



ZALAWAD FEDERATION OF TRADE & INDUSTRIES

Efforts Towards Development & Empowerment

Kishorsinh Zala
Chairman

Kalpesh Makasana
Co-Chairman

Kamlesh Raval
President

Ghanshyam Savadhariya
Sr. Vice President

Hitesh Nayakpara
Vice President

Naresh Kella
Secretary

Rashmin Mehta
Treasurer

Ashish Parmar
Jt. Secretary

Chairman - Cell Board

- Ulhas Marathe
Foreign Cell
- Manish Shah
Projects & Policy
- Sagar Shah
Entrepreneur
Development Cell
- Jayesh Delivala
Event Cell
- Dr.Sidhesh Vora
Professional Cell
- Mrs. Minal Dave
Woman Entrepreneur Cell
- Raju Doshi (Kachwala)
Legal Cell
- Kekan Ganatra
Trade Cell
- Vaibhav Choksi
Employment Cell

Co-Chairman - Cell Board

- Mehul Kuvadia
Entrepreneur
Development Cell
- Rajendrasinh Rana
Employment Cell
- Darshan Shah
Trade Cell
- Jaydeep Prajapati
Event Cell

Zonal Association Board

- Dharmendra Sanghvi
President - District
- Babulal Prajapati
Vice President - District
- Jilubhai Khavadi
President - Sayala
- Mehul Patel
President - Lakhtar
- Shripalsinh Rana
President - Limbdi

24th September, 2020

(1) Smt. Nirmala Sitharaman ji
Hon'ble Minister of Finance
Government of India
New Delhi - 110001

(2) Shri Anurag Thakur,
Hon'ble Minister of State, Finance
Government of India
New Delhi - 110001

(3) Shri P C Mody,
Chairman,
CBDT
New Delhi - 110001

Respected Madam / Sir,

Subject: Request for roll-back of provisions of Tax Collection at Source (TCS) under section 206C (1H) of the Income Tax Act, 1961

1. The Finance Act, 2020 has made an amendment by insertion of sub-section (1H) in section 206C of the Income Tax Act, 1961 (hereinafter referred to as "the Act") which is effective from 01.10.2020. As a result of the said amendment, a seller who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year shall at the time of receipt of such amount collect from the buyer, a sum equal to 0.10% of the sale consideration exceeding fifty lakhs as income tax.
2. In this respect, we have to submit that the scheme of section 206C of the Act does not extend the benefit of sub-section (9) of section 206C of the Act which allows the assessee to apply to the assessing officer for Nil/lower tax collection at source, to sub-section (1H) of section 206C of the Act. Consequently, for transactions covered under section 206C(1H), the assessee does not have the option to approach the assessing officer to issue Nil/ lower tax collection at source certificate.

www.taxguru.in



ZALAWAD FEDERATION OF TRADE & INDUSTRIES

Efforts Towards Development & Empowerment

Kishorsinh Zala Chairman	Kalpesh Makasana Co-Chairman	Kamlesh Raval President
Ghanshyam Savadhariya Sr. Vice President	Hitesh Nayakpara Vice President	Nareesh Kella Secretary
		Rashmin Mehta Treasurer
		Ashish Parmar Jt. Secretary

Chairman - Cell Board

- Ulhas Marathe
Foreign Cell
- Manish Shah
Projects & Policy
- Sagar Shah
Entrepreneur
Development Cell
- Jayesh Delivala
Event Cell
- Dr.Sidhesh Vora
Professional Cell
- Mrs. Minal Dave
Woman Entrepreneur Cell
- Raju Doshi (Kachwala)
Legal Cell
- Kekan Ganatra
Trade Cell
- Vaibhav Chokis
Employment Cell

Co-Chairman - Cell Board

- Mehul Kuvadia
Entrepreneur
Development Cell
- Rajendrasinh Rana
Employment Cell
- Darshan Shah
Trade Cell
- Jaydeep Prajapati
Event Cell

Zonal Association Board

- Dharmendra Sanghvi
President - District
- Babulal Prajapati
Vice President - District
- Jilubhai Khavad
President - Sayala
- Mehul Patel
President - Lakhtar
- Shripalsinh Rana
President - Limbdi

In view of the above, assesseees who are incurring huge losses cannot apply to the assessing officer for Nil/lower tax collection at source certificate under sub-section (9) of section 206C of the Act. Tax collection at source in such cases results in blockage of funds which is subsequently required to be claimed as refund by the assesseees from the Income Tax Department.

