



उत्तर प्रदेश पावर कारपोरेशन लिमिटेड

(उ०प्र० सरकार का उपक्रम)

U.P. Power Corporation Limited

(U.P. Government Undertaking)

CIN: U32201UP1999SGC024928

GSTN: 09AAACU5088M4ZM

कारपोरेट टैक्स (जी.एस.टी. सेल) Corporate Tax (GST Cell)

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पत्र सं०: /का० टैक्स एवं जी०एस०टी० सेल/2022/

दिनांक: 26/07/2022

प्रबन्ध निदेशक,

मध्यांचल/पूर्वांचल/पश्चिमांचल/दक्षिणांचल विद्युत वितरण निगम लि०/केस्को/
लखनऊ/वाराणसी/ मेरठ/आगरा/कानपुर।

विषय:- विद्युत विक्रय पर इनकम टैक्स टी०डी०एस० (धारा 194Q) एवं इनकम टैक्स टी०सी०एस० (धारा 206C(1H)) की संयुक्त प्रायोज्यता के सम्बन्ध में।

कृपया जैसा कि ज्ञात है कि दिनांक 01.10.2020 से किसी भी विद्युत उपभोक्ता को एक वित्तीय वर्ष में रू० 50 लाख से अधिक के विद्युत विक्रय पर आयकर अधिनियम 1961 की धारा 206C(1H) के अन्तर्गत 0.10 प्रतिशत की दर से (पै न होने पर 1.0 प्रतिशत) टी०सी०एस० संग्रहित करके केन्द्र सरकार को भुगतान करने हेतु डिस्कॉम/केस्को उत्तरदायी है।

दिनांक 01.07.2021 से प्रभावी आयकर अधिनियम 1961 की नवीन धारा 194Q के अन्तर्गत ऐसे विद्युत उपभोक्ता जिनका पिछले वित्तीय वर्ष में टर्न ओवर रू० 10 करोड़ से अधिक का रहा हो, भी रू० 50 लाख से अधिक के विद्युत क्रय पर 0.10 प्रतिशत (पै न होने पर 5 प्रतिशत) की दर से टी०डी०एस० काटने हेतु बाध्य हैं।

यदि ऐसे उपभोक्ता द्वारा विद्युत क्रय पर डिस्कॉम के पै न पर टी०डी०एस० काटे बिना अथवा जमा किये बिना भुगतान किया जाता है, तो ऐसे में उसके द्वारा किये गये भुगतान के सम्बन्ध में धारा 206C(1H) के अन्तर्गत टी०सी०एस० संग्रहित करके केन्द्र सरकार को भुगतान करने का दायित्व डिस्कॉम पर आ जाता है।

उक्त के सन्दर्भ में समस्त विद्युत वितरण निगमों को निर्देशित किया जाता है कि वे सभी प्रकार के विद्युत उपभोक्ताओं के सम्बन्ध में रू० 50 लाख से अधिक के विद्युत विक्रय पर पूर्ववत् धारा 206C(1H) के प्रावधानों के अनुसार टी०सी०एस० संग्रहित करना सुनिश्चित करें। धारा 194Q के दायरे में आने वाले विद्युत उपभोक्ताओं पर भी धारा 206C(1H) के प्रावधानों के अन्तर्गत ही डिस्कॉम/केस्को द्वारा टी०सी०एस० संग्रहित कर केन्द्र सरकार को भुगतान किया जाना सुनिश्चित किया जाए।

आयकर विभाग द्वारा जारी किये गये circular no. 13 of 2021 दिनांक 30.06.2021 द्वारा यह स्पष्ट किया गया है कि यदि विक्रेता द्वारा धारा 206C(1H) के अन्तर्गत टी०सी०एस० जमा कर दिया गया है तो ऐसे में क्रेता द्वारा धारा 194Q के अन्तर्गत टी०डी०एस० काटे जाने की कोई आवश्यकता नहीं है।

कृपया अपने अधीनस्थ समस्त इकाईयों को उपरोक्तानुसार धारा 206C(1H) के प्रावधानों का समुचित अनुपालन करने एवं सम्बन्धित उपभोक्ताओं को तदनुसार अवगत कराने हेतु निर्देशित करने का कष्ट करें।

संलग्नक- यथोपरोक्त।

(पंकज कुमार)
प्रबन्ध निदेशक

पत्रांक: 229/का0टैक्स एवं जी0एस0टी0 सेल/2022 तददिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. समस्त निदेशक के निजी सचिव, उ0प्र0पा0का0लि0, शक्ति भवन, लखनऊ।
2. निदेशक (वित्त), मध्यांचल/पूर्वांचल/पश्चिमांचल/दक्षिणांचल विद्युत वितरण निगम लि0/केस्को/लखनऊ/वाराणसी/ मेरठ/आगरा/कानपुर।
3. मुख्य अभियन्ता, आरएपीडीआरपी-ए, उ0प्र0पा0का0लि0, शक्ति भवन, लखनऊ।
4. अधिशासी निदेशक (वित्त), उ0प्र0पा0का0लि0, शक्ति भवन, लखनऊ।
5. मुख्य महाप्रबन्धक (लेखा एवं सम्प्रेक्षा), उ0प्र0पा0का0लि0, शक्ति भवन, लखनऊ।
6. उप महाप्रबन्धक (निधि)/(सम्प्रेक्षा), उ0प्र0पा0का0लि0, शक्ति भवन, लखनऊ।
7. अधिशासी अभियन्ता, वेबसाइट, उ0प्र0पा0का0लि0, कक्ष सं0 409 चतुर्थ तल शक्ति भवन को वेबसाइट पर अपलोड करने हेतु।

