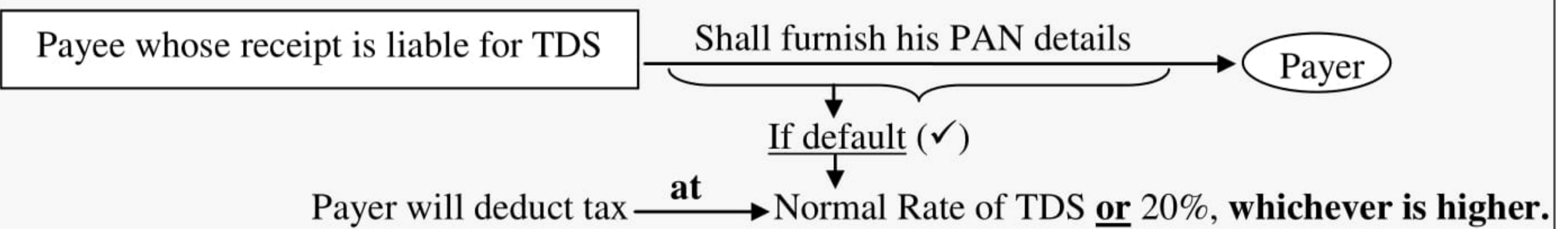
➤ If AO passes an order u/s 201(1), then, interest will be charged according to such order.

Time-limit for order treating assessee in default u/s 201(1):

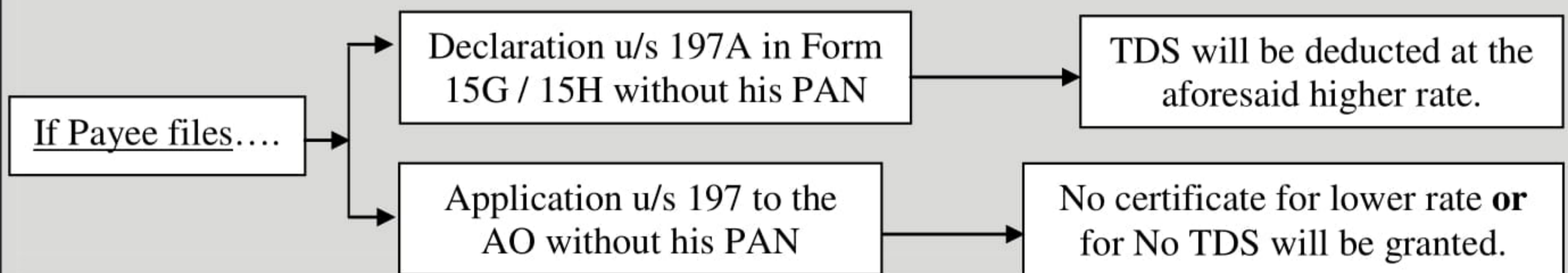
- (i) If payer fails to deduct the required tax and Payee is resident: As amended by F. A., 2024
~~7 years~~ **6 years** from the end of the financial year in which tax was deductible, or **2 years from the end of financial year in which the TDS correction statement is filed, whichever is later.**
- (ii) In otherwise case (like, failure in deposit of deducted tax): **No time limit.**

Student may kindly note that same limitation period has **newly** been added by the Finance Act, 2024 in section 206C to treat a collector as an assessee-in-default with respect to TCS default.

206AA



➤ If PAN is invalid / not belonged to payee, payer will deduct tax at the above said higher rate.



Non-applicability of this section (means, Payee is not required to give his PAN to the Payer):

- ❖ **Eligible Payee: Non-resident (including a foreign company).**
- ❖ **Eligible Payments (i.e. incomes):**
 - (1) Interest on infrastructure bonds / bonds of business trust as covered for TDS u/s 194LC.
 - (2) **Interest, royalty, fees for technical services, and consideration for transfer of an asset, provided the payee (i.e. Non-resident) furnishes the following details to the payer:**
 - (i) Name, email ID, Phone No., Address in foreign country (i.e. home country).
 - (ii) Certificate of being residence in that foreign country.
 - (iii) Tax identification Number / other unique identification number in that foreign country.