3. It is further submitted that sub-section (1H) of section 206C of the Act provides for collection of TCS at the time of receipt of sale consideration. Consequently, provisions of section 206C(1H) is triggered on actual receipt of sales consideration which gives an impression that w.e.f. 01.10.2020 i.e. the date from which the provisions of section 206C(1H) becomes applicable, recovery of amounts outstanding as on 30.09.2020 would also come within the ambit of section 206C(1H) of the Act even though such sale, as per mercantile system of accounting followed by the seller, would have taken place before 01.10.2020.

The aforesaid interpretation has caused a lot of confusion among the assesseees specially when similar provisions in sub-section (1) of section 206C envisages the seller to collect tax at source at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer, whichever is earlier.

4. As per Memorandum explaining the Finance Bill, 2020, the provisions of sections 206C(1H) have been inserted to widen and deepen the tax net. Whereas collection of tax at source from ultimate consumers (i.e. B2C transactions) would be significantly effective to widen the tax base, however, collection of income tax at source in B2B (i.e. business to business transactions for selling goods to other businesses) transactions would lead to multilevel tax collection from persons already covered in the tax net.
5. Further, sellers also receive from buyers the GST levied on sale of goods. It is submitted that GST, and Cess thereon, if any is imposed, ought not to be included in "Sale Consideration" as (i) the same is accounted for separately to be paid to the Governments with Seller is acting as their collecting agent, and (ii) it would amount to dual taxation, first on value of goods sold and second on GST levied. It is requested that CBDT may kindly issue a suitable clarification to exclude the GST from such "sale consideration".

The FAQ mentioned on the site of incometaxindia@gov.in says as under:

AS PER SECTION 206C (1) EVERY PERSON, BEING A SELLER SHALL, AT THE TIME OF DEBITING OF THE AMOUNT PAYABLE BY THE BUYER TO THE ACCOUNT OF THE BUYER OR AT THE TIME OF RECEIPT OF SUCH AMOUNT

www.taxguru.in



ZALAWAD FEDERATION OF TRADE & INDUSTRIES

Efforts Towards Development & Empowerment

Kishorsinh Zala Chairman	Kalpesh Makasana Co-Chairman	Kamlesh Raval President
Ghanshyam Savadhariya Sr. Vice President	Hitesh Nayakpara Vice President	Naresh Kella Secretary
	Rashmin Mehta Treasurer	Ashish Parmar Jt. Secretary

Chairman - Cell Board

- Ulhas Marathe
Foreign Cell
- Manish Shah
Projects & Policy
- Sagar Shah
Entrepreneur
Development Cell
- Jayesh Delivala
Event Cell
- Dr.Sidhesh Vora
Professional Cell
- Mrs. Minal Dave
Woman Entrepreneur Cell
- Raju Doshi (Kachwala)
Legal Cell
- Kekan Ganatra
Trade Cell
- Vaibhav Choksi
Employment Cell

Co-Chairman - Cell Board

- Mehul Kuvadia
Entrepreneur
Development Cell
- Rajendrasinh Rana
Employment Cell
- Darshan Shah
Trade Cell
- Jaydeep Prajapati
Event Cell

Zonal Association Board

- Dharmendra Sanghvi
President - District
- Babulal Prajapati
Vice President - District
- Jilubhai Khavad
President - Sayala
- Mehul Patel
President - Lakhtar
- Shripalsinh Rana
President - Limbdi

FROM THE SAID BUYER IN CASH OR BY THE ISSUE OF A CHEQUE OR DRAFT OR BY ANY OTHER MODE, WHICHEVER IS EARLIER, COLLECT FROM THE BUYER. HENCE, AMOUNT DEBITED TO THE ACCOUNT OF BUYER OR PAYMENT SHALL BE RECEIVED BY SELLER INCLUSIVE OF VAT/EXCISE/GST. TCS TO BE COLLECTED ON INCLUSIVE OF GST.