संलग्नक- यथोपरोक्त।


(नितिन निझावन)
उपमहाप्रबन्धक (लेखा प्रशासन)

Circular No. 13 of 2021

F. No. 370142/26/2021-TPL
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)

Dated: 30th June, 2021

Sub.: Guidelines under section 194Q of the Income-tax Act, 1961 - reg.

Finance Act, 2021 inserted a new section 194Q in the Income-tax Act 1961 (hereinafter referred to as "the Act") which takes effect from 1st day of July, 2021. It applies to any buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of value exceeding fifty lakh rupees in any previous year. The buyer, at the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier, is required to deduct an amount equal to 0.1% of such sum exceeding fifty lakh rupees as income tax.

2. Buyer is defined to be person whose total sales or gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Central Government has been authorised to specify by notification in the Official Gazette, person who would not be considered as buyer for the purposes of this section.

3. Sub-section (3) of section 194Q of the Act empowers the Board (with the approval of the Central Government) to issue guidelines for the purpose of removing difficulties. Various representations have been received by the Board for issuing guidelines for removing certain difficulties. In exercise of power contained under sub-section (3) of section 194Q of the Act, the Board, with the approval of the Central Government, hereby issues the following guidelines. These guidelines at some places have also tried to remove difficulties in implementing the provisions of section 194-O and sub-section (1H) of section 206C of the Act using power contained in sub-section (4) of section 194-O of the Act and sub-section (1-I) of section 206C of the Act.

4. Guidelines

4.1 Applicability on transactions carried through various Exchanges:

4.1.1 It has been represented that there are practical difficulties in implementing the provisions of Tax Deduction at Source (TDS) contained in section 194-Q of the Act in case of certain exchanges and clearing corporations. It has been stated that sometime in these transactions there is no one to one contract between the buyers and the sellers.

4.1.2 In order to remove such difficulties, it is provided that the provisions of section 194Q of the Act shall not be applicable in relation to,-

(i) transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation,

including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;

(ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC; and

For this purpose,-

- (i) "recognized clearing corporation" shall have the meaning assigned to it in clause (i) of the Explanation to clause (23EE) of section 10 of the Act;
- (ii) "recognized stock exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section (5) of section 43 of the Act; and
- (iii) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005.

4.2 Calculation of threshold for the financial year 2021-22.

4.2.1. Since section 194Q of the Act would come into effect from 1st July, 2021, it was requested to clarify how the threshold of fifty lakh rupees specified under this section shall be computed and whether the tax is required to be deducted in respect of advance paid before 1st July 2021 and sum credited thereafter.

4.2.2 It hereby clarified that,-

(i) Since section 194Q of the Act mandates buyer to deduct tax on credit of sum in the account of seller or on payment of such sum, whichever earlier, the provision of this sub-section shall not apply on any sum credited or paid before 1st July 2021. If either of the two events had happened before 1st July 2021, that transaction would not be subjected to the provisions of section 194Q of the Act.

(ii) Since the threshold of fifty lakh rupees is with respect to the previous year, calculation of sum for triggering TDS under section 194Q shall be computed from 1st April, 2021. Hence, if a person being buyer has already credited or paid fifty lakh rupees or more up to 30th June 2021 to a seller, the TDS under section 194Q shall apply on all credit or payment during the previous year, on or after 1st July 2021, to such seller.

4.3 Adjustment for GST, purchase returns

4.3.1 It is requested to clarify that whether adjustment is required to be made for GST or purchase returns for the purpose of tax deduction under section 194Q of the Act. Vide circular no 17 of 2020 dated 29th Sept 2020 it was clarified that no adjustment on account of GST is required to be made for collection of tax under sub-section (IH) of section 206C of the Act since the collection is made with reference to receipt of amount of sale consideration. However, the situation is different so far as TDS is concerned. It has been clarified in circular no 23 of 2017 dated 19th July 2017 as under

"wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is

indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax."

4.3.2 Accordingly with respect to TDS under section 194Q of the Act, it is clarified that when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted under section 194Q of the Act on the amount credited without including such GST. However, if the tax is deducted on payment basis because the payment is earlier than the credit, the tax would be deducted on the whole amount as it is not possible to identify that payment with GST component of the amount to be invoiced in future.

