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Dear Readers,

Greetings for the season!

In this edition, we bring you, the second part of article on the most complicated issues in direct taxation, dealing with taxation in cases where there is a change in partnership firms and other specified entities. The said issue gets complicated when the firm tries to settle the partner with a capital asset or stock in trade or money or in a combination thereof. In the earlier part, we have introduced the amendments made qua Finance Act, 2021 to the said provisions. In this edition, we deal with the case studies surrounding the said aspect. We request you to read the same and share your views and feedback. We would have definitely missed one or other points, considering the vastness of the topic. We would be glad to cover the same in next editions.

The next article is another compliance under withholding obligations introduced vide Section 194Q. The said provision has assumed significance since the same is made effective from 1st July 2021. A similar provision introduced on seller vide Section 206C(1H) in last year budget, also added confusion, when the Section 194Q came into play. Further, the deduction of tax at higher rate, in case of specified persons also coming into effective from 1st July 2021, made it hard for the tax payers to accept and digest. We have come with a detailed article covering all the issues mentioned above.

I hope that you will have good time reading this edition and please do share your feedback. I will also urge clients to mail us topics or issues on which you want us to deliberate in our future editions, so that we can contribute to the same.

Thanking You,

Suresh Babu S
Founder & Chairman

DIRECT TAXATION

PARTNER VIS-A-VIS CAPITAL GAINS - VERSION 2.0 - PART II

Contributed by CA Suresh Babu, CA Sri Harsha & CA Narendra

In our earlier version on the captioned subject matter, we have extensively dealt with taxation in the hands of the firm and the partners at the time of admission or dissolution and connected issues therein. We have framed four issues and tried to answer them with the help of judicial precedents on the subject. The article can be accessed here Partner vis-à-vis Capital Gains | SBS Blog. We strongly recommend to read the above article before proceeding to read the subject article.

Modus Operandi:

This is Part II of the two part series of the article. In the first part, we have dealt with conclusions of previous article and amendments to the said sections laying a base for case studies. In this part, we shall deal with case studies. We request the reader to read both the parts to drive home the point. Now, let us proceed with Part II.

Case Studies:

- The above Section 9B and Section 45(4) have to be applied in the right manner. As stated earlier, Section 9B is applicable in a situation of receipt of capital asset or stock in trade when there is a reconstitution or dissolution of a specified entity. However, Section 45(4) is applicable in a situation of receipt of capital asset or money when there is a reconstitution of a specified entity. Undoubtedly, on a conjoint reading, lot of confusion would arise.

- In order to understand the above two sections, let us break the provisions into two parts. Part I is with regard to reconstitution of a specified entity and Part II with regards to dissolution of a specified entity.

Part I: Reconstitution of Specified Entity:

- As stated earlier, at the time reconstitution of a specified entity, both Section 9B as well as Section 45(4) would be applicable. Let us proceed to understand the operation of Section 9B and Section 45(4) at the time of reconstitution of specified entity.

- First, we shall proceed to understand the provisions of Section 9B at the time of reconstitution of a specified entity. Section 9B states that where any specified person receives ***any capital asset or stock in trade*** at the time of reconstitution (dissolution will be dealt in Part II)of any specified entity, such receipt of capital asset or stock in trade would be considered as transfer of capital asset or stock in trade by a specified entity in the normal course of a business.

- In other words, Section 9B requires that, in the above situation, income of a specified entity shall be computed as if such entity has transacted with outside person. Accordingly, specified entity is liable to pay tax on capital gains or business profits under Section 45 or Section 28 of the Act, as the case may be.

- With the above analysis, let us proceed to analyse the provisions of Section 45(4) at the time of reconstitution of a specified entity. Section 45(4) states that when any specified person receives any capital asset or money at the time of reconstitution from any specified entity, such receipt of capital asset or money would deemed to be considered as capital gains in the hands of specified entity.

- However, computation of capital gains under Section 9B is different from that of new Section 45(4). The computation mechanism under provisions of Section 9B is same as old Section 45(4) qua transfers of capital assets. Whereas new Section 45(4) has been enacted through the Finance Act, 2021 in order to tax the excess amounts over capital account balances (may be referred as to goodwill) of a specified person who retires from the specified entity.

- When any retiring person receives any consideration namely, capital asset or money in excess of the balance in the capital account of specified person, such excess amount would be considered as capital gains in the hands of specified entity under Section 45(4). Further, while computing the balance in the capital account, self-generated goodwill should not be considered.

- Let us understand the above provisions by way of an example. M/s ABC Firm has three partners, Mr A, Mr B and Mr C formed on January 01, 2021. The balance sheet of the firm as on 1st July 2021 is as follows:

Particulars		**Amount**	**Particulars**		**Amount**
Capital Accounts			**Immovable Properties**		
Mr A	100		Land P	70	
Mr B	100		Land Q	80	
Mr C	100	300	Land R	100	250
Unsecured Loans		150	Stock in Trade		200
Provisions		100	Cash in Hand		30
			Other Current Assets		70
Total		550	Total		550

- During the year, Mr A wishes to retire from the firm. So, three partners agreed to revalue the assets as on the date for the purpose payment of capital balance to Mr A.The revaluation profits have been transferred to partners' capital account. The balance sheet of the firm subsequent to the revaluation is as follows:

Particulars		Amount	Particulars		Amount
Capital Accounts			**Immovable Properties**		
Mr A	140		Land P	100	
Mr B	140		Land Q	120	
Mr C	140	420	Land R	150	370
Unsecured Loans		150	Stock in Trade		200
Provisions		100	Cash in Hand		30
			Other Current Assets		70
Total		670	Total		670

- As the capital balance of Mr A stood at Rs. 140, it has been agreed to pay the capital balance to Mr A in the following possible options:

Settlement	Option – 1	Option – 2
Land P		100
Stock in Trade		20
Cash[1]	140	20
Total	140	140

From the above example, let us compute the tax payable under Section 9B and Section 45(4) under both the options.

Option – 1:
Computation under Section 9B:

- In this option, as retiring partner is receiving cash alone, provisions of Section 9B would not be applicable.

- However, as the capital asset being Land P and stock in trade have been transferred to third parties, income of the firm has to be computed under the normal provisions of the Act. As the land is held for a period less than 2 years, it would be considered as short-term capital asset.

