

SICASA

E-NEWSLETTER



Chengalpattu District Branch of SIRC Of ICAI
(Formerly known as Kanchipuram District Branch of SIRC)

AUGUST 2021

VOL IV/NO.8

“Freedom in the mind,
Faith in the words,
Pride in our Hearts &
Memories in our
Souls...

Let's salute the
Nation On 75th
Independence
Day!



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Note: The views expressed in the articles published are their own views and SICASA Chengalpattu District Branch does not endorse or take any responsibility for the views expressed in the articles.



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*FROM THE SICASA CHAIRMAN'S
DESK*



My Dear Students

Advance Happy Independence Day.

Let us live our lives in such a way that we become the pride of the nation. Pledge that you will do something in this lifetime that India will be proud of having mothered you.

Let us recall our Indian Pledge

India is my country.

All Indians are my brothers and sisters.

I love my country and I am proud of its rich and varied heritage.

I shall respect my parents, teachers, and all elders and treat everyone with courtesy.

To my country and all my people, I pledge my devotion.

In their wellbeing and prosperity alone lies my happiness.

It is our moral responsibility to live by this pledge. Small, significant and continuous endeavors from each one of will make a big difference to this country.

JAI HIND

**Stay Safe. Stay Healthy.
CA Shivachandra Reddy K
SICASA Chairman**



*FROM THE BRANCH CHAIRMAN'S
DESK*



My dear students,

Hope you all are safe and have completed your CA final / Inter / foundation exams safely and have re-joined your office work. SICASA 5th AGM was conducted on 30.07.2021. The outgoing SICASA has done wonderful job for last year. New SICASA has been selected and will be taking over charge shortly. My best wishes for the new team under the Chairmanship of CA Sri. Shivachandra Reddy.

The branch has already started virtual ITT and Orientation classes and students can check the details in the portal.

Students should come forward with more paper presentations to the SICASA Newsletter.

Please follow the Covid-19 protocol and get vaccinated for yourselves and your family members. Concentrate on your office work, keep yourself updated with the latest circulars / notifications / ethics etc.

My best wishes for your future as successful chartered accountant.

Best Wishes
CA Kathiresan C
BRANCH CHAIRMAN



Payments to Non-Residents

As per Section 195 of Income Tax Act, 1961,

Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest (not being interest referred to in section 194LB or section 194LC) or any other sum chargeable under this Act (other than salary) shall, at the time of credit of such income to the account of payee or by payment in cash or cheque or any other mode, whichever is earlier, deduct income-tax thereon at the rates in force. **As per Rule 37BB**, the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum chargeable under the provisions of the Act, shall furnish the same in Form 15CA and 15CB, wherever applicable. The amount of Tax withheld must be reported to the RBI and Income Tax Department by filing Form 15 CA and Form 15 CB as a declaration of Tax withheld on the Payment to be made to Non-Resident.



PAVITHRA B
SRO0593641

Applicability of Form 15CA and Form 15CB

- ❖ If the remittance or the aggregate of such remittances is chargeable to tax, and it does not exceed Rs. 5 lakhs, then Part A of Form 15CA to be submitted (Form 15CB is not required)
- ❖ Where the remittance or the aggregate of such remittances which is chargeable to tax exceeds Rs. 5 lakhs and a certificate under Section 195(2)/195 (3)/197 of the Income Tax Act has been obtained, then – Part B of Form 15CA to be submitted. Where remittance the remittance or the aggregate of such remittances which is chargeable to tax exceeds Rs. 5 lakhs, then Part C of – Form 15CA to be submitted and a certificate in Form 15CB has to be obtained from an accountant
- ❖ If the remittance is not chargeable to tax and is covered under a specified exemption list, then only Part D of Form 15CA is to be submitted.