But the above FAQ pertains to TCS u/s 206C(1) which is markedly different than that u/s 206C(1H). Under section 206C(1) the TCS is to be collected from the amount payable by the buyer at the time of debiting this account or on its receipt from the buyer. Whereas under section 206(1H) the TCS is to be collected from receipt of "Sale Consideration" which phrase has not been defined anywhere. If one goes to Sale of Goods Act, the Sale Consideration is simpliciter restricted to the consideration for the goods sold and will not include any taxes on sale. Hence it submitted a fresh look at the matter is required.

The GST authorities vide their letter F.No. 20/16/04/2018 -GST dated 7th Mar, 2019 have already replied that no GST is to be collected on TCS -

WHAT IS THE CORRECT VALUATION METHODOLOGY FOR ASCERTAINMENT OF GST ON TAX COLLECTED AT SOURCE (TCS) UNDER THE PROVISIONS OF THE INCOME TAX ACT, 1961?

1. Section 15(2) of CGST Act specifies that the value of supply shall include "any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier."

2. For the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

As such the intention of Government of India is not to levy Indirect tax on a Direct tax and it is submitted that the reciprocal should also be true i.e. Government ought not to levy a Direct Tax on an Indirect Tax.

6. In view the above submissions, we respectfully submit that this provision is hitting very hard to the Hon'ble Prime Minister Narendra Modi's belief of Minimum Government, Maximum Governance. Also, this provision would

www.taxguru.in



ZALAWAD FEDERATION OF TRADE & INDUSTRIES

Efforts Towards Development & Empowerment

Kishorsinh Zala
Chairman

Kalpesh Makasana
Co-Chairman

Kamlesh Raval
President

Ghanshyam Savadhariya
Sr. Vice President

Hitesh Nayakpara
Vice President

Naresh Kella
Secretary

Rashmin Mehta
Treasurer

Ashish Parmar
Jt. Secretary

Chairman - Cell Board

- Ulhas Marathe
Foreign Cell
- Manish Shah
Projects & Policy
- Sagar Shah
Entrepreneur
Development Cell
- Jayesh Delivala
Event Cell
- Dr. Sidhesh Vora
Professional Cell
- Mrs. Minal Dave
Woman Entrepreneur Cell
- Raju Doshi (Kachwala)
Legal Cell
- Kekan Ganatra
Trade Cell
- Vaibhav Choksi
Employment Cell

Co-Chairman - Cell Board

- Mehul Kuvadia
Entrepreneur
Development Cell
- Rajendrasinh Rana
Employment Cell
- Darshan Shah
Trade Cell
- Jaydeep Prajapati
Event Cell

Zonal Association Board

- Dharmendra Sanghvi
President - District
- Babulal Prajapati
Vice President - District
- Jilubhai Khavad
President - Sayala
- Mehul Patel
President - Lakhtar
- Shripalsinh Rana
President - Limbdi

increase undue compliance for SMEs and thus adversely affect the gist of Ease of Doing Business in India, for which our beloved Prime Minister Sir is working tirelessly. Hence we pray that the subject provision be rolled back in the larger interest of the trade and industry which is already badly hit by prevailing Covid - 19 situation.

Thanking you,

Yours sincerely,

CA. Naresh Kella
(B. Com., LL. b., FCA)

Secretary, Zalawad Federation of Trade & Industries

Chairman, Professional Cell, Federation of Industries and Associations, Guj.

Chairman, GST Committee, All India Sugar Trade Association

238-242, 2nd Floor, Mega Mall,

Surendranagar - 363001

Gujarat

M. 9712558888

E-mail: naresh.kella@gmail.com

c.c.

(1) Respected Shri Narendra Modi ji,
Hon'ble Prime Minister of India
New Delhi

www.taxguru.in