206AB

Special provision for deduction of tax at source for non-filers of income-tax return:

- (1)* - Notwithstanding anything contained in any other provisions of this Act,
 - where tax is required to be deducted at source under the provisions of Chapter of TDS, other than section 192, 192A, 194B, **194BA**, 194BB, 194-IA, 194-IB, 194LBC, 194M or 194N

- on any sum or income or amount paid, or payable or credited, by a person
- **to a specified person,**
- the tax shall be deducted at the higher of the following rates, namely:
 - (i) **at twice the normal rate of TDS (As otherwise applicable); or**
 - (ii) **at the rate of 5 per cent.**

(2) If the provisions of section 206AA is applicable to a specified person (i.e. no PAN is furnished to the deductor), the tax *shall be deducted at higher of the two rates provided in this section and in section 206AA.*

(3) For the purposes of this section "**specified person**" means

- a person **who has not furnished the return** of income
- **for assessment year** relevant to the previous year immediately preceding the financial year in which tax is required to be deducted,
- **for which the time limit of furnishing the return of income u/s 139(1) has expired; and**
- the **aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in said previous year:**

Provided that the specified person shall not include

- (i) **a non-resident who does not have a permanent establishment in India.**
- (ii) *a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.*

Explanation:

"Permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

Note: Provisions similar to section 206AB, have been given in **Section 206CCA** (under TCS chapter) *subject to a difference that there exist a maximum threshold of 20% in sub-section (1)*.*

“LATEST JUDICIAL PRONOUNCEMENTS”

Section 194 C & 194-I: Deduction of tax from payment to contractors and TDS on Rent :-

The assessee-company which was engaged in the business of petroleum products, required tank trucks for road transportation of bulk petroleum products from its various storage points to customers or other storage points. It entered into an agreement with another company for the said purpose.

The issue under consideration is whether the assessee-company is liable to deduct tax u/s 194C or u/s 194-I on payment made to the carrier engaged for road transport of bulk petroleum products.

Upon perusing the terms of the contract, the **High Court** observed that the parties understood the agreement as one where the carrier would be paid transport charges, and that too, for the shortest route travelled by it in the course of transporting the goods of the assessee. The contract did not require payment of idle charges and it was clear that there was no entitlement to any payment other than the actual transportation of the goods. Hence, the carrier was not being hired for full time. **The contract is one for transportation of goods and, therefore, is a contract of work within the meaning of section 194C and not section 194-I.**

[CIT v/s Indian Oil Corporation [2019] (Uttarakhand-HC)]

Similarly, in the case of CIT v/s Bharat Electronics Ltd.(All.), the **High Court** has held that where assessee company entered into contract with transporters for providing buses for giving for pick-up and drop facilities to its employees, in view of fact that transporters were contractually obliged to maintain buses in proper condition and drivers and conductors were also to be provided by them, assessee was liable for TDS u/s 194C.

Section 194 H: Deduction of tax from commission or brokerage :-

- (1) **When the licensed stamp vendors take delivery of stamp papers on payment of full price less discount and they sell such stamp papers to the retail customers, neither of the two activities (namely, buying from the Government and selling to the customers) can be termed as service in the course of buying and selling of goods. *The discount on purchase of stamp papers, therefore, does not fall within the expression “commission or brokerage” to attract the provisions of TDS u/s 194H.*** [CIT v/s Ahmedabad Stamp Vendors Association (SC)]

(2) Bharti Cellular Ltd. v/s ACIT [2024](SC):

Issue:

Are cellular mobile telephone service provider required to deduct tax at source u/s 194H on the difference between the discounted price at which it sold start-up kits and recharge vouchers to franchisees/distributors and the sale price at which these products were subsequently sold by the franchisees or distributors?

Analysis and Decision:

The obligation to deduct tax at source in terms of section 194H arises when the legal relationship of principal and agent is established. Based on perusal of agreement between assessee and distributors / franchisee, the franchisee/distributor paid the discounted price regardless of, and *even before, the pre-paid products being sold and transferred to the retailers or the actual consumer.* The franchisee/distributor was free to sell the prepaid products at any price below the price printed on the pack. The franchisee/distributor determined his profits/income.

The assessee is not privy to the transactions between distributors/franchisees and third parties. It is, therefore, impossible for the assessee to deduct tax at source and comply with section 194H, on the difference between the total/sum consideration received by the distributors/franchisees from third parties and the amount paid by the distributors/ franchisees to them.

Accordingly, the Apex Court held that section 194H is not applicable to the facts and circumstances of this case and the assessee would not be under a legal obligation to deduct tax at source on the income/profit component in the payments received by the distributors/ franchisees from the third parties/customers, or wholeselling/transferring the pre-paid coupons or starter-kits to the distributors.

(3) Singapore Airlines Ltd. / KLM Royal Dutch Airlines / British Airways Plc v/s CIT (SC):

Issue:

Would the supplementary commission earned by a travel agent over and above the minimum fare i.e. net fare fixed by the airlines be also subjected to TDS u/s 194H besides standard commission on base fare?