FORM 15CA

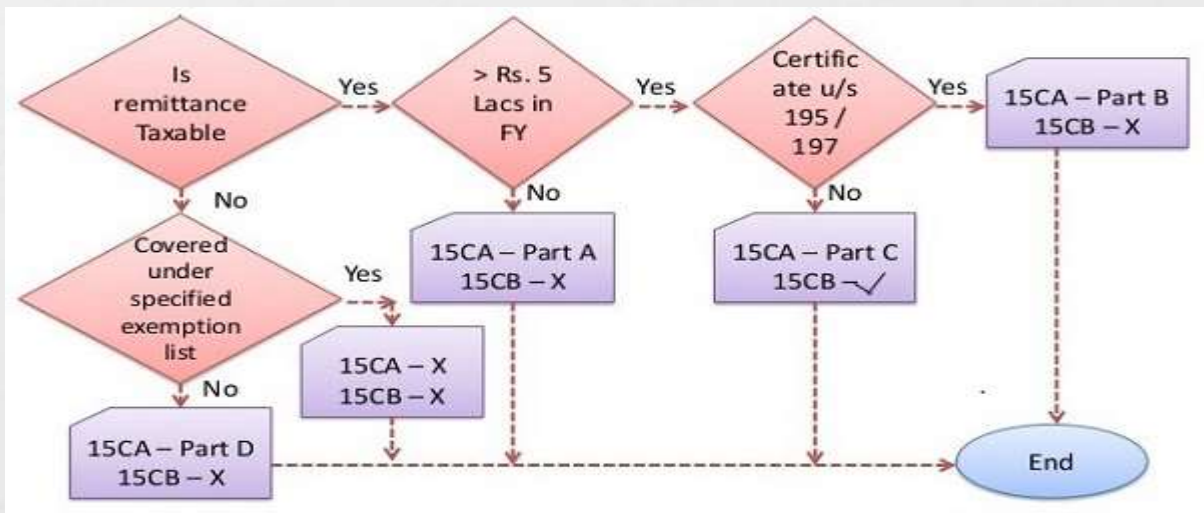
Any payments made by a resident to a non-resident has to be reported under the Income Tax Act. The idea behind deduction of the taxes at source and their subsequent reporting is to ensure that taxes are collected on time. Form 15CA is a declaration made by the person remitting the money wherein he states that he has deducted the tax from any payments so made to the non-resident

Parts of Form 15CA :

- I. **PART A :** Where the Remittance or the aggregate of such remittances are taxable but do not exceed 5 Lakh Rupees during the Financial Year
- II. **PART B :** Where an order/ Certificate under Section 195(2)/195 (3)/197 of the Income Tax Act has been obtained from the Assessing Officer.
- III. **PART C:** Where the Remittance or the aggregate of such remittances are taxable and exceed 5 Lakh Rupees during the Financial Year (**Form 15 CB is required to be filed along with this remittance**)
- IV. **PART D:** Where the Remittance is not chargeable to tax under domestic law.

FORM 15 CB:

Form 15CB, however, is not a declaration, but a certificate issued by a Chartered Accountant ensuring that the provisions of the Double Taxation Avoidance Agreement and the Income Tax Act have been complied with in respect of tax deductions while making the payments. {Rule 37BB (3) covers Specified list -Remittances not requiring to file Form 15 CA and CB}





Extract of Section-90(2):

“Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.”

It is observed that while calculating the taxability of the service for which payment is being made, the assessee can take the rate which is beneficial to him (Between the Income Tax Act & the DTAA) under Section – 90(2) of the Income Tax Act, 1961

However to avail this benefit, the Non- Resident should be having a Permanent Account Number(PAN).

In case where the Non Resident does not have PAN, the payer does not need to deduct tax as per section 206AA of the Income Tax Act, 1961 as the non-resident can comply with the provisions contained in **Rule 37BC of the Income Tax Rules, 1962** in order to avail the beneficial rate.

Rule 37BC : Section 206AA shall not apply, if the deductee furnish the following details, namely :

- ❖ Tax Residency Certificate(TRC)
- ❖ Form 10F
- ❖ No PE (Permanent Establishment) declaration. This declaration states that the recipient does not have any permanent establishment/business connection in India
- ❖ **Illustration for better understanding:**

Name of the Assessee	XYZ India Private Limited
Name of the Foreign Entity	ABC Company
Nature of the transaction	Fees for Technical services



XYZ India Private Limited has used the services of ABC Company for the purpose of IVR Call flow implementation. ABC Company is a Tax Resident of Srilanka as per the TRC provided by them and also has no PE Certificate

Provisions and Explanation:

- ❑ As the section 9(1)(vii) of the Income Tax Act, 1961, Fees for Technical Services is chargeable at the rate of 10% as specified u/s – 115A of Income tax Act, 1961
- ❑ According to Article 12 of DTAA treaty between India and Srilanka, The term "fees for technical services" means payments made in consideration for managerial or technical or consultancy services, including the provision of services of technical or other personnel and such services are taxed at 10% as per Article 12(2)

As the Foreign entity is a Tax Resident, section 90(2) of IT Act, 1961 allows XYZ India Pvt Ltd to deduct tax as per DTAA or IT Act, whichever is beneficial to the remittee.