[1] As firm does not have enough cash balance, it would transfer Land P and stock in trade to third person to realise cash

- Accordingly, the specified entity would have paid tax on the gain of Rs 30 (100 – 70 being the cost of acquisition), assuming the margin on stock in trade is 50% and tax rate applicable at 25%, the profit that would be remaining for distribution is Rs 30, which would be transferred to resultant [2]partner's

Computation of Capital Gains under Section 45(4):

- Now, let us proceed to compute the capital gains under Section 45(4). As stated earlier, for the purpose of computation of capital gains, the formula prescribed section 45(4) needs to be applied, A = B + C – D

Item	Description	Scenario 1	Scenario 2
B	value of any money received by the specified person	140	140
C	amount of fair market value of the capital asset received by the specified person	-	-
D	amount of balance in capital account without considering revaluation profit	100	110
A = B+C-D	Income Chargeable under Capital Gains in hands of Specified Entity	40	30
Tax	Tax @ 25%	10	7.5

- As evident from the table above, in Scenario 1, the capital balance appears as Rs 100 and in Scenario 2, Rs 110. The common thing in both the scenarios is removal of revaluation profit from the capital account balance. Since the capital account balance is Rs 140 and the profits arising from revaluation is Rs 40, the balance would be Rs 100. However, in Scenario 2, there is an extra balance of Rs 10 as against in Scenario 1. The rationale behind the extra balance of Rs 10 in Scenario 2 is explained as under.

- The guidelines issued by CBDT asks the capital gains arising from deemed transfer of capital assets (profits arising from transfer of stock in trade too) to the retiring partner to all the partners including the retiring partner. As stated above, the profits after tax of Rs 30 is to be distributed to all the partners including retiring partner. Hence, the capital account balance of Mr A would be Rs 110 [Rs 100 + Rs 10].

- However, the addition of Rs 10 appears to be reasonable only if it is assumed that the deemed transfer takes place prior to the retirement of partner. Let us say, in a case, where Mr A is agreed to be paid Rs 140 and the same is settled by way of allotting an asset after a period of 6 months, then distribution of profit to the retiring partner would look like putting the clock back. As of now, it is not clear, whether the guideline is applicable only in cases, where the settlement is done immediately prior to retirement. We need to wait and see the development in this connection.

[2]The issue, whether the profit has to be shared only to the resultant partners or all the partners including retiring partner is dealt at the time of dealing with Section 45(4).

Option 2:

Computation under Section 9B:

- In this option, as retiring partner is receiving capital asset and stock in trade, by invoking Section 9B, capital gains and PGBP has to be computed as per the normal provisions of the Act. Considering the same numbers as taken in Option 1, the profits after tax would be Rs 30.

- Subsequent to the payment of tax, net profit of Rs 30would be transferred to resultant[3] partners account in the agreed proportion.

Computation of Capital Gains under Section 45(4):

- Now, we shall proceed to compute the capital gains under Section 45(4). As stated earlier, for the purpose of computation of capital gains, the formula prescribed Section 45(4) needs to be applied, A = B + C – D.

Item	Description	Scenario 1		Scenario 2	
		View 1	View 2	View 1	View2
B	value of any money received by the specified person	40	20	40	2 0
C	amount of fair market value of the capital asset received by specified person	100	100	100	100
D	amount of balance in capital account without considering revaluation profit	100	100	110	110
A = B+C-D	Income Chargeable under Capital Gains in hands of Specified Entity	40	20	30	10
Tax	Tax @ 25%	10	5	7.5	2.5

- Scenario 1 deals with taking the capital account balance only be removing the revaluation profit and not adding up the profit in terms of Section 9B. Whereas, Scenario 2 deals with the determination of capital account balance as per guidelines prescribed by CBDT. Under View 1, we have taken the view that the value of money includes all the amounts which are liquid in nature. Under View 2, we have taken the view that value of money is only the money received and not included other assets.

- From the above analysis, it can be concluded that Section 9B is nothing but combination of old Section 45(4) and Section 28. So, as regards to Section 9B there would not be any new additional burden on the taxpayer by the Finance Act, 2021.

[3] As discussed above.

- Now, let us proceed to analyse the additional burden on the taxpayer by virtue of new Section 45(4). As stated earlier, new Section 45(4) has been made in order to tax amount withdrawn by the specified person on reconstitution.In nutshell, new Section 45(4) is taxing the specified entity on revaluation of assets/recognition of self -generated assets/goodwill. In the above example, ABC has revalued assets to the extent of Rs 120 (Rs 30 on Land P, Rs 40 on Land Q and Rs 50 on Land R respectively). As the capital asset being Land P has been transferred to Mr A, it seems that an amount of income Rs30 is doubly taxed in the hands of ABC. Once as a transfer of asset under Section 9B and second time under Section 45(4) being excess over capital account balance received by the partner.

- Hence, in order to mitigate effect of the double taxation, Section 48(iii) has been inserted so as to provided that income which is considered under Section 45(4) on account of revaluation of assets or recognition of assets shall be attributable to remaining assets of the specified entity and such amount has to be reduced while computing the capital gains of remaining assets when such assets have been transferred in future by the specified entity.

- In this regard, Rule 8AB has been notified for the purpose of computation of amount to be attributable to remaining assets of the specified entity. Rule 8AB provides the following procedure for attributing the amount to remaining assets:

  - Where the income considered under Section 45(4) is related to revaluation of assets or recognition of self-generated goodwill or assets, such income has to be attributed to remaining assets of the specified entity in proportionate to the increase in the value of asset to total increase in the value of all assets (total assets means assets other than the capital asset received by the specified person).

  - Where the income considered under Section 45(4) is not related to revaluation of assets or recognition of self-generated assets/goodwill, such income should not be attributed to other assets.

  - Where the income considered under Section 45(4) is related to revaluation of capital asset received by the specified person alone, such income should not be attributed to other assets of the specified entity.

- Further, it has been provided through Rule 8AB, that income considered under Section 45(4) shall relate to revaluation of assets or recognition of self-generated assets only when such revaluation/recognition is based on the valuation report obtained from a registered valuer as defined under Rule 11U(g). It is further provided that no depreciation on account increase in the value of asset shall be allowed on account of revaluation or recognition of assets of the specified entity.

- Let us understand, the attribution of income under Rule 8AB from the above example discussed. ABC firm has revalued the assets at the time of retirement of Mr. A from the firm. Rule 8AB states that income considered under Section 45(4) shall be attributable to remaining assets of the specified entity:

Capital Assets	Book Value	Revaluation Profit	Attribution of Income to Other Assets
Land P	70	30	-
Land Q	80	40	13.33 (30*40/90)
Land R	100	50	16.67 (30*50/90)

- Given the above analysis, Section 48(iii) has been inserted to mitigate the effect of double taxation by virtue of Section 45(4). The profit of Rs30[4] would be attributed to the remaining assets and same would be reduced from the full value of consideration while computing the capital gains when such asset is transferred by the specified entity in future.