Analysis and Decision:

The actions of the agents in procuring customers were done on behalf of the airlines and not independently, and therefore additional income earned by the agents was inextricably linked with the overall principal-agent relationship. Additionally, airlines don't dispute that principal-agent relationship existed during the payment of standard commission.

The details of the amounts at which the tickets were sold are transmitted by the travel agents to BSP (i.e. Billing and settlement plan). The BSP stores a plethora of financial information including commission. The additional amount charged on top of the net fare is portrayed on the BSP as a "supplementary commission" under a separate heading, and this has already been mentioned by the revenue, and accepted by the airlines. *Hence, it was very much practical and feasible for the airlines, by utilizing the information provided by the BSP, to deduct TDS on this additional income earned by the agent*

Note: An illustration showing how additional income arises in the hands of travel agent is as follows–

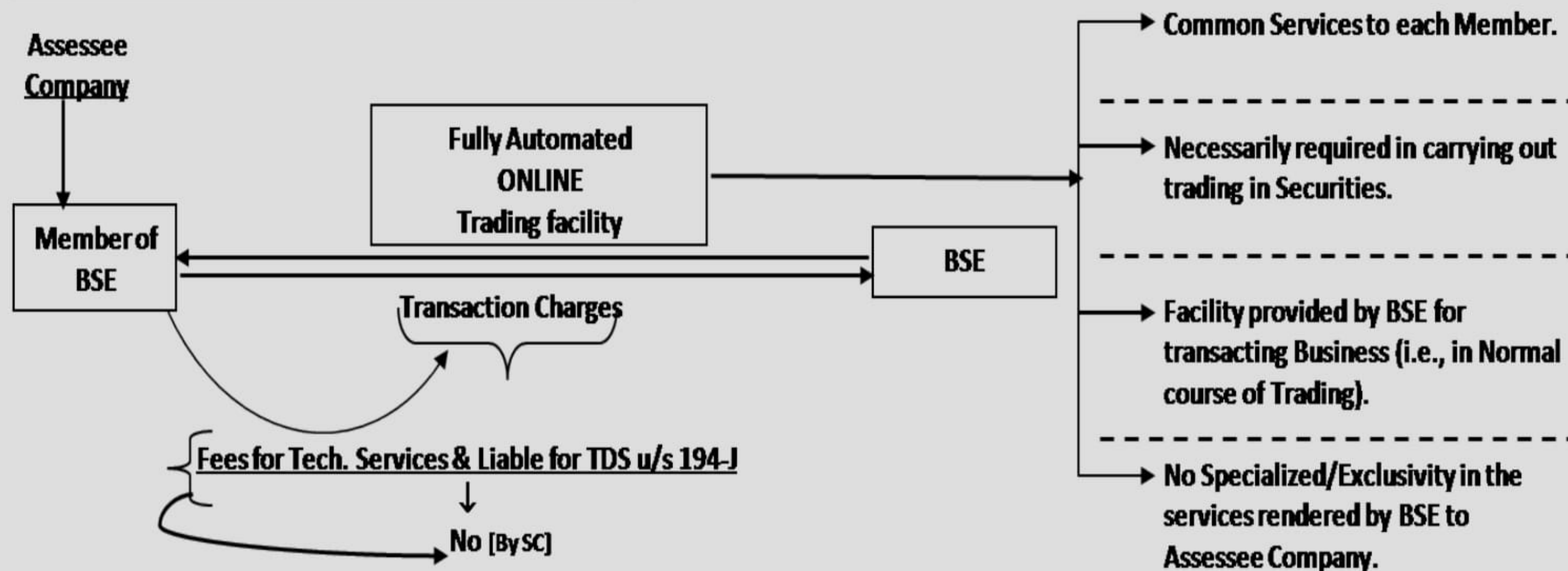
Base fare for Wingfly Airline, Delhi (Set by IATA)	Net fare (Set by the airline)	Actual fare (Set by the travel agent)	Standard commission (7% of the Base fare)	Supplementary commission (Actual fare – net fare)
₹1 lakh	₹ 60,000	₹ 80,000	7% of ₹ 1lakh = ₹ 7,000	₹80,000 (-) 60,000 = ₹ 20,000
Selling price	Income of the assessee (Airline)	₹20,000 left after payment of net fare to the assessee	Income of the Travel agent	Additional Income of the Travel agent

Applying the rationale of the Apex Court in the above case, TDS u/s 194H is required to be deducted both on standard commission of ₹7,000 and on supplementary commission of ₹20,000.