By Considering the above provisions, ABC Company subject to 10% of tax rate as mandated by section 90(2) of the Act.

Accordingly, Rule 37BB (Furnishing of Form 15CA and CB) would be filed with Income Tax Department.

Thanks & Regards

Pavithra B



How to Select Cases in Scrutiny & Necessity of Scrutiny

Why there is a need for scrutiny selection by the Income Tax Department ?

There was a great need and importance of scrutiny selection by department, as all the assesses who file their return do not disclose their true income and mostly understates the income by showing bogus expenses, fictitious entries, undervaluation of closing stock, eliminating cash sales, over booking of expenses etc. Department should select the cases, where there is a major variation in various ratios like N.P., G.P., Stock T.O. ratios. Deviation in prevailing ratios adopted by the industries. The main motive and objective of Income tax department is to maximize revenue of the government and to cover more and more persons under the purview of Income Tax Act.



PUSHP KUMAR SAHU
CRO0553317

Cases where A.O. must manually pick the case for scrutiny and called for the required documents and details to correctly ascertain the income;

- ❖ High volume of TDS and refund ratio.
- ❖ Huge cash transactions.
- ❖ Huge credit entries in bank statements.
- ❖ Huge amount of unsecured loan as shown in liability side and interest rate at which such loan is taken.
- ❖ Huge Capital addition in the books of account.
- ❖ Non-Business or personal nature expenses debited in the profit and loss account.
- ❖ Deviation in Tax audit report and ITR filed by the assessee regarding disallowance of various expenses.
- ❖ TDS liability not discharged properly.

The above list is an illustrative list. Cases are picked into scrutiny by two methods;

- ❖ Manually by A.O.
- ❖ CASS i.e. Computer aided scrutiny selection.



The first one is already discussed above, under the second method i.e. CASS this is an automated software system of department which automatically takes the case under scrutiny by matching the ITR filed by the assessee with the database available with the system like mismatch in Form 26AS and ITR filed.

While selecting the return under scrutiny or reopening of case, A.O. must ensure the relevant provisions of the Act like provisions of section 143(1), 143(2), 142(1), 147, 148, 144 and specially provisions of section 143(2) and 149 i.e. time limit for issuing notice.

With the target of increasing tax collection, A.O. after selecting the case under scrutiny must take the following steps to properly assess the income;

- ❖ Check all the Cash transactions and various provisions of section 269ST, 269SS, 269T, 40(A)(3), Fixed assets worth more than Rs. 10,000/- purchased in cash.
- ❖ Vouchers and Invoice of expenses debited in profit and loss account.
- ❖ Applicability of TDS provision on payments made.
- ❖ Reconciling the T.O. as declared in ITR with GST returns and Bank Accounts.
- ❖ Capital introduction in the business by assessee, if any.
- ❖ Change in method of accounting, method of valuation of closing stock as it directly affects calculation of profit.
- ❖ Penalty and other expenses which are required to be disallowed.
- ❖ Provisions of section 28 to 44.
- ❖ Personal nature expenses, if any.



- ❖ Detailed checking of Cash Book, Expense ledgers.
- ❖ High variation in ratios if any, than A.O. must seek reply and reasons for such deviation.
- ❖ Eligibility and validity of deductions and exemption claimed in return.
- ❖ Loans and advances given must be checked.
- ❖ Long outstanding creditors and debtors in the books of accounts.
- ❖ Unsecured loans and interest on the same must be checked, if there is no change in the balance of outstanding amount than there should be complete checking of that particular account.
- ❖ Validity and proper valuation of investments reflecting in the books of accounts.
- ❖ Compliance of section 145(2) i.e. Income computation and disclosure standards, profit and loss must be computed in accordance to these standards.

