

Date: 15th September, 2020

To,
Shri Pramod Chandra Mody,
Chairman,
Central Board of Direct Tax,
New Delhi
Email – chairmancbdt@nic.in

Respected Sir,

Sub: Representation for deferment of applicability of the provisions of Section 206C(1H) (TCS on sale of goods) till 31st March, 2021

About C.V.O. Chartered & Cost Accountants' Association

C.V.O. Chartered and Cost Accountants' Association (CVO CA) is a four decade old, non-profit professional organization established in 1973. It has acclaimed a premier position in society. Its objective is to disseminate knowledge in the field of Taxation, Accounting, Finance and Allied laws. It has membership strength of more than 1850+ members. Members of the Association have acclaimed respectable position in the CA practice and industry where they serve. It also organizes general public awareness program. One of the flagship programs is on Union Budget, which is organized in Gujarati Language for general public. The Association also publishes monthly Newsletter which is called 'CVO CA News & Views'. Besides these activities Association also supports students who are pursuing CA, CS & CWA by providing them financial assistance in the form of scholarships and interest free loans.

Background

Whole world is going through unprecedented times in facing the pandemic of Covid-19. During the lockdown, commercial activities of most of the sectors had come to a standstill except those covered under essential categories. Now with opening up of lockdown, slowly economic activities are resuming and business are trying their best to ensure revival of animal spirit. However, during these testing times the businesses are grappling with various business issues.

CVOCA sincerely appreciates the efforts of the Government in taking pro-active steps for giving stimulus package to MSME sector and Corporates at large. The Government has always been co-operative and responsive to the problems faced by the businesses once brought to their attention.

In continuation to the above relief, considering the increased compliance efforts, cost and ambiguity surrounding the new provisions, **we would like to request for deferral of applicability of TCS provisions to be effective from 1st October, 2020 till 31st March 2021.**



ISSUES AND SUGGESTIONS:

In order to widen and deepen the tax net, Finance Act 2020 introduced sub-section (1H) in Section 206C of the Income-tax Act, 1961 ("ITA") with effect from October 1, 2020 to levy TCS on sale of goods exceeding Rs.50 lakhs in a previous year. Considering the language of the provisions, there are various ambiguities while interpreting the amended TCS provisions which has raised practical issues in implementation. Some of the pressing issues are highlighted below:

1. The ITA does not provide a definition for "goods". Various Acts provide varying definition of "goods" such as Central Goods & Service Tax Act, 2017, the Customs Act, 1962 and Sale of Goods Act, 1930. There is a concern on the scope of TCS levy and possibility of conflicting inferences being drawn by the Revenue authorities.
2. Whether TCS should be calculated on sale consideration including GST or any other tax, levy, cess etc component?
3. TCS has to be collected at the time of actual receipt of consideration for sale of goods. Whether TCS is collectible:
 - If goods are sold before October 1, 2020 but payment is received on/after that date?
 - If advance payment is received before October 1, 2020 but sale is completed on/after that date?
4. Whether TCS is applicable only if receipts from sale of goods exceeds Rs.50 lakhs on/after October 1, 2020 or are receipts from April 1, 2020 onwards to be considered for the threshold limit?
5. Sale of Goods after 1st October on which TCS is paid are subsequently returned (sales return), whether reversal would be allowed from overall liability?
6. Provision exclude Export sales from the ambit of TCS provisions, however deemed exports (Eg: supply to SEZ) would require TCS compliance
7. Assessee engaged in business of share trading on stock exchange, whether would be required to comply with the provisions? Since, identity of other person is not known when trading through stock exchange.
8. There is a concern of mismatch between the books of accounts and Form 26AS on account of TCS being collectible on receipt and not sale and as such, TCS may be collected in a year in which only advance is received but sales is made and recorded in subsequent years.
9. Entities which are otherwise eligible for tax exemptions (such as Charitable Trusts, Educational Institutions, Hospitals, etc.) should be excused from applicability of TCS as it would result in unnecessary compliance for them.



Further, the lockdown on account of COVID pandemic has resulted in complete disruption of activities for the taxpayers as well as Chartered Accountants. Tax compliance may take a back-seat during this unprecedented time when the focus of the trade is on business revival. In the current state of the Indian economy, the threshold of Rs. 10 Crore turnover for sellers and Rs.50 lakhs for buyers for applicability of new TCS levy does not seem adequate. Further, many businesses are currently struggling with liquidity and the new TCS levy would lead to blockage of much-needed working capital. The new TCS levy would result in additional costs to sellers for updating IT systems for implementation and reporting purposes. Moreover, the details expected to be drawn through the new TCS levy can otherwise be derived from the GST returns filed by such trader's data. Considering the limit of Rs. 50 Lakhs per party, it is highly impossible that such persons will not be covered under any tax net and their data cannot be gathered by the department. As such, the new TCS levy would result in an increased compliance burden and undue hardship to the taxpayers and professionals.

Suggestions:

For the reasons mentioned herein above, we humbly request your goodself to defer the applicability of new TCS levy on sale of goods to April 1, 2021. This would provide adequate time to taxpayers and professionals to integrate the new TCS levy into their IT systems for effective implementation. Further, an early clarification on the issues arising out of ambiguous wordings of the provisions of Section 206C(1H) would go a long way in effective and standardised implementation of the new levy and help in reducing litigation on the same going forward.

We look forward for the positive outcome on all of the above suggestions/representation.

Yours sincerely,

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President
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CA Sanjay Chheda
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