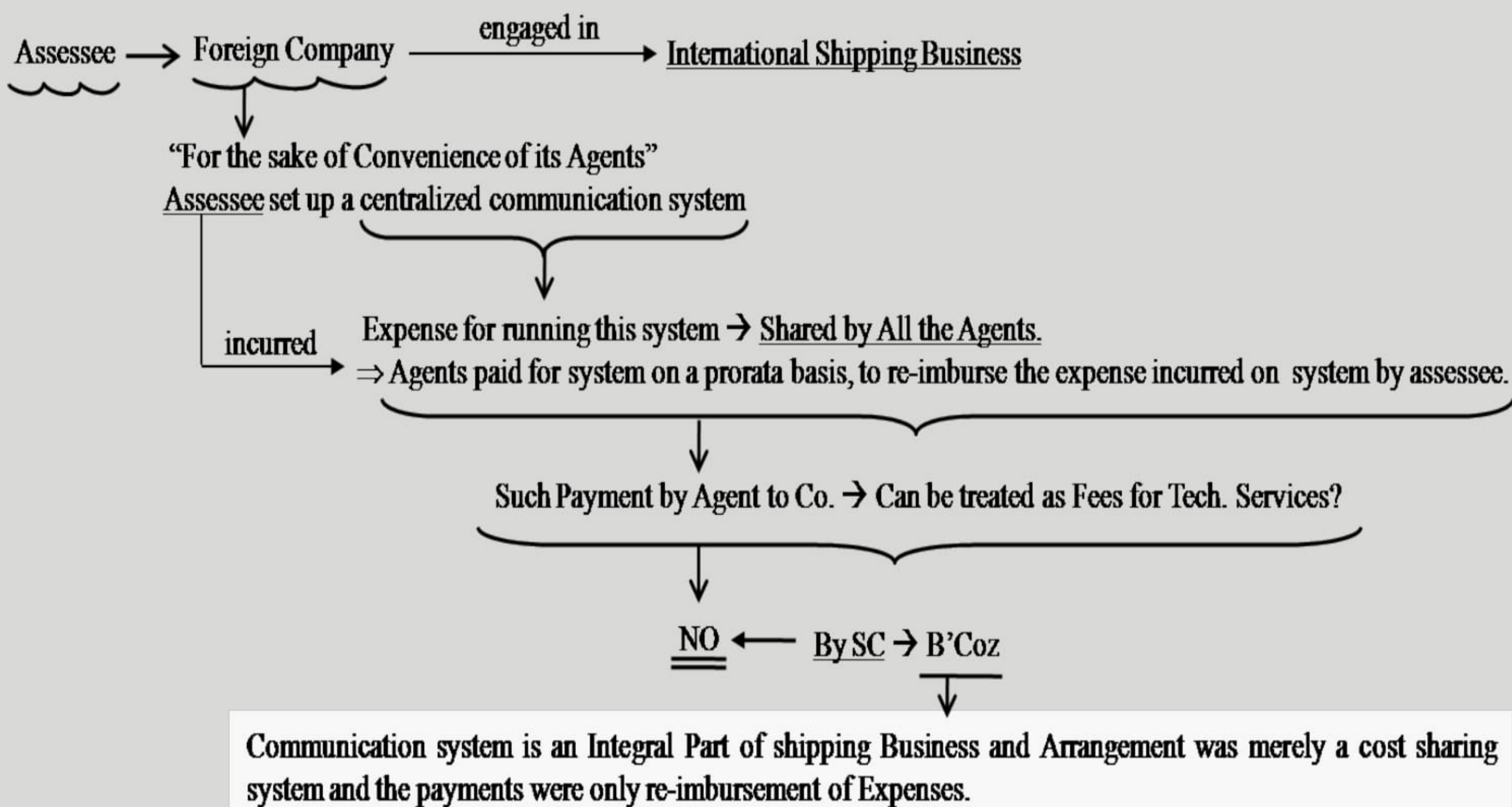
Section 194-J: Deduction of tax from fees for technical services:-

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CIT v/s Kotak Securities Ltd. [2016] (SC):



A.P. Moller Maersk (SC):



Section 201(1A): Interest consequence of failure to deduct or pay of TDS:-

Issue:

is interest u/s 201(1A) attracted even in a case where non-deduction of tax at source was under a bona fide belief that tax was not deductible and the default was not wilful?

Analysis and decision:

The assessee is a private limited company engaged in the business of software development with its office in

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Hyderabad and branch office in London. In the course of executing software projects in the U.K., the assessee had deputed some employees from Hyderabad to London. The assessee did not deduct tax at source on the allowances paid to the staff deputed to the U.K.