Thanks & Regards

Pushp Kumar Sahu



Section 194Q - Deduction of tax at source on payment of certain sum for purchase of goods

Background:

Till Finance Act, 2020 there were no TDS / TCS on the purchase / sale of goods. In order to widen and deepen the tax net, the Finance Act, 2020 has introduced a subsection (1H) to section 206C to collect tax on the sale of goods by the seller from the buyer. To shift the tax compliance from seller to buyer, a new section 194Q has been introduced by the Finance Bill, 2021 w.e.f 01.07.2021.



SANDHIYA RAGHUNATH
SRO0592080

Section 194Q:

Extract of the Subsection (1) to section 194Q is as follows:

To quote:

“Any person, being a buyer who is responsible for paying any sum to any resident for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 per cent of such sum exceeding fifty lakh rupees as income-tax.”

Unquote:

With effect from	01 st July, 2021
TDS to be deducted by	Any person being a buyer
TDS deductible on payment made to	Seller, being a resident
Nature of transaction	Purchase of any goods (Excluding Services but including Capital Goods)
Threshold limit	Purchase value or aggregate of such value exceeding Rs. 50,00,000
Time of deduction of tax	1. Time of credit of such income to the account of seller or, 2. At the time of payment by any mode, whichever is earlier
TDS Rate	0.1% on the amount exceeding Rs. 50,00,000 excluding GST component if indicated separately (If on payment basis, TDS to be deducted on the whole amount paid-as clarified vide CBDT Circular No. 13 dated 30.06.2021)

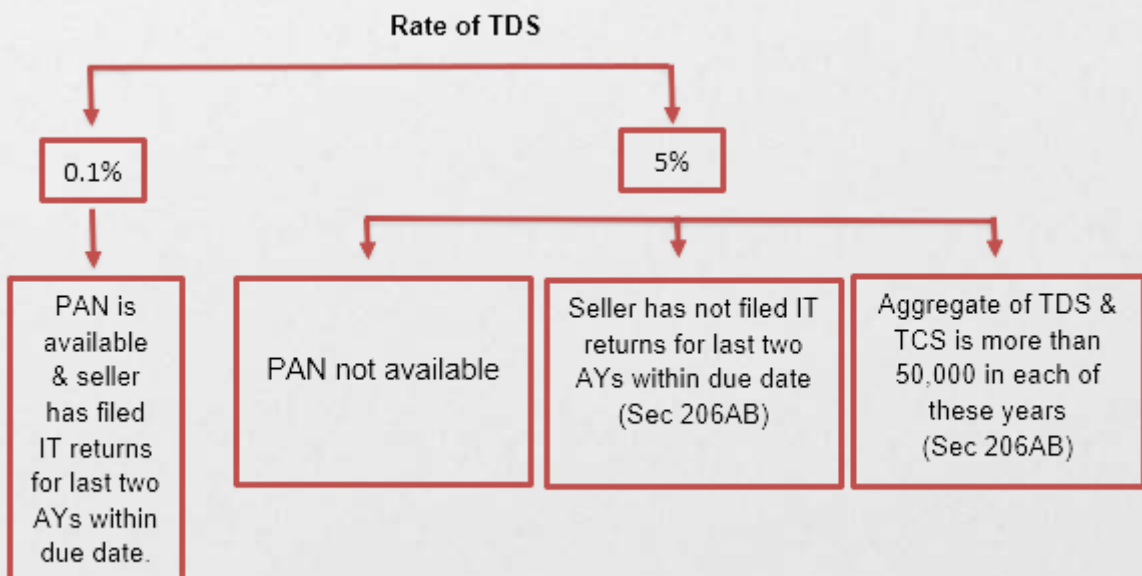


Definition of “Goods”

Since the Income Tax Act is silent about the definition of goods, inference can be drawn as mentioned in other Acts as referred in the table below:

Particulars	CGST Act, 2017	Customs Act, 1962	Sale of Goods Act, 1930
Definition of Goods	Every kind of movable property other than services	Inclusive definition to cover all goods	Every kind of movable property
Inclusions	Actionable claims, crops, grass and things attached to land	Vessels, stores, baggage, currency, negotiable instrument & Other kind of movable property	Stocks & shares, Crops, Grass and things attached to Land
Exclusions	Money & Securities	-	Actionable claims & money

Applicable rate of TDS:





Calculation of Threshold limit of Rs. 50,00,000 for deduction of TDS:

