

MSC AGENCY (INDIA) PRIVATE LIMITED



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Corporate Identity Number : U63090MH2001PTC133288

April 1st, 2019

TO WHOMSOEVER IT MAY CONCERN

SUB : TAX DEDUCTION AT SOURCE FY 2019-2020

We, MSC Agency (India) Pvt. Ltd. are Shipping Agents for MSC Mediterranean Shipping Company S. A. ('MSC') & is based in Switzerland. We hereby confirm that as per the provisions of the Indian Income-Tax Act, 1961 ("the Act"), **MSC** residential status is "Non-Resident" and they are engaged in the business of operation of ships in International traffic.

The Circular 723 issued by CBDT (Central Board Of Direct Taxes) dated 19.09.1995 clearly mentions the provision of section 194C and 195 relating to tax deduction at source are not applicable to FOREIGN SHIPPING COMPANIES (Para 3 of circular attached here with for ready reference)

Hence NO TAX TO BE DEDUCTED FROM PAYMENTS TO FOREIGN SHIPPING COMPANIES OR TO THEIR LOCAL AGENTS on account of carriage of goods and passengers as the Foreign Shipping Companies are taxed under special provision of Section 172 of the Income Tax Act. Section 172 stipulates that Foreign Shipping Companies make arrangements for payment of tax prior departure of the vessel. Section 172 overrides other provisions of Section 194C and 195 of the Income Tax Act, 1961, which deals with deduction of Tax at Source from payments. The Finance Act, 1997 amended Section 172 has clarified that Demurrage, Handling or any other amount of similar nature are taxed under Section 172. **Hence it follows that no tax to be deducted from payments towards all Foreign Shipping line charges.**

Further, as per the revised Double Taxation Avoidance Agreement ('Tax Treaty') entered into between the Government of India and Swiss Confederation (notified by the Government vide Notification No. 62/2011 dated 27 December 2011), the entire income of **MSC**, from the operation of ships in international traffic, is not taxable in India.

In view of the above, we request you not to deduct tax at source on payments made to MSC Agency (India) Pvt. Ltd towards Shipping line Charges.

Necessary TDS can be applied for Invoices raised in name of MSC Agency (India) Pvt. Ltd., once payments crosses the threshold limit.

Thanking you,

Yours faithfully,
for **MSC AGENCY (INDIA) PVT. LTD.**

A handwritten signature in blue ink, appearing to be 'S. Amin', is written over the typed name of the signatory.


**AS AGENTS
MSC MEDITERRANEAN SHIPPING COMPANY S.A.**

Encl : a/a.

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4. Section 194C deals with work contracts including carriage of goods and passengers by any mode of transport other than railways. This section applies to payments made by a person referred to in clauses (a) to (j) of sub-section (1) to any "resident" (termed as contractor); It is clear from the section that the area of operation of TDS is confined to payments made to any "resident". On the other hand, section 172 operates in the area of computation of profits from shipping business of non-residents. Thus, there is no overlapping in the areas of operation of these sections.

5. There would, however, be cases where payments are made to shipping agents of non-resident ship-owners or charterers for carriage of passengers etc. shipped at a port in India. Since, the agent acts on behalf of the non-resident ship-owner or charterer, he steps into the shoes of the principal. Accordingly, provisions of section 172 shall apply and those of Sections 194 C and 193 will not apply.


(DR. D.P. SEMWAL)
OFFICER ON SPECIAL DUTY TO THE
GOVERNMENT OF INDIA