Since the company had failed to deduct tax on the payments made to its employees, being Indian residents deputed to work in the U.K., section 201(1A) is automatically attracted; **even if such non-deduction was due to the bona fide belief that tax is not deductible in such case, the company is, nevertheless, liable to pay interest u/s 201(1A).** [Sun Outsourcing Solutions Private Limited v/s CIT (A) (T&AP)]

BDR Finvest Pvt. Ltd. v/s DCIT [2024] (Delhi - HC):

Facts of the case:

- The assessee received interest income from “Ninex” (Deductor). In the return of income filed for the relevant year, assessee offered the entire interest income and claimed the credit for tax deducted at source (TDS) by the said deductor.
- TDS credit was not allowed by the department, pursuant to intimation issued u/s 143(1) and application filed u/s 154 was also rejected for the reason that TDS credit is not reflected in Form 26AS and consequently, the said tax was recovered from the assessee itself.

Issue:

Is the deductee entitled to claim credit for tax deducted at source (TDS) if the amount of TDS is not reflected in Form 26AS **because the deductor has not deposited it with the Government?**

Relevant provisions of law:

- **Section 199(1)** provides that any amount of tax deducted at source and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made.
- **Section 205** provides that where tax is deductible at the source, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

Decision:

- ✓ The High Court referring the Delhi High Court ruling in case of **Sanjay Sudan v/s Asst. CIT [2023]** emphasized that deduction of taxes at source is one of the methods of collecting tax. The tax deducted at source is part of the assessee's income and therefore, the gross amount is included in the total income and offered to tax. It is on this premise that the tax deducted at source would have to be treated as tax paid on behalf of the assessee.
- ✓ **Section 205 provides for restriction against direct demand on assessee to the extent to which tax has been deducted from that income. Thus, no recovery of TDS can be made from the deductee.**
- ✓ Accordingly, the High Court held that section 199 cannot come in the way of the deductee in case deductor failed to deposit the TDS. Therefore, the deductee should be given credit for TDS though it was not reflected in form 26AS and no recovery towards TDS could be made from the assessee in terms of the provisions of section 205. The recovery proceedings could only be initiated against the deductor as the deductor, an agent for collecting tax had failed to deposit the tax with the Government.

"TAX COLLECTION AT SOURCE (TCS)"

Section 206C:

TCS on	Rate of TCS	TCS by whom...	TCS of whom...	Timing of collection
(1) Sale of –		Seller ↓	Buyer ↓	Receipt of consideration or debit to the account of buyer, lessee or licensee, (whichever is earlier)
(i) Liquor	1%	Government; Local authority; Statutory corporation; Company; Firm; Co-operative society; Individual or HUF, whose turnover from the business exceed ₹1 Cr, during last year	Any Buyer except	
(ii) Tendu leaves	5%		➤ Public sector Co.	
(iii) Timber & other forest produce	2.5%		➤ Government.	
(iv) Scrap	1%		➤ Club.	
(v) Minerals (being coal, lignite, Iron-ore)	1%		➤ Office of foreign Govt. / State (e.g. embassy, High Commission, etc.)	
(2) Lease / License of –				
➤ Parking lot, ➤ Toll plaza, ➤ Mine, ➤ Quarry.	2%	Lessor or Licensor	Lessee or Licensee (Except Public Sector Co.)	
(3) Sale of motor vehicle <u>or</u> any other notified goods of the value exceeding ₹ 10 lacs. Note*: If consideration (i.e. sale price) is received in parts, then, TCS will be collected @ 1% on each collection (instead 1% of sale price at beginning).	1%	Seller (as above)	Buyer in Retail transaction only Except ➤ Government. ➤ Office of foreign Govt. ➤ Local authority. ➤ Public sector company which is engaged in the business of carrying passengers.	At the time of Receipt (In any mode* like, cash, cheque, etc.). [* BOARD CLARIFICATION]

Scrap means waste and scrap from the manufacture or mechanical working of material which is definitely not usable as such because of breakage, cutting up, wear and other reasons. Any material which is usable as such would not fall within the ambit of the expression 'scrap' here, therefore, no question of TCS arise in that case.

Section 206C(1G):

(a) TCS on foreign remittance through Liberalised Remittance Scheme (LRS):

Type of remittance (under LRS)	TCS by authorised dealer
<i>Remittance for education, if the amount being remitted out is a loan obtained from any financial institution</i>	Upto ₹ 7 lakhs : Nil Above ₹ 7 lakhs: 0.5%
<i>Remittance for the purpose of education (other than referred to above) or medical treatment</i>	Upto ₹ 7 lakhs : Nil Above ₹ 7 lakhs: 5%
Remittance under LRS for any other purpose	Upto ₹ 7 lakhs : Nil Above ₹ 7 lakhs: 20%

This section will not be applicable in following cases**:

- ✓ If the buyer is liable to deduct TDS under any other provisions and has deducted.
- ✓ If a buyer is CG, SG, an embassy, a high commission, a legation, a commission, a consulate, the trade representation of a foreign state, a local authority or any other person as notified by CG.
- The Central Government vide Notification No. 99/2022, Dated 17-8-2022 hereby notifies that the provisions of sub-section (1G) of section 206C of the Act **shall not apply to a person (being a buyer) who is a non-resident and who does not have a permanent establishment in India.**

(b) TCS on selling of overseas tour package:

- A **seller of an overseas tour program package** who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS at the **following rate** –
 - If purchase price doesn't exceed ₹ 7 lakhs: **5%**;
 - On amount in excess of ₹ 7 lakhs: **20%**
- ❖ There is **no monetary limit, irrespective of any amount, TCS must be collected by seller of tour package.**
- ❖ “**Overseas tour program package**” is proposed to be defined to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expense of similar nature or in relation thereto.

☞ Student may kindly note that **exceptions of buyer (along with notification of CG), **as discussed in part (a) of section 206C (1G) are also applicable in this part (b) of sub-section (1G) of section 206C.**

CIRCULAR NO. 10 /2023, DATED 30-6-2023: GUIDELINES u/s section 206C(1G):-

Q-1	Whether the threshold of ₹ 700,000, for TCS to become applicable on LRS, applies separately for various purposes like education, health treatment and others?
Ans.	The threshold of ₹ 700,000 is combined threshold for applicability of the TCS on LRS <i>irrespective of the purpose of the remittance whether it is education, health treatment or others (like, Gift).</i>
Q-2	Whether the threshold of ₹ 7,00,000, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers? If not, how will authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?

Ans.	<p>The threshold of ₹ 7,00,000 for LRS is qua remitter and not qua authorised dealer, under first proviso to section 206C(1G). The proviso states that the TCS is not required if the amount or aggregate of amounts being remitted by a buyer is less than ₹ 7,00,000 in a financial year.</p> <ul style="list-style-type: none"> ➤ The threshold continues to apply qua remitter. Since the facility to provide real time update of remittance under LRS by remitter is still under development by the RBI, the details of earlier remittances under LRS by the remitter during the financial year may be taken by the authorised dealer through an undertaking at the time of remittance. ➤ If the authorised dealer correctly collects the TCS based on information given in this undertaking, he will not be treated as "assessee in default". However, for any false information in the undertaking, appropriate action may be taken against the remitter under the Income-tax Act. ➤ Further same methodology of taking undertaking from the buyer of overseas tour program package may be followed by the seller of such package.
Q-3	<p>There is threshold of ₹ 7,00,000 for remittance under LRS for TCS to become applicable while there is another threshold of ₹ 7,00,000 for purchase of overseas tour program package where reduced rate of 5% TCS applies. Whether these two thresholds apply independently?</p>
Ans.	<p>Yes, these two thresholds apply independently. For LRS, the threshold of ₹ 7,00,000 applies to make TCS applicable. <u>For purchase of overseas tour program package, the threshold of ₹ 7,00,000 applies to determine the applicable TCS rate as 5% or 20%.</u></p>
Q-4	<p>A resident individual spends ₹ 3,00,000 for purchase of overseas tour program package from a foreign tour operator and remits money which is classified under LRS. There is no other remittance under LRS or purchase of overseas tour program during the financial year. Whether TCS is applicable?</p>
Ans.	<p>In case of purchase of overseas tour program package, which is classified under LRS, TCS provision for purchase of overseas tour program package shall apply and not TCS provisions for remittance under LRS. Since for purchase of overseas tour program package, the threshold of ₹ 700,000 for applicability of TCS does not apply, TCS is applicable, and tax is required to be collected by the seller.</p> <p>In this case the tax shall be required to be collected at 5% since the amount spent on purchase of overseas tour program package during the FY is less than ₹ 7,00,000. The TCS should be made by the seller.</p>

Section 206C(1H): TCS on sale of any goods (except goods on which TCS applicable under other provisions of this section):-

- A seller of goods is liable to collect TCS at the **rate of 0.1 %** on consideration received from a buyer in a previous year **in excess of fifty lakh rupees**.
- In **non-PAN/ Aadhaar** cases the **rate** shall be **1 %**.
- ✓ *Only those **sellers** whose total sales, gross receipts or turnover from the business carried on by it **exceed ten crore rupees** during the financial year immediately preceding the financial year, shall be liable to collect such TCS.*