Turnover 2020-21		Transaction Value		Applicable Section	Amount on which 0.1% shall apply
Buyer	Seller	Up to 01/07/2021	On or after 01/07/2021		
2 Crores	2 Crores	30 Lakhs	70 Lakhs	N/A	Nil
2 Crores	2 Crores	70 Lakhs	30 Lakhs	N/A	Nil
7 Crores	20 Crores	30 Lakhs	70 Lakhs	206C(1H)	50 Lakhs
7 Crores	20 Crores	70 Lakhs	30 Lakhs	206C(1H)	50 Lakhs
20 Crores	7 Crores	30 Lakhs	70 Lakhs	194Q	50 Lakhs
20 Crores	7 Crores	70 Lakhs	30 Lakhs	194Q	30 Lakhs
20 Crores	20 Crores	30 Lakhs	70 Lakhs	194Q	50 Lakhs
20 Crores	20 Crores	70 Lakhs	30 Lakhs	206C(1H) / 194Q	20 Lakhs / 30 Lakhs
20 Crores	20 Crores	70 Lakhs	70 Lakhs	206C(1H) / 194Q	20 Lakhs / 70 Lakhs
20 Crores	20 Crores	30 Lakhs	30 Lakhs	194Q	10 Lakhs
20 Crores	20 Crores	30 Lakhs	Nil	N/A	Nil
20 Crores	20 Crores	Nil	30 Lakhs	N/A	Nil
20 Crores	20 Crores	70 Lakhs	Nil	206C(1H)	20 Lakhs
20 Crores	20 Crores	Nil	70 Lakhs	194Q	20 Lakhs

Hence, events happened prior to 01.07.2021 shall not be subjected to TDS u/s 194Q. But those transactions shall be considered for triggering the threshold limit of 50 Lakhs.

Explanatory Points:

I. The term “Buyer” means,

- ❖ A person whose total sales, gross receipts or turnover from business carried on by him (excluding turnover from non-business activity) exceeds Rupees 10 Crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out.
- ❖ If the Turnover of the buyer exceeds Rs. 10 Crores & transactions with the seller is more than Rs. 50 Lakhs then, the buyer is liable to deduct tax on the sum exceeding Rs. 50 Lakhs.
- ❖ In case of a Non-resident buyer, purchases from a resident seller should be in connection with the “permanent establishment” in India to become eligible to deduct TDS u/s 194Q



2. Where any sum is credited to any account, whether called “Suspense Account” or by any other name, in the books of account of the buyer, such credit of income shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly..
3. Non Applicability of Section 194Q:
 - ❑ As per sub-section (5) to section 194Q,
 - ❖ Tax is deductible under any of the provisions of this Act;
 - ❖ Tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies
 - ❑ Securities and Commodities: 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 Finance Service Centre (vide CBDT Circular No.13 of 2021 dated 30.06.2021)As per sub-section (5) to section 194Q,
 - ❑ Transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC (vide CBDT Circular No.13 of 2021 dated 30.06.2021)
 - ❑ Exempt Income of Seller: Provisions of section 194Q shall not apply on purchase of goods from seller, who as a person is exempt from income tax under the Act. This shall not apply if only part of the income of the person is exempted.
 - ❑ Year of Incorporation: Provisions of Section 194Q shall not apply in the year of incorporation, as the Turnover criteria will not be met.
4. The buyer may provide a declaration to the seller stating that he would be deducting the taxes at the time of booking the invoice or at the time of making the advance payment, wherever applicable.
5. The seller should also provide a declaration stating that he has filed the ITR for the two relevant previous years as mentioned in section 206AB.



Section 194Q overrides Section 206C(IH):

1. The buyer is liable to deduct tax when he purchases goods from seller. Only when the buyer defaults or is ineligible to deduct TDS, the seller shall deduct TCS on the transaction
2. The prevailing criteria of Section 194Q has been explained in section 206C(IH), 194Q and Memorandum to the Finance Bill, 2021 which is mentioned in the below table.

