

From	Karvy Data Management Services Ltd.
Date	March 11, 2019
Subject	Value of supply under GST not to include Income Tax TCS
Category	Corrigendum to Circular
Reference	Corrigendum to Circular No. 76/50/2018-GST dated 31.12.2018 vide F. No. 20/16/04/2018 -GST dated 07.03.2019
Series	Karvy/GST/105

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.”***

Central Board of Indirect Taxes and Customs (CBIC) had issued Circular No. 76/50/2018-GST dated 31.12.2018, clarifying that ***“taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS”***

Various representations were made by the stakeholders on this matter and CBIC has re-examined the same in consultation with the Central Board of Direct Taxes (CBDT). The CBDT has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible “income” arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer.

CBIC has thereby issued Corrigendum to the original Circular No. 76/50/2018-GST dated 31.12.2018 vide F. No. 20/16/04/2018-GST dated 07.03.2019, changing the clarification provided earlier. The revised clarification goes as ***“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.”***

Original Clarification vide Circular No. 76/50/2018-GST dated 31.12.2018	Revised Clarification vide Corrigendum Circular No. 76/50/2018-GST dated 31.12.2018 issued vide F. No. 20/16/04/2018 -GST dated 07.03.2019
Taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS	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.

Our Comment – This revised clarification shall indeed bring relief to the industry in determining the value of supply under GST for scenarios attracting levy of TCS under Income Tax. Industry should implement the necessary invoicing changes in their ERPs ASAP.

Link to download the Corrigendum to Circular No. 76/50/2018-GST dated 31.12.2018 vide F. No. 20/16/04/2018-GST dated 07.03.2019 –

http://www.cbic.gov.in/resources//htdocs-cbec/gst/Corrigendum_76-2018.pdf;jsessionid=3664C77D8470DC62AB7FC00FE201212A

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In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi, Chennai, Pune and Kolkata. For more information about KDMSL service offerings, visit www.karvygst.com

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