

# Oil and Natural Gas Corporation Ltd

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Circular No. 48 /2020-Cum- BL Amendment No. BL/01/121 and BL/02/96

No: MAT/PMC/13(29)/2/87	1
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Sub: Introduction of Tax Collected at Source (TCS) under Section 206C (1H) of Income Tax Act, 1961.

1.0 The Finance Act, 2020, has inserted a new sub-section (1H) in section 206C of the Income Tax Act, 1961, which deals with collection of tax at source (TCS).

As per the pre-amended provisions, TCS was applicable only on sale of certain specified goods such as tendu leaves or other forest produce, scarp, minerals being coal or ignite or iron ore, motor vehicle. The aforesaid section 206C (1H) has extended the scope of TCS to provide for collection of TCS on sale of goods other than goods already covered within the ambit of TCS. Thus, barring the aforesaid specified categories of goods already covered under different subsections of section 206C, TCS u/s. 206C (1H) would be applicable on sale of all other goods.

The above amendment is effective from 01st October, 2020.

A document containing salient features of section 206C (1H) and certain clarifications in regard thereto in the form of FAQs as received from Corporate Tax Department are enclosed as Annexure-1.

The provision of TCS u/s 206C (1H) would not be applicable, if ONGC is required to deduct TDS under any other provision of the Act on the sum payable by it for goods purchased from the seller and has deducted such TDS.

- 2.0 In view of the above, wherever purchase orders have already been placed, work center will intimate the suppliers that the applicable TCS u/s 206C (1H) of Income Tax Act,1961 will be paid provided they are claiming it in their invoice and on submission of following undertaking along with the invoice stating that:
  - a. TCS is applicable on supply of goods invoiced to ONGC as turnover of the supplier in previous year was more than Rs.10 Cr. and
  - b. Total supply of goods to ONGC in FY 2020-21 exceeds Rs. 50 Lakh and
  - c. TCS as charged in the invoice has already been deposited (duly indicating the details such as challan No. and date) or would be deposited with Exchequer on or before the due date and
  - d. TCS certificate as provided in the Income Tax Act will be issued to ONGC in time.

However, Security deposit will be released only after the TCS certificate for the amount of tax collected, is provided to ONGC. Supplier will extend the performance

bank guarantee (PBG), wherever required, till the receipt of TCS certificate or else the same will be forfeited to the extent of amount of TCS, if all other conditions of Purchase order are fulfilled.

The above payment condition is applicable only for release of TCS amount charged by supplier u/s 206C (1H) of Income Tax Act, 1961. Other payment terms and conditions of the purchase order shall remain unchanged.

- 3.0 Finance section will make the payment to the supplier towards TCS as per process guide attached at Annexure-2. No amendment in Purchase order is require to be made.
- 4.0 Following provisions with regard to 'Corporate Tax' in General Terms and Conditions (Annexure-II) of Standard Booklet- ONGC/MM/01 and ONGC/MM/02 stands modified, for all the tenders and POs yet to be placed, as under:

Para No.	Existing Provisions	Modified Provisions
	No Provisions	Tax Collectible at Source (TCS) applicable under the Income-tax Law and charged by the SUPPLIER shall also be payable by the CORPORATION along with consideration for procurement of goods/materials/equipment. If TCS is collected by the SUPPLIER, a TCS certificate in prescribed Form shall be issued by the SUPPLIER to the CORPORATION within the statutory time limit.
		Payment towards applicable TCS u/s 206C (1H) of Income Tax Act,1961 will be made to the supplier provided they are claiming it in their invoice and on submission of following undertaking along with the invoice stating that:
		<ul> <li>a. TCS is applicable on supply of goods invoiced to ONGC as turnover of the supplier in previous year was more than Rs. 10 Cr. and</li> <li>b. Total supply of goods to ONGC in FY exceeds Rs. 50 Lakh and</li> <li>c. TCS as charged in the invoice has already been deposited (duly indicating the details such as challan No. and date) or would be deposited with Exchequer</li> </ul>
		on or before the due date and d. TCS certificate as provided in the Income Tax Act will be issued to ONGC in time.
		However, Security deposit will be released only after the TCS certificate for the amount of tax collected, is provided to ONGC. Supplier will

extend the performance bank guarantee (PBG), wherever required, till the receipt of TCS certificate or else the same will be forfeited to the extent of amount of TCS, if all other conditions of Purchase order are fulfilled.
The above payment condition is applicable only for release of TCS amount charged by supplier u/s 206C (1H) of Income tax Act, 1961.

Suitable provisions in this regard may be added in General Terms and Conditions of other type of tenders as per the applicability of the TCS.

(AP Tripathi) 26/10/2120 ED-Chief MM Services

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#### Salient features of section 206C (1H)

1. Rate- TCS u/s. 206C(1H) is applicable at the rate of 0.1% on sale (purchase) of goods. However, as per Press Release dated 13th May'20 issued by Ministry of Finance, from 1st October 2020 to 31st March, 2021, the rate of TCS stands reduced to 0.075%.

If the buyer does not furnish its PAN/ Aadhaar Number to the seller, TCS would be collectible @ 1% of sale consideration.

- 2. <u>Time of Collection-</u> TCS is collectible by the seller of goods at the time of receipt of consideration. Accordingly, any consideration received by the seller on or after 01st October, 2020, would be subject to TCS u/s. 206C(1H) of the Act.
- 3. Threshold- The requirement of TCS u/s. 206C(1H) arises only if the amount of sale consideration received by a seller from a buyer during a financial year exceeds Rs. 50 lakh. In such a case, TCS would be collectible on sale consideration received from a buyer in excess of Rs. 50 Lakh.

#### 4. Non-applicability-

TCS u/s 206C (1H) would not be applicable in the following cases:

- (i) When goods are exported outside India or imported into India.
- (ii) If the buyer is required to deduct TDS under any other provision of the Act on the sum payable by him for goods purchased from the seller and has deducted such TDS.
- (iii) If the buyer is a Central Govt., State Govt., an embassy, a High Commission, legation, Commission, consulate, trade representation of a foreign State or a local authority as defined u/s 10(20) of the Act or any other person as notified by the Central Govt.
- (iv) If total sales, gross receipts or turnover of the seller from the business carried on by it does not exceed Rs. 10 crore during the financial year immediately preceding the financial year in which the sale of goods is carried out;
- (v) The seller is a person who has been exempted from the applicability of Section 206(1H) by the Central Govt. by way of a notification issued in this regard

#### Frequently Asked Questions

# 1. Individual invoice value