4.3.3 Further, with respect to purchase return it is clarified that the tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens, the tax must have already been deducted under section 194Q of the Act on that purchase. If that is the case and against this purchase return the money is refunded by the seller, then this tax deducted may be adjusted against the next purchase against the same seller. No adjustment is required if the purchase return is replaced by the goods by the seller as in that case the purchase on which tax was deducted under section 194Q of the Act has been completed with goods replaced.

4.4 Whether non-resident can be buyer under section 194Q of the Act?

4.4.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer being a non-resident. To remove difficulties, it is clarified that the provisions of section 194Q of the Act shall not apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non-resident in India. For this purpose, "permanent establishment" shall mean to include a fixed place of business through which the business of the enterprise is wholly or partly carries on.

4.5 Whether tax is to be deducted when the seller is a person whose income is exempt

4.5.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a seller whose income is exempt. To remove difficulty, it is clarified that the provisions of section 194Q of the Act shall not apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.2 Similarly, with respect to sub-section (1H) of section 206C of the Act, it is clarified that the provisions of this sub-section shall not apply to sale of goods to a person, being a buyer, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.3 The above clarifications would not apply if only part of the income of the person (being a seller or being a buyer, as the case may be) is exempt.

4.6 Whether tax is to be deducted on advance payment?

4.6.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to advance payment made by the buyer. It is clarified that since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q of the Act shall apply to advance payment made by the buyer to the seller.

4.7 Whether provisions of section 194Q of the Act shall apply to buyer in the year of incorporation?

4.7.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer in the year of its incorporation. It is clarified that under section 194Q of the Act a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q of the Act shall not apply in the year of incorporation.

4.8 Whether provisions of section 194Q of the Act shall apply to buyer if the turnover from business is 10 crore or less?

4.8.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer who has turnover or gross receipt exceeding Rs 10 crore but total sales or gross receipts or turnover from business is Rs 10 crore or less. It is clarified that for the purposes of section 194Q of the Act, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Hence, the sales or gross receipts or turnover from business carried on by him must exceed Rs 10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.

4.9 Cross application of section 194-O, sub-section (1H) of section 206C and section 194Q of the Act.

4.9.1 It is requested to clarify how section 194-O, sub-section (1H) of section 206C and section 194Q of the Act, apply on the same transaction.

4.9.2 Under sub-section (3) of section 194-O of the Act, a transaction in respect of which tax has been deducted by the e-commerce operator under sub-section (1), or which is not liable to deduction under sub-section (2), shall not be liable to tax deduction at source under any other provision of chapter XVII of the Act.

4.9.3 Under second proviso to sub-section (1H) of section 206C of the Act, provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provisions of this Act on the goods purchased by him from the seller and has deducted such tax.

4.9.4 Under sub-section (5) of section 194Q of the Act, the provision of this section shall not apply to a transaction on which-

- (i) tax is deductible under any of the provisions of this Act; and
- (ii) tax is collectible under the provisions of section 206C, other than a transactions on which sub-section (1H) of section 206C applies

4.9.5 After conjoint reading of all these provisions the following is clarified:

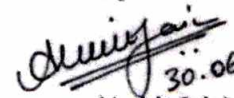
(i) If tax has been deducted by the e-commerce operator on a transaction under section 194-O of the Act [including transactions on which tax is not deducted on account of sub-section (2) of section 194-O], that transaction shall not be subjected to tax deduction under section 194Q of the Act.

(ii) Though sub-section (1H) of section 206C of the Act provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him, to remove difficulties it is clarified that this exemption would also cover a situation where instead of the buyer the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator.

(iii) If a transaction is both within the purview of section 194-O of the Act as well as section 194Q of the Act, tax is required to be deducted under section 194-O of the Act and not under section 194Q of the Act.

(iv) Similarly, if a transaction is both within the purview of section 194-O of the Act as well as sub-section (1H) of section 206C of the Act, tax is required to be deducted under section 194-O of the Act. The transaction shall come out of the purview of sub-section (1H) of section 206C of the Act after tax has been deducted by the e-commerce operator on that transaction. Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax under sub-section (1H) of section 206C of the Act on the same transaction. It is clarified that here primary responsibility is on e-commerce operator to deduct the tax under section 194-O of the Act and that responsibility cannot be condoned if the seller has collected the tax under sub-section (1H) of section 206C of the Act. This is for the reason that the rate of TDS under section 194-O is higher than rate of TCS under sub-section (1H) of section 206C of the Act.

(v) If a transaction is both within the purview of section 194-Q of the Act as well as sub-section (1H) of section 206C of the Act, the tax is required to be deducted under section 194-Q of the Act. The transaction shall come out of the purview of sub-section (1H) of section 206C of the Act after tax has been deducted by the buyer on that transaction. Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax under sub-section (1H) of section 206C of the Act on the same transaction. However, if, for any reason, tax has been collected by the seller under sub-section (1H) of section 206C of the Act, before the buyer could deduct tax under section 194-Q of the Act on the same transaction, such transaction would not be subjected to tax deduction again by the buyer. This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and sub-section (1H) of section 206C of the Act.


30.06.2021
(Ankit Jain)

Under Secretary to the Govt. of India

Circular No. 13 of 2021

Copy to:

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