



CALCUTTA TEA TRADERS ASSOCIATION

Circular No.20

3rd May 2023

All Members of the Association

SECTION 194R OF THE INCOME TAX ACT, 1961

With reference to Tea Board Circular No.6(29)/LC/Auction Issues/2020 dated 25th April 2023 attached hereto, I give below the guidelines for implementation of the provisions of Section 194R of the Income Tax Act, 1961 in respect of the free trade samples distributed to buyers for the Sales held during the period 1st July 2022 to 31st March 2023:

- 1) Broker members will furnish to individual Seller Firms/Companies (as per PAN), the Centre-wise, Buyer-wise data on free trade samples distributed to each buyer from the lots offered by the Seller Firms/Companies for the Sales held during the period 1st July 2022 to 31st March 2023.
- 2) The data furnished by the broker members will have the Name and Address of the Buyers, the Buyers' PAN numbers, the quantities of free trades samples distributed to each Buyer for CTC Teas (including Leaf and Dust) and Orthodox Teas (including Orthodox Leaf, Orthodox Dust, Darjeeling Leaf, Darjeeling Dust, Green Tea, White Tea and any other Specialty Tea). The quantities should be shown in kilograms.
- 3) The Seller Firms/Companies will calculate the value of the free trade samples distributed to individual Buyers in Guwahati, Siliguri and Kolkata Auction Centres (based on the valuations given in Tea Board Circular dated 25th April 2023).
- 4) For Buyers who are above the threshold of Rs 20,000.00, the Seller Firms/Companies will calculate the TDS amount @ 10% of the value of the free trade samples.
- 5) The Seller Firms/Companies will deposit the TDS amounts to the Government Treasury and give credit of the amounts deposited to the individual Buyers by uploading the details in the Buyers' 26AS.
- 6) The last date for filing the returns is 31st May 2023.
- 7) The Seller Firms/Companies will issue Debit Notes to the Buyers for collection of the TDS under Section 194R. These Debit Notes will be issued offline and not through the eauction portal.
- 8) Buyers should remit the TDS amount to the Seller Firms/Companies within one month from the date of receipt of the Debit Notes. The Buyers will remit the TDS amounts directly to the bank accounts of individual Seller Firms/Companies and not through the eauction portal.
- 9) The Seller Firms/Companies should give the Buyer-wise statement of TDS deposited by them for the period 1st July 2022 to 31st March 2023 to GTAC, STAC and CTTA.

Attachment: as stated


Secretary



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Ref. no. 6(29)/LC/Auction Issues/2020/

Dated 25.04.2023

Circular

Subject: Implementation of Section 194R of the Income Tax Act, 1961 in respect of the samples distributed in 2022-23 –reg.

This is in continuation to Board's earlier circular reference nos. 277, dt.17.11.2022, no.323 dt.04.01.2023 and no.Nil dt.11.01.2023 in regard to implementation of Section 194R of the Income Tax act, 1961. Tea Board vide its above referred circulars directed the trade to implement Section 194R w.e.f. 1st July 2022 in compliance to the Order dated 4th November, 2022 of Hon'ble High Court of Madras and Order dated 22nd December, 2022 of Central Board of Direct Taxes (CBDT).

Subsequent to that, Board has received several representations from the stakeholders with the request to specify the value of the free trade samples distributed to the buyers for the season 2022-23 in order to identify the eligible sample holder, who are required to comply with the provisions of Section 194R of IT Act, 1961 for the season 2022-23.

In order to address the matter, Board had examined the CBDT guidelines vide circular no.12 of 2022 dated 16.06.2022 and circular no.18 of 2022 dated 13.09.2022, wherein it has been clearly specified that the valuation should be based on fair market value of the benefit or perquisite except in following cases:

- (i) The benefit/perquisite provider has purchased the benefit/perquisite before providing it to recipient. In that case, the purchase price shall be the value for such benefit/perquisite.
- (ii) The benefit/perquisite provider manufactures such items given as benefit/perquisite, then the price that it charges to its customers for such items shall be the value for such benefit/perquisite.

In the instant case of compliance of Section 194R by the stakeholders of the tea trade, the manufacturers of tea are providing samples to the prospective auction buyers which ultimately form the basis of purchasing of teas in bulk by these buyers after internal assessment of the quality of such teas and hence prima facie the final price of the product shall be the value of the sample as per clarification of CBDT as referred above.

However, as per the various representation of the stakeholders submitted to Tea Board and internal assessment of the Board about the sampling procedure of the buyers based on

Continued to page-2

actual practice prevalent in the trade for long, the samples so distributed to the buyers are not marketable as no brand value is attached to the same and the quality of the same also deteriorates with time due to absorption of moisture once the same is opened for testing and exposed to environment. At this juncture, it is extremely pertinent to mention that no MRP is attributed to the teas in bulk purchased by the buyers and the final price of the product depends entirely on the quality of the tea. The fresh teas are likely to receive higher price realisation and the value diminishes with time due to multiple factors like higher moisture content, low demand, etc..

In view of the above facts, Board is of the opinion that the valuation of the tea samples distributed to the buyers at the final price of the product is not justifiable in the interest of the trade, rather the same is required to be valued differently and based on the various recommendations of the trade, it is proposed that the value of the sample may be kept at 50% of the average market value of the tea for the season 2022-23 as tabulated below for ensuring compliance to section 194R of IT Act, 1961 in respect of auction buyers and sellers:

Tea Manufacturing Type	Region	Period	Average Price (Rs./kg.) for 2022-23	Value of the sample (approximately 50% of column no 4)
CTC	North India	2022-23	190.83	Rs.95/-
	South India	2022-23	109.89	Rs.55/-
Orthodox (including Darjeeling tea, Green tea, White tea, any other specialty tea)	North India	2022-23	276.35	Rs.138/-
	South India	2022-23	154.53	Rs.77/-

The determination of valuation of sample for the current financial year 2023-24 is also required to be evaluated for ensuring compliance to above stated statutory norms and shall be deliberated with the stakeholders in the upcoming committee meeting constituted for the purpose of reviewing norms for free trade samples.

This circular shall stand amended to the extent of any and all observations of CBDT if and when such observations are received by Tea Board.

The matter may please be brought to the notice of all concerned for compliance.

This issues with the approval of Competent Authority.

Rastar

(Rajanigandha Seal Naskar)
Controller of Licensing

Distribution:

1. Shri Om Prakash Meena ...For kind information and necessary direction, if any
Under Secretary (TPL)-III
Central Board of Direct Taxes
Ministry of Finance
Government of India

Continued to page-3

2. All Auction Organisers
3. All Producer Associations
4. All Buyer Associations
5. All Exporter Associations
6. All broker members
7. Executive Director, Tea Board, Coonoor & Guwahati