Section 206C(IH)	As per Proviso to Section 206C(IH), “Provided further that the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount”.
Section 194Q	As per clause b of subsection 5 of section 194Q, “Tax is collectible under the provisions of section 206C other than a transaction to which sub-section (IH) of section 206C applies”

Consequences of Non-deduction of TDS by the buyer:

S.No	Particulars	Charging Section	Rate / Amount
1	Disallowance of purchase value	40(a)(ia)	30% of the purchase value
2	Interest	201(1A)	1% per month
3	Penalty	271C	Equal to the tax not deducted

Compliance involved for Section 194Q:

Particulars	Forms / Due Date
Due date to deposit the tax deducted	April to February – 7 th day of the subsequent month March – 30 th April
Form to be filed	Form 26Q
Certificate to be issued	Form No. 16A



Process to identify whether the seller is a “Specified Person” u/s 206AB for the purpose of deduction of TDS at a higher rate:

☐ Registration of Tax Deductors / Collectors on Reporting Portal

Step 1	Go to Reporting Portal at URL https://report.insight.gov.in.
Step 2	On the left sidebar of the Reporting Portal homepage, click on Register button
Step 3	User is redirected to the e-filing login page or directly navigated to e-filing portal through http://www.incometax.gov.in/
Step 4	Log in to e-filing using e-filing login credential of TAN
Step 5	Under “Pending Actions”, select “Reporting Portal”.
Step 6	After being redirected to the Reporting portal, select New Registration option and click Continue.
Step 7	On the next screen, select the Form type as Compliance Check (Tax Deductor & Collector). The Entity Category will be displayed based on the category in which TAN is registered at e-filing. Click Continue to navigate to entity details page.
Step 8	Enter relevant entity details on entity details page and click on “Add Principal Officer” button to add Principal Officer.
Step 9	Enter Principal Officer details on the Principal Officer Details page
Step 10	If more users such as Nodal Officer, Alternate Nodal Officer and other users are to be registered at this instance, adding the details of such users can be continued, otherwise the same can be done after registration also
Step 11	Click on Preview button to view the entered entity and principal officer details
Step 12	Click on Submit button to submit the registration request.
Step 13	Acknowledgement receipt of registration request is provided through portal and the same will also be shared through an email notification to the Principal Officer
Step 14	Once the registration request is approved by Income tax Department, email notification will be shared with the Principal Officer along with ITDREIN details and login credentials



□ Accessing the functionality on Reporting Portal

Step 1	Go to Reporting Portal at URL https://report.insight.gov.in .
Step 2	On the left sidebar of the Reporting Portal homepage, click on Login button
Step 3	Enter the required details (of Principal Officer) in the respective fields (PAN and Password) and click Login to continue
Step 4	If Principal Officer's PAN is registered for multiple Forms & ITDREIN, he/she needs to select Form type as Compliance Check (Tax Deductor & Collector) and associated ITDREINs from the drop-down
Step 5	After successfully logging in, the home page of Reporting Portal appears
Step 6	Click on Compliance Check for Section 206AB & 206CCA link provided as shortcut on left panel.

Conclusion:

in a nutshell, the overall gist of section 194Q is,


- ❖ The onus of tax deduction has been imposed on the buyer [Shifted from seller (TCS) to buyer (TDS)].
- ❖ Buyer to ensure whether he / she is liable to deduct tax u/s 194Q.
- ❖ To check whether the seller is a specified person to deduct tax at a higher rate using utility in the Reporting Portal.
- ❖ Deduct TDS on purchase of goods from 01.07.2021 at the applicable rate.
- ❖ Deposit the tax deducted and file Form 26Q and issue TDS Certificate in Form 16A.

Thanks & Regards

Sandhiya Ragunath



TRIVIA Corner

- 
- i. What is the kind of audit conducted between two Annual Audit?
 - ii. How many number of structures involved in India's GST?
 - iii. What is the type of loss in case of embezzlement of cash by Cashier ?
 - iv. What is the applicable rate of GST on Oxygen Concentrator ?
 - v. Mention the name of prospectus when it is issued by a public company for one or more securities?

Note:

Top 3 winners will be published in the Next release of E-Newsletter. Students can mail the answers along with their Name & SRO Number to kpmsicasa@gmail.com



**SICASA of Chengalpattu District Branch of SIRC of IC
(Formerly known as Kanchipuram District Branch of SIRC)**

Contribution From Our CA ASPIRANTS:

Articles are invited from students for publishing in e-newsletter. The articles shall be either on the specific subject or a general article.

For all the artistic minds, you may highlight your artistic skills by sending your art to us. It could be drawing, poem, photographs and all the art work which is unusual in your way!

Students can mail their work with Name, SRO Number, Mobile Number, Residential Address, Office Address & Photo to our E-Mail mentioned below

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