- Further, while reading of Section 45(4) for the purpose of computation of capital gains, the question that arises is whether such capital gain is short-term or long term. As discussed earlier, Section 45(4) is taxing the revaluation profits of the assets of specified entity. Hence, determination of nature of capital gains should have to depend upon on nature of assets of the specified entity which are revalued.In this regard, a new sub-rule 5 has been inserted in Rule 8AA which state that:

  ❖ amount/part of it shall be deemed to be from transfer of short-term capital asset, if it is attributed to:

  a. capital asset which is short term capital asset at time of taxation of amount under Section 45(4)
  b. capital asset forming part of block of asset
  c. capital asset being self-generated asset/goodwill

  ❖ the amount or a part of it shall be deemed to be from transfer of long-term capital asset or assets, if it is attributed to capital asset which is not covered by above clause and is long term capital asset at the time of taxation of amount under Section 45(4).

Part II: Dissolution of Specified Entity:

- In Part I, the tax implications under Section 9B and Section 45(4) has been discussed when there is re-constitution of a specified entity. In Part II, let us try to understand the tax implications when there is a dissolution of firm.

- Before moving forward, let us understand the difference between re-constitution and dissolution of a specified entity. Reconstitution of a specified entity to mean retirement of one or more persons or admission of one or more partner along with the old partners or change in the profit sharing. Whereas dissolution of the specified entity to mean exit of all partners by way discontinue of the business of the specified entity.

- As stated earlier, Section 45(4) has been enacted to tax the revalued profits of the specified entity. However, at the time of dissolution of the entity, there would not be any such type of revaluation of assets and hence, Section 45(4) would not be warranted. Hence, at the time of dissolution of a specified entity, specified entity needs to be computed tax under Section 9B alone.

[4] If the interpretation that the phrase ‘money’ includes other liquid assets, then the profit and attribution may vary.

- Let us understand the effect of Section 9B, Section 45(4) and Section 48 (iii) in the following example. Mr X, Mr Y and Mr Z have decided to purchase land in their individual capacity and have purchased the same in the following manner:

Person	Value	Sale Value (after 18 months)	Capital Gain	Tax @ 25%
Mr X	1,000	1,200	200	50
Mr Y	1,000	1,500	500	125
Mr Z	1,000	1,800	800	20
Total	3,000	4,500	1,500	375

- Now, if in the above example, instead of purchase of land in their individual capacities, three persons have decided to form a partnership firm for the purchase of lands. In such case, the following would be the situation:

Particulars		Amount	Particulars		Amount
Capital Accounts			Immovable properties		
Mr X	1,000		Land X	1,000	
Mr Y	1,000		Land Y	1,000	
Mr Z	1,000		Land Z	1,000	
		3,000			3,000
Total		3,000	Total		3,000

- 18 months after the formation of firm, Mr Z has decided to retire from the firm, and they have agreed to transfer Land Z to Mr Z as final settlement of capital.The revalued prices of the land as on the date of retirement of Mr Z:

Land	Book Value	Revalued Value	Increase in Value
Land X	1,000	1,200	200
Land Y	1,000	1,500	500
Land Z	1,000	1,800	800
Total	3,000	4,500	1,500

- As Mr Z is in receipt of capital asset at the time of reconstitution of the firm, Section 9B and Section 45(4) would come into play. In the first instance, capital gain under section 9B has to be computed in accordance with the provisions of the Act and FMV of such asset would be considered as full value of consideration and the tax at the rate of 25% would be Rs 200 [(1800-1000)*25%]

- Subsequent to the computation of net profits under Section 9B, such profits net-off of taxes has to be transferred to partner's capital account in their capital ratio i.e. Rs600 (800-200) has to be transferred to partner's capital.

Person	Amount Invested	Profit on deemed transfer of Asset	Balance in Capital Account
Mr X	1,000	200	1,200
Mr Y	1,000	200	1,200
Mr Z	1,000	200	1,200[5]
Total	3,000	600	3,600

- Now, as Mr Z is receiving Land Z, capital gains under Section 45 (4) needs to be computed as under:

Item	Description	Amount
B	value of any money received by the specified person	-
C	amount of fair market value of the capital asset received by specified person	1,800
D	amount of balance in capital account without considering revaluation profit	1,200
A = B+C-D	Income Chargeable under Capital Gains in hands of Specified Entity	600
Tax	Tax @ 25%	150

- Rule 8AB states that income considered under Section 45(4) shall be attributable to remaining assets of the specified entity. The attribution of income under Section 45(4) to remaining assets of the firm is as follows:

Land	Book Value	Revalued Value	Increase in Value	Attribution of Income
LandX	1,000	1,200	200	240(600*200/700)
Land Y	1,000	1,500	500	360(600*300/700)
Land Z	1,000	1,800	800	-
Total	3,000	4,500	1,500	

- Subsequently, after the three months of retirement of Mr Z, the remaining partner have decided to dissolve the firm and it has been agreed between them that Land X would be given to Mr X and Land Y would be given to Mr Y.

- As partner of firm has received capital asset at the time of dissolution of firm, capital gain needs to be computed having regard to Section 9B. FMV of such would be considered as full value of consideration. Further, income as considered under Section 45(4) at the time of retirement of Mr Z needs to be reduced from the full value of consideration as per Section 48(iii) read with Rule 8AB.

[5] This is based on discussion we had for Scenario 1 in Option 1 for 'Computation of Capital Gains under Section 45(4)'

Particulars	Land X	Land Y
Income from Capital Gains		
Full Value of Consideration (FMV)	1200	1500
Cost of Acquisition	1000	1000
Reduction of Income as per Section 48(iii)	240	360
Short Term Capital gains	(40)	140
Total Income	-	100
Tax @ 25%	-	25

- Further, as there is no reconstitution of the firm, Section 45(4) would not be applicable. In this case, the firm has liable to pay a total tax of Rs375 (Rs 200 and Rs 150 on retirement of Mr Z and Rs25 on dissolution of the firm) which is same as amount paid when such lands were purchased individually.

Conclusions – Post Amendment:

With the above in background, let us now, revisit the issues and conclusions arrived pre-amendment to analyse the current position.