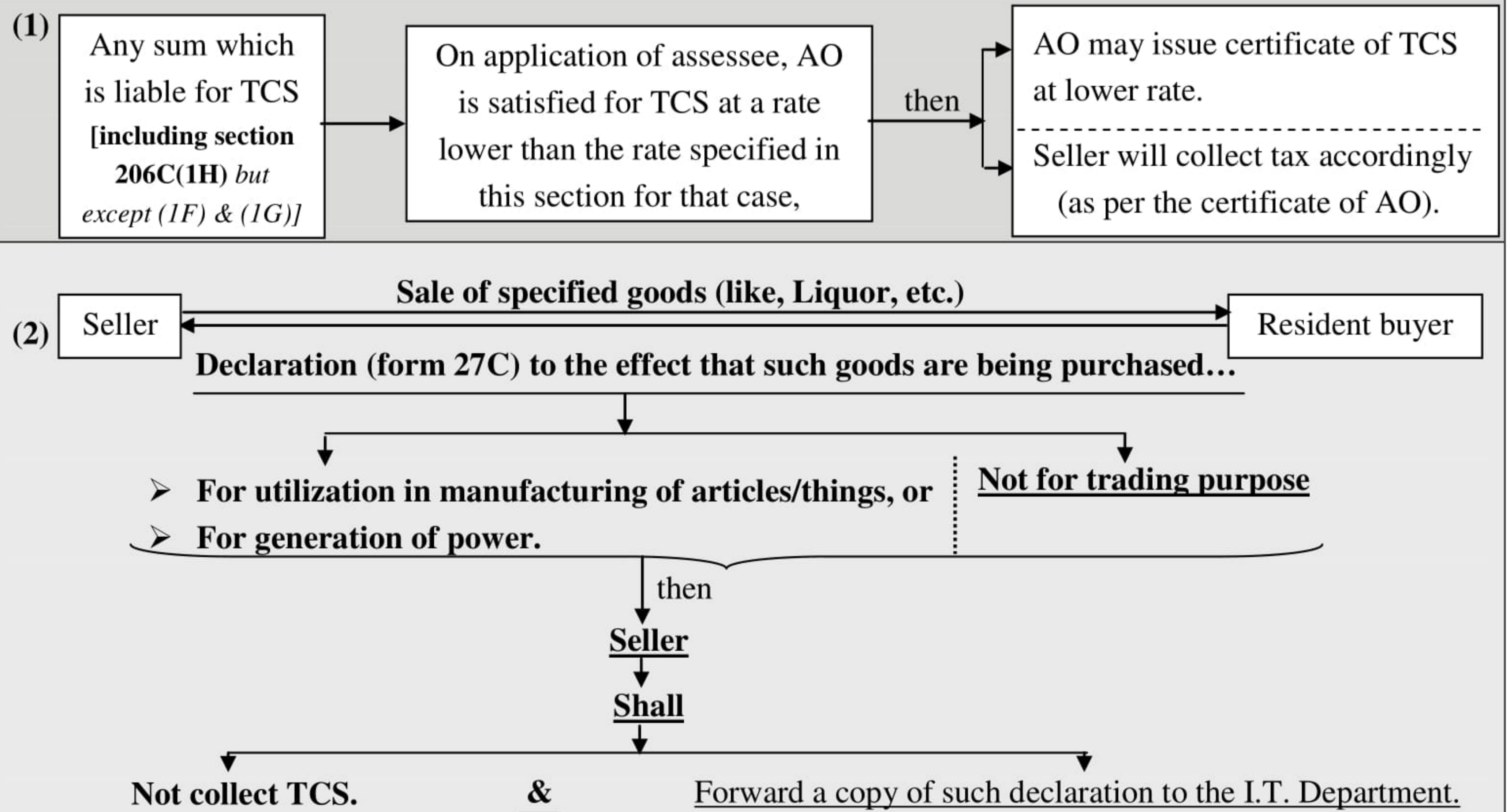
- ✓ Central Government may notify person, subject to conditions contained in such notification, who shall not be liable to collect such TCS.
- ✓ No TCS is to be collected from the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to conditions as prescribed in such notification.
- ✓ No such TCS is to be collected,
 - if the seller is liable to collect TCS under other provision of section 206C such as Section 206C(1), 206C(1F) and 206C(1G) or
 - the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.

CIRCULAR NO. 17 OF 2020, DATED 29-9-2020: GUIDELINE u/s section 206C:-

Applicability of section 206C(1F) and 206C(1H) on sale of motor vehicle:

- (i) Receipt of sale consideration from a dealer would be subjected to TCS under sub-section (1H), if the receipt of sale consideration for such vehicles during the PY exceeds fifty lakh rupees during the PY.
- (ii) In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value often 10 lakh rupees or less to a buyer would be subjected to TCS under sub-section (1H) of section 206C, if the receipt of sale consideration for such vehicles during the PY exceeds fifty lakh rupees during the PY.
- (iii) In case of sale to consumer, receipt of sale consideration for sale of motor vehicle exceeding ten lakh rupees would not be subjected to TCS u/s 206C(1H) if such sales are subjected to TCS u/s 206C(1F).