Issue #	Issue	Response
Issue # 1	When a firm pays certain amounts to the retiring partner, can it be said that there is a transfer from partner in favour of continuing partners?	<u>**Position – Pre Amendment:**</u> <u>**View #1 – Follow Mohanbhai Pamabhai:**</u> • By following the decision of SC in Mohanbhai Pamabhai, the retiring partner can take a stand that there exists no transfer, when he retires from the firm. <u>**View #2 – Follow Tribhuvandas G Patel:**</u> • If the retiring partner is settled only the credit lying in his capital account, then he can still follow View#1 and take a stand that there should not be any tax. • If the retiring partner is receiving an additional amount or lumpsum amount and there is a deed in place stating that retiring partner relinquishes his rights in assets of the firm to the continuing partners, such amounts may be taxed as capital gains. This was by following the Tribhuvandas G Patel (supra) despite it was reversed by SC. <u>**Conclusion:**</u> • As far as the amounts received are equivalent to credit lying in the capital account of retiring partner, there would not be any tax. The issue arises only if there is a lumpsum or additional amount. • Even in such cases, we are of the view that the judgment of SC in Mohanbhai Pamabhai still holds good even today. This is for the reason that though the ITA was amended to insert Section 45(3) and Section 45(4) to arrest the tax abuse strategies, there is no amendment to get the amounts received on retirement, which suggest that the legislature favours with the view of Mohanbhai Pamabhai.

		Position – Post Amendment: • By the replacement of earlier sub-section, with new sub-section, the legislative intent was made clear to tax the specified entity on the amounts paid or allotment of capital assets to the specified persons at the time of reconstitution. • Hence, the judgments of Mohanbhai Pamabhai and others which followed them have to give way to the new amendment and accordingly the specified entity has to pay, even in the cases where there is a retirement of partner. • The new sub-section makes it clear to tax the difference of the fair market value of asset (including money) and the balance in the capital account, by whatever name called. Hence, the balances in capital account and current account has to be clubbed and deducted from the fair market value to arrive the value for taxation in the hands of the specified entity. Appropriate care has to be taken that the capital and current account balances were not overstated on account of revaluation of assets or self-generated good will or asset. • From the above, it is evident that the judgments in the matter of Tribhuvandas G Patel (supra), wherein it was stated that the amounts paid in excess of capital account balances is to be brought to tax was now in a way provided legislative blessing. • The only aspect that was remaining to be addressed is that allotment of money paid at the time of dissolution. Since the said mode was not covered either under Section 9B or Section 45(4).

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<td>Issue # 2</td>
<td>When a firm allocates certain assets to retiring partner, can it be said that there is a transfer of capital asset by such firm to the retiring partner?</td>
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<u>Position – Pre Amendment:</u>

In the above issue, we have discussed, what would be the taxability when the retiring partner is in receipt of amount. In this issue, we shall deal with taxability when the retiring partner is allotted a capital asset instead of money.
Ideally, the taxability should not be dependent upon the mode of discharge of consideration. Hence, irrespective of the fact, that retiring partner has received money or capital asset, the taxation should not change.
However, the Bombay HC in AN Naik & Associates (supra) held that allocation of capital asset to retiring partner would be taxable under Section 45(4) in the hands of the firm. The HC stated that the term ‘otherwise’ used in Section 45(4) covers ‘retirement’ because it has to be read in connection with ‘transfer’ used therein but not with ‘dissolution’.
Accordingly, the Bombay HC held that the distribution of capital asset to retiring partner is taxable in the hands of the firm. The HC has come to such conclusion keeping the intention of legislature behind insertion of Section 45(4). The Court stated that if Section 45(4) is to be interpreted only to cover the cases of ‘dissolution’, then the entire intention to get Section 45(4) goes into drain.
We are of the view that subject to our comments above, the above decision lays down a good proposition.

<u>Position – Post Amendment:</u>

The view stated in Issue#1 under the ‘Position – Post Amendment’ holds good here too.

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Issue # 3	When a firm distributes capital assets at the time of dissolution, can it be said that there is a transfer of capital asset by such firm to the persons?	**Position – Pre Amendment:** • The SC in Malabar Fisheries Co (supra) has held that there exists no transfer when a firm dissolve. The SC stated that the firm and partners are not different and accordingly held that there cannot be transfer from firm to partners, when the firm dissolves. • However, this is fixed after insertion of Section 45(4). The said section was brought into the tax net only to override the above judgement. Hence, post 1988, when a firm distributes capital assets on its dissolution, the said transaction would be transfer in terms of Section 45(4) and accordingly taxable. **Position – Post Amendment**: • This is now replaced by Section 9B. Hence, any capital asset transferred by the specified entity at the time of dissolution, the transfer would be chargeable under the head 'capital gains' by virtue of Section 9B and not Section 45(4). As stated earlier, the new Section 45(4) does not cover the dissolution.

Issue # 4	When a personal asset is being contributed as capital to a partnership firm in which the contributor becomes a partner, can it be said that there is a transfer of capital asset by such person to the firm?	**Position – Pre Amendment:** • The SC in Sunil Siddharathbhai (supra) has stated that when a person asset is contributed to the firm, there exists a transfer for the reason that the contributing partner loses his exclusive right in the property, which earlier he has. However, the SC stated that the amount recorded in books of the firm may not represent the true value of consideration and accordingly stated that the charge fails in absence of methodology for determination of consideration. • In order to overcome this aspect, the legislature inserted Section 45(3) treating that said transaction as transfer and consideration as the amount that was being recorded in the books of the firm. **Position – Post Amendment:** • There is no change to the above position even post amendment.

DIRECT TAX

ALL ABOUT SECTION 194Q, HIGHER RATES OF TAX AND ISSUES THEREOF

Contributed by CA Sri Harsha & CA Narendra

Section 194Q – An Interceptor to TCS under Section 206C (1H):

We all know that through the Finance Act,2020, a new clause (1H) has been inserted to Section 206C for collection of tax at source in order to bring-in certain transactions in respect of sale of goods under the purview tax collection at source (for brevity 'TCS'). Under the amended provisions through Finance Act 2020, any seller who has made domestic sales, being sale of goods, to any person in any previous year in excess of INR 50lakhs is liable to collect tax at the rate of 0.1 percent from the buyer on such amount exceeding INR 50lakhs .[1]

Now, through the Finance Act, 2021, a new Section 194Q has been inserted in similar lines with section 206C (1H). Under the new provisions, a buyer who is responsible for making any payment to any resident in respect of purchase of goods in a previous year in excess of INR 50lakhs is required to deduct tax at source at the rate of 0.1 percent on value exceeding INR 50lakhs.

Section 206(1H) is applicable to the seller of goods and section 194Q is applicable to the buyer of goods. As section 194Q and section 2016 (1H) are in similar lines and may be applicable for same transaction, let us discuss both the provisions on comparative basis.

Table #1:

Description	Section 194Q – TDS	Section 206C (1H) – TCS
Applicability	Buyer being a payer is liable to deduct tax at source while making payment or making entry in the books of account whichever is earlier.	Seller being a payee is responsible to collect the tax at source at the time of receiving the amount. Unlike TDS, it is based only on receipt and not on provision.
Threshold limit	Buyer is liable to deduct tax while making payment to any resident for purchase of any goods of aggregate value exceeding INR 50 lakhs in a year. Tax shall be deductible on value exceeding INR 50lakhs.	Seller is liable to collect tax for sale of any goods not being goods exported outside India if aggregate value of such goods exceeds INR 50 lakhs in a year. Tax shall be collectible on value exceeding INR 50 lakhs.
Rate	0.1 percent on value exceeding INR 50 lakhs.	0.1 percent on value exceeding INR 50 lakhs.
Higher Rate	If seller fails to provide PAN to payer, tax shall be collectible at the rate of 5% instead of 0.1% (rate as per section 206AA).	If buyer does not provide PAN or Aadhar, tax shall be collectible at 1% instead of 0.1%(rate as per section 206CC).

[1] For detailed analysis, refer our article athttps://www.sbsandco.com/blog/tax-collection-at-source-sale-of-goods

Buyer	Buyer means a person whose gross receipts or turnover from the business exceeds INR10 Crore during the preceding financial year and not being a person specifically exempted by the Central Government.	Buyer means any person purchaser of goods but does not include: • Central Government, State Government, an embassy, a High Commission, legation, commission, consulate and the trade representative of foreign state. • Local authority. • Any person importing goods into India.
Seller	From any resident seller.	Seller means a person whose gross receipts or turnover from the business exceeds Rs.10 Crore during the preceding financial year and not being a person specifically exempted by the central government.
Carve-outs	**The provisions of Section 194Q _are not_ applicable in respect of any transaction on which:** • Tax is deductible under any provisions of the Act or • Tax is collectible under the provisions of section 206C **_except to which 206C (1H) is applicable._**	The provisions of section 206C (1H) are not applicable in respect of: • any goods which are covered under section 206C (1), section 206C (1F) or section 206C (1G) • any transaction on which tax is deductible and buyer has deducted such tax at source.

As stated earlier, in respect of same transaction both section 194Q and section 206 (1H) may be applicable. In such a scenario the question arises is whether both TDS and TCS are required to be made. Let us proceed to understand the provisions of section 194Q and 206 (1H) cumulatively.

Section 194Q(5) states that the provisions of Section 194Q shall not be applicable in respect of which tax is collectible under Section 206C other than to which Section 206(1H) is applicable. In other words, **_where in respect of any transaction for which, even though, tax is collectable under Section 206 (1H), Section 194Q applies._**

However, Section 206C (1H) states that provisions of TCS under Section 206(1H) are not applicable in respect of which TDS is deductible under any provisions of the Act and buyer has deduced TDS on such transaction. In other words, when TDS provisions are applicable and buyer has discharged his obligation, TCS under Section 206 (1H) is not applicable. On a conjoint reading, it can be concluded that provisions of Section 194Q alone are applicable in a situation when the transaction is capable of subjected to both Section 194Q and Section 206C(1H).

Further, Central Board of Direct Taxes (for brevity 'CBDT') has provided a relaxation that where in respect of any transaction, tax is collected under section 206C(1H) by any other reasons, such transaction comes out the purview of Section 194Q, as rate of tax is same under both the sections. However, whether this clarification is for the transition period or applicable all the time is not clear. Though the circular states so, in presence of Section 194Q(5), the tax authorities tomorrow may insist withholding on the buyer.

Issues:

There are certain issues arising from the language used in the above section and its implementation from the mid of the year, the same are discussed hereunder:

Issue #1: Whether the payments made post 1st July 2021, for the purchases made for the period prior to 1st July 2021 is also to be subjected to tax deduction at source?

This issue would arise since Section 194Q has been made effective from 1stJuly 2021. Section 194Q states that buyer is liable to deduct tax at the time of payment of money or creating accounting entry in the books of account whichever is earlier. Where in respect of any transaction, invoice is received prior to 1st July 2021 and payment has been made after the 1st July 2021 or vice-a-versa, the liability to deduct tax at source triggers prior to 1st July 2021. However, as the provision is not effective prior to 1st July 2021, there would not be any requirement to deduct tax at source. In other words, section 194Q is applicable in respect of transaction for which both payment and invoice is raised on or after 1st July 2021. This view is also clarified by the CBDT [2].

Issue #2: Whether the threshold of Rs 50 lakhs is to be considered only from the purchases made from 1stJuly 21 or for the period prior also?

The obligation arises on buyer if the purchase exceeds Rs 50 lakhs qua a seller. However, for determining, whether the purchases qua a seller exceeds Rs 50 lakhs, should transactions only for the period post 1stJuly should be considered or purchases for the period 1stApril to 30thJune should also be considered? Let us say, a buyer has made purchases from a seller for period 1stApril to 30thJune amounting to Rs 40 lakhs. From the same seller, purchase made post 1stJuly was amounting to Rs 20 lakhs. Since the Section 194Q is uses the term 'value exceeding fifty lakh rupees in any previous year', it is tenable to consider the sales made prior to 1st July 2021 also for the purposes of determining the meeting of threshold. However, the deduction of tax will only be limited to purchases made post 1stJuly 2021.

[2] https://www.incometaxindia.gov.in/communications/circular/circular_13_2021.pdf

Issue #3: Whether while calculating the turnover/gross receipts/sales for the preceding financial year in order to determine, whether the same exceeds Rs 10 Crores or not, should indirect taxes be included?

The obligation to deduct tax while making payment to seller arises only if the turnover/gross receipts/sales exceed Rs 10 Crores in the preceding financial year for the buyer. In other words, if the turnover/gross receipts/sales for preceding financial year does not exceeds Rs 10 Crores, then the provisions of section 194Q would not apply. However, the question is whether for calculation of Rs 10 Crores, should the goods and services tax (for brevity 'GST') collected should also be included in the above? For example, if the turnover/gross receipts/sales is Rs 8 Crores and GST collected on such sales is Rs 2.24 Cores, then is it required to deduct tax at source under section 194Q.
In our view, if GST is not included in the sale price, then the same may not be added to the turnover/gross receipts/sales for determining the threshold of Rs 10 Crores. The seller if he indicates that the price is excluding GST and the same is recovered separately from the buyer, the same need not be included to determine the turnover/gross receipts/sales.

Hence, applying above to the instant case, since turnover/gross receipts/sales is Rs 8 Crores and taxes are being collected separately, the obligation under section 194Q would not apply. Reference can also be made to Para 5.9 of 'Guidance Note on Tax Audit under Section 44AB of the Income Tax Act, 1961' issued by Institute of Chartered Accountants of India.

Issue #4: Whether tax has to be collected on the GST amounts collected from the buyer or only on the value of goods?

The said sub-section states that buyer has to deduct an amount if such buyer is responsible for making payment for purchase of any goods of value exceeding Rs 50 lakhs. In such a case, a question arises, whether the GST portion is required to be included in the value of purchase for deducting the tax at source. Let us say, a seller issues an invoice for Rs 1 Crore and charges GST @ 18% on said goods. Now, the question that arises, is whether tax has to be deducted on Rs 1 Crore or Rs 1.18 Crore.

In this regard, attention can be drawn to CBDT circular[3] wherein it has clarified that when the GST portion is indicated in the invoice separately, tax shall be deducted on value of service without considering the GST amount otherwise GST is required included for the purpose of deducting the tax at source and same has been re-iterated by CBDT through its circular[4] . However, this proposition may not hold good in respect of TCS under section 206C(1H) as CBDT through its circular[5] specifically clarified that no adjustment in respect GST shall be made for TCS under section 206C(1H).

[3] https://www.incometaxindia.gov.in/communications/circular/circular_23_2017.pdf
[4] https://www.incometaxindia.gov.in/communications/circular/circular_13_2021.pdf
[5] https://incometaxindia.gov.in/communications/circular/circular_17_2020.pdf

Interplay of Section 194Q with other TDS/TCS provisions:

Further, Section 194Q states that these provisions are not applicable in respect of which tax is deductible under any provisions of the Act. Hence, it is required to analyse whether TDS is required under any other provisions of the Act before deducting the tax under section 194Q. For example, Section 194-O requires the e-commerce operator to deduct the tax at source while remitting the amount to seller subject to other conditions.

In this scenario, the question arises is whether tax is required to be deducted under Section 194Q as tax under Section 194-O is deducted by e-commerce operator and not by the buyer. By reading of Section 194Q, we can understand that Section 194Q carveouts certain amounts from the purview of TDS on transaction basis and not on basis person who is required to deduct the tax. Once the tax is deducted on particular transaction, same would be out of the purview of Section 194Q.Further, CBDT by going one step forward has clarified [6] that Section 194Q is not applicable in respect of transactions on which tax is not deductible by virtue of Section 194-O (2). This is in contrast to the CBDT's stand when it comes to position under Section 206C (1H) in respect of goods covered under section 206C (1), section 206C(1G) or section 206C(1F).

Table #2:

Conflict	Winner	Remarks
206C (1H) vs. 194Q	194Q	As section 206C (1H) excludes any transaction on which tax is deductible and buyer has deducted it. CBDT has provided relaxation that if seller collects tax on such transaction for any reason, 194Q is not applicable. This proposition is not applicable for other sections.
194Qvs.206C(1)/(1C)/(1F) /(1G)	206C(1)/(1C)/(1F) /(1G)	As section 194Q (5) excludes any transaction on which tax is collectible under any provisions except Section 206C(1H).
194Q vs. 194-O	194-O	As section 194Q (5) excludes any transaction on which tax is deductible under any other section.
194-O vs. 206C (1H)	194-O	As section 206C (1H) excludes any transaction on which tax is deductible and buyer has deducted it. It is the primary responsibility of the e-commerce operator to deduct tax only then section 206C (1H) is not applicable. If e-commerce operator fails to deduct tax, seller has to collect tax under section 206C (1H). This may create practical difficulties.

[6] https://www.incometaxindia.gov.in/communications/circular/circular_13_2021.pdf

Table #3: Illustrations explaining the concept of Section 194Q and Section 206C (1H):

Turnover for FY 2020-21		April -June, 2021			On or after 1st July, 2021			Remarks
Buyer	Seller	Transaction in goods	Applicable section	Applicable value	Transaction in goods	Applicable section	Applicable value	
9 Cr	15Cr	80 lakhs	206C (1H)	30 lakhs	30 lakhs	206C(1H)	30 lakhs	As the buyer's turnover does not exceed 10 Crore and seller turnover exceeds 10Cr, section 206C(1H) is applicable and TCS is to be collectible on total of Rs60 lakhs.
9 Cr	15 Cr	30 lakhs	NA	NA	80 lakhs	206C(1H)	60 lakhs	As the buyer's turnover does not exceed 10 Crore and seller turnover exceeds R10Cr, section 206C(1H) is applicable and TCS is to be collectible on Rs60 lakhs.
15 Cr	9 Cr	30 lakhs	NA	NA	80 lakhs	194Q	60 lakhs	As the buyer's turnover exceeds 10 Crore, section 194Q is applicable. Further, 194Q is applicable to Rs. 60 lakhs (30 + 80 – 50)
15 Cr	9 Cr	80 lakhs	NA	NA	30 lakhs	194Q	30 lakhs	As the buyer's turnover exceeds Rs.10 Crore, section 194Q is applicable. Further, as the section is effective from 1st July 2021, 194Q is applicable only to Rs. 30 lakhs.
15 Cr	12 Cr	80 lakhs	206C (1H)	30 lakhs	30 lakhs	194Q	30 lakhs	From the April-June,2021, section 206C (1H) is applicable as section 194Q is effective from 1st July 2021. From 1st July, section 194Q is applicable in respect of transactions undertaken post July.
15 Cr	12Cr	30 lakhs	NA	NA	80 lakhs	194Q	60 lakhs	As the transaction in goods does not exceed Rs. 50 lakhs, TDS/TCS is not applicable from April – June.

Note: Refer Case study #1 to understand the interplay between section 194Q and section 206C (1H) when invoice is raised before 1st July and amount is realised post 1st July.

Case study #1: In this case study, let us proceed to understand the applicability of provisions of Section 194Q and section 206C (1H).

A Limited is a company incorporated in India and its turnover for the FY 2020-21 is Rs.11 Crore. B Limited is a company incorporated in India and its turnover for the FY 2020-21 is Rs.15 Crore. The purchases made by A Limited from B Limited during the FY 2021-22 are as under:

- From April – June Rs. 80 lakhs of which Rs.60 lakhs has been paid as on 30th June 2021.
- From 1st July Rs.30 lakhs.

It has been agreed between A Limited and B Limited that, A Limited would remit the total amount of Rs. 50 lakhs to B Ltd on 1stJuly 2021 (Amount of Rs.50lakhs includes Rs.20lakhs which pertains to purchases made during the period April - June 2021 and remaining amount of Rs.30 lakhs is pertaining to purchase made on 1st July 2021).

Analysis:

Let us proceed to understand the applicability of TDS/TCS provisions for the above transactions. Section 206C(1H) provides that seller is required to collect the tax ***at the time of receipt of amount*** from the buyer., which would mean that TCS provisions under Section 206C (1H) are applicable at the time of receipt of sale consideration notwithstanding the date of invoice or date of sale transaction.

On the other hand, Section 194Q provides that buyer is required to deduct tax ***at the time of payment of amount or making the entry in the books of account (typically date of purchase) whichever is earlier***, which would mean that transactions concluded before 1st July 2021 or amount paid before 1st July 2021 would not fall under the purview of section 194Q.

In the above facts, B Limited, being a seller is obligated to collect tax from A Limited at the time of receipt of sale consideration. In respect of Rs.60 lakhs received from A Limited on 30th June 2021, B Limited is required to collect the tax at the rate of 0.1 percent and remit the same to the government.

However, in respect of sale transaction undertaken on 1st July and payment of Rs.50 lakhs on 1st July, the question arises is who is required to deduct/collect the tax.As stated earlier, 194Q is applicable only in respect of transactions undertaken and payments made on or after 1st July 2021, which would mean that two events should happen on or after 1st July 2021 to invoke section 194Q. Hence, A Limited is required to deduct tax only with respect to sale transaction of Rs30 lakhs.

Further, in respect of balance amount of Rs. 20 Lakhs, as TDS is not required to be deducted under any provisions of the Act, tax is to be collected under section 206C(1H). Hence, B Limited is required to collect tax from A Limited on Rs20 lakhs. However, by considering the relaxation provided by CBDT, if B Limited collects tax on value of Rs.30 lakhs, A Limited is not required to deduct tax under section 194Q again.

Table #4:
Entries in the Books of Account:

Date	In the Books of A Limited			In the Books of B Limited		
	Particulars	**Dr**	**Cr**	**Particulars**	**Dr**	**Cr**
1st June	Purchases A/c To B Ltd A/c (Being purchase of goods)	Rs.80.00 L	Rs.80.00 L	A Ltd A/c To Sales A/c (Being sale of goods)	Rs.80.00 L	Rs.80.00 L
30th June	TCS A/c To B Ltd A/c (Being collection of tax by B Ltd)	Rs.00.06L	Rs.00.06L	A Ltd A/c To TCS A/c (Being collection of tax from A Ltd)	Rs.00.06L	Rs.00.06L
30th June	B Ltd A/c To Bank A/c (Being part payment made)	Rs.60.06L	Rs.60.06L	Bank A/c Ltd To A Ltd A/c (Being part payment received)	Rs.60.06L	Rs.60.06L
1st July	Purchases A/c To B Ltd A/c (Being purchase of goods)	Rs.30.00L	Rs.30.00L	A Ltd A/c To Sales A/c (Being sale of goods)	Rs.30.00L	Rs.30.00L
1st July	TCS A/c To B Ltd A/c (Being collection of tax by B Ltd)	Rs.00.02L	Rs.00.02L	A Ltd A/c To TCS A/c (Being collection of tax from A Ltd)	Rs.00.02L	Rs.00.02L
1st July	B Ltd A/c To TDS A/c (Being deduction of tax from B Ltd)	Rs.00.03L	Rs.00.03L	TDS A/c To A Ltd (Being deduction of tax by A Ltd)	Rs.00.03L	Rs.00.03L
1st July	B Ltd A/c To Bank A/c (Being full amount paid to B Ltd)	Rs.49.99L	Rs.49.99L	Bank A/c Ltd To A Ltd A/c (Being full payment received)	Rs.49.99L	Rs.49.99L

Section 206AB & Section 206CCA – A vigilant check for filing of ITR:

Higher TDS for non-filers of ITR:

Section 206AA of the Act provides that, for the purpose of deducting tax at source, payee shall furnish his PAN to the payer otherwise payer shall deduct the tax at source at the higher rate. These provisions are incorporated under the Act to compel the payee to furnish the PAN to buyer.

Further, through the Finance Act,2021, in order to compel the assessee to file income tax return, a new section 206AB has been inserted to the Income Tax Act. As per the amendment, where any amount is payable to any *specified person* on which tax is deductible under Chapter XVII-B, the tax shall be deducted at the higher of the following rates:

a. at twice the rate specified in the relevant provision of the Act
b. at twice the rate in force
c. at the rate of five precent

Further, in a case where provisions of section 206AA are also applicable in his case, in addition to the above provisions, tax shall be deducted at higher of rates provided in section 206AA and section 206AB.However, the proposed provisions are not applicable in cases of deduction of tax at source in respect of the following payments:

Table #5:

Section	Nature of Payment
Section 192	TDS on income from salary
Section 192A	TDS on withdrawal of provident fund
Section 194B	TDS on winning from lotteries and crossword puzzle, winning form lotteries
Section 194BB	TDS on winning from horse races
Section 194LBC	investment in securitisation of trust
Section 194N	withdrawal of cash from bank

Higher TCS for non-filers of ITR:

Similar to Section 206AA, Section 206CC requires, for the purpose of collecting tax at source, the payer to furnish his PAN to payee otherwise tax at source shall be collected at the higher rate. These provisions are incorporated under the Act to compel the payee to furnish the PAN to the person who is responsible for collecting tax at source.

Further, through the Finance Act,2021, in order to compel the assessee to file income tax return, a new Section 206CCA has been inserted into the Income Tax Act. As per the amendment, where any person is responsible for receiving any amount from any specified person on which tax is collectible under Chapter XVII-BB, the tax shall be collected at the higher of the following rates:

i. at twice the rate specified in the relevant provision of this Act or
ii. at the rate of five per cent.

Further, in a case where provisions of section 206CC are also applicable in his case, in addition to the above provisions, tax shall be deducted at higher of rates provided in section 206CC and section 206CCA.

Specified Person:

For the purpose of Section 206AB and Section 206CCA, 'specified person' is defined to meana person who has not filed return of income for ***both of the assessment years*** relevant to the previous years immediately prior to the financial year in which tax is required to be deducted, for which due date under Section 139(1) has expired, and the aggregate of tax deducted and tax collected in his case is Rs.50,000 or more in each of the two assessment years. Further, specified person shall not include a non-resident who does not have permanent establishment in India.

The following conditions to be satisfied in order to treat a person as 'specified person' under section 206AB and section 206CCA:

- Such person is not a non-resident in India except who is having permanent establishment in India. The above would indicate every resident and non-resident having PE in India are covered.

- Such person has failed to file ITR for both of the two assessment years preceding to the year in which tax is to be deducted for which time limit for filing ITR under Section 139(1) has expired.

  For example, for deducting the tax for the month of July 2021, FY 2018-19 and FY 2019-20 are the immediate two financial years for which time limit for filing under Section 139(1) has expired. Similarly, for deducting the tax for the month of December 2021, FY 2019-20 and FY 2020-21 are the two immediate financial years for which time limit for filing of ITR has expired. Please refer to Table #6below for better understanding of the provision.

- Aggregate amount of tax deducted and tax collected for each of the two years exceeds Rs.50,000/-

In order to effectively apply the provisions of section 206AB and section 206CCA, deductor or collector of tax shall obtain the details of ITR filing status and tax deducted/collected amounts of the deductee or collectee which is cumbersome process. Hence, CBDT has provided a compliance check tool by which deductor or collector can check whether the person is a specified person or not.

As stated above, in order to treat a person as specified person, compliance check needs to be done every time while making the payment or collecting the amount. However, in order to reduce the compliance burden, CBDT has provided that it is sufficient if compliance check has been done at the beginning of the year, and if the name of the person is not available in the list of specified persons, tax needs be deducted/collected under the normal provisions throughout the year.

Further, if the name of a person in available in the list of specified persons at the beginning of the year, such name needs to be checked every time of deducting or collecting the tax as there would be a chance that that specified person would fall out the definition of specified person based on possibility of filing latest year ITR.

For example, for FY 2021-22, a deductor has 100 vendors that he deals with. He can use the functionality in the bulk search mode and can get the result of all these 100 PANs at one go. Let us assume that the functionality has shown that out of these 100 PANs, 5 PANs are specified persons for the purposes of Sections206AB and 206CCA of the Act. Now with respect of the remaining 95 PANs, it is clear that they are not in the list of specified persons for theFY 2021-22. Thus, deductor or collector ***need not check again with respect to these 95 PANs during that financial year.***

However, there are chances that the 5 PANs which are of specified persons may move out of the list during the financial year by reason that those persons might have filed ITR for the FY 2020-21 and for that there ***will be need to recheck at the time of making tax deduction or tax collection.***

Table #6:
Illustrations for checking the compliance under section 206AB and section 206CCA for the FY 2021-22.

Payment made to	Status of filing of ROI			Date of Payment	Status
	FY 2018-19	FY 2019-20	FY 2020-21		
Mr. A	Not Filed	Not Filed	Not Filed	1st April 2021*	specified person
				1st December 2021	specified person
Mr. B	Not Filed	Not Filed	Filed	1st April 2021	specified person
				1St December 2021	Not a specified person**
Mr. C	Filed	Not Filed	Not Filed	1st April 2021	Not a specified person
				1st December 2021	Not a specified person***

* The date is considered for illustrative purpose. The provisions of section 206AB and 206CCA are effective from 01-07-2021.

**As Mr. B has filed ITR for the FY 2020-21, he would be treated as non-specified person from the date of expiry of due date of filing of ITR for the FY 2020-21. Hence, name of Mr. B would be removed from the list of specified persons after the filing of ITR for the FY 2020-21 or due date for filing ITR whichever is later.

*** In respect of payment made on 1st December 2021, Mr. C should be considered as specified person, however, in order to reduce compliance check, CBDT has provided that once Mr. C is treated as non-specified person on 1st April, he would be considered as non-specified person full of the financial year.

In order to utilise the compliance check functionality, CBDT has provided the following procedure in the online portal.

a. Registration:

Tax Deductors and Collectors can register on the Reporting Portal by logging in to e-filing portal (http://www.incometax.gov.in/) using e-filing login credential of TAN and clicking on the link "Reporting Portal" which is available under "Pending Actions" Tab of the e-filing Portal. After being redirected to the Reporting Portal, the tax deductor/collector needs to select Compliance Check (Tax Deductor & Collector) under Form Type. The details of the principal officer also need to be provided by clicking on "Add Principal Officer" button. The principal officer is the authorized person of the tax deductor/collector to use the Compliance Check functionality on reporting portal. After submission of registration request, email notification will be shared with the Principal Officer along with ITDREIN details and login credentials.

b. Accessing the Compliance Check functionality:

Principal Officers of the entities (Tax Deductors & Collectors) which are registered with the Reporting Portal through TAN shall be able to use the functionality after login into the Reporting Portal using their credentials. After successfully logging in, link to the functionality "Compliance Check for Section 206A8 & 206CCA" will appear on the home page of the Reporting Portal.

c. Using "PAN Search" mode:

Under the "Compliance Check for Section206AB & 206CCA" page, "PAN Search" tab may be selected to access the functionality in PAN Search mode. In this mode single valid PAN along with captcha can be entered at a time and output will be available with following fields,

- Financial Year: Current Financial Year
- PAN: As provided in the input.
- Name: Masked name of the Person (as per PAN).
- PAN Allotment date: Date of allotment of PAN.

- PAN-Aadhaar Link Status:

  Status of PAN-Aadhaar linking for individual PAN holders as on date. The response options are Linked (PAN and Aadhaar are linked), Not Linked (PAN & Aadhaar are not linked), Exempt (PAN is exempted from PAN-Aadhaar linking requirements as per Department of Revenue Notification No. 37/2017 dated 11th May 2017) or Not-Applicable (PAN belongs to non-individual person).

- Specified Person u/s 206AB & 206CCA:

  The response options are Yes (PAN is a specified person as per section 206AB/206CCA as on date) or No (PAN is not a specified person as per section 206AB/206CCA as on date).

Output will also provide the date on which the "Specified Person" status asper Section206AB and 206CCA is determined.

d. Using "Bulk Search" mode:

Under the "Compliance Check for Section206AB & 206CCA" functionality page, "Bulk Search" tab may be selected to access the functionality in Bulk Search mode. This mode involves following steps:

i. Preparing request (input) fife containing PANs: Under the "Bulk Search" page, CSV Template to enter PANs details may be downloaded by clicking on "Download CSV template" button. PANs for which "Specified Person" status is required may be entered in the downloaded CSV template. The current limit in the number of PANs in a single file is 10,000.

ii. Uploading the input CSV file: Input CSV file may be uploaded by clicking on Upload CSV button. Uploaded file will start reflecting with Uploaded status,

iii. Downloading the output CSV file: After processing, CSV file containing "Specified Person" status as per section206AB & 206CCA of the entered PANs will be available for download and "Status" will change to Available. Output CSV file will contain PAN, Masked Name, Specified Person Status as per section206AB & 206CCA, PAN-Aadhar Link status and other details as mentioned in paragraph c) above. After downloading of the file, the status will change to Downloaded. The download link will expire and status will change to Expired after specified time (presently 24 hours of availability of the file).

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