OTHER RELEVANT POINTS:-

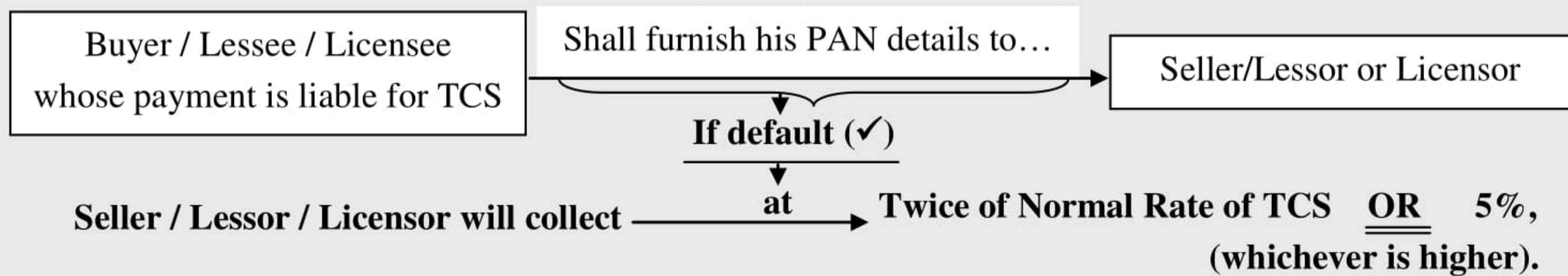


(3) **Procedure part of TCS** (i.e. provisions relating to TCS deposit, Quarterly return, Annual Statement, Apply for TDCAN, etc.) **are on the same line as given under TDS subject to the following differences:**

- (i) Time limit of deposit of TCS is 7 days from the end of the month of TCS even if it relates from the month of March.
- (ii) Time limit of quarterly return of TCS:
 - ☞ For first 3 quarters: *within 15 days from the end of quarter.*
 - ☞ For last quarter: *upto 15th May after the end of the relevant financial year.*
- (iii) In case of failure to collect tax, Seller will personally be liable to pay such tax.
- (iv) Whether there is delay in collection / delay in depositing of TCS, Interest @1% P.M. or part of the month will be levied. But, w.e.f. 1st April, 2025, in case of late deposit of TCS, Interest @1.5 % P.M. or part of the month will be levied. As amended by F. A., 2024

(4) No TCS or TCS shall be made at such lower rate in respect of specified transaction, from such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as the Central Government may specify in this behalf. As inserted by F. A., 2024

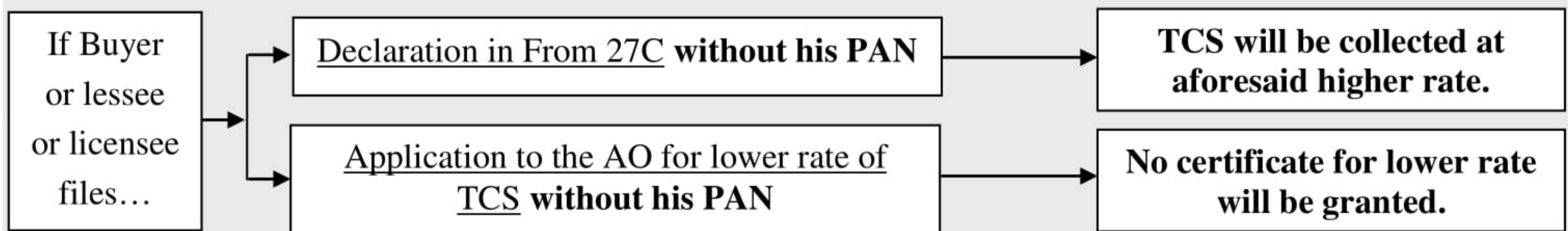
Section 206CC: Requirement to furnish permanent account number by Collectee:-



☞ If PAN is invalid / not belonged to payer (buyer), payee will collect tax at the above said higher rate.

☞ Provided that the rate of tax collection at source under this section shall not exceed 20%.

As inserted by F. A., 2023



☞ This section shall not apply to a non-resident not having permanent establishment in India.

Section 206CCA: Special provision for collection of tax at source for non-filers of ROI:

Refer to the Note as given in last of section 206AB (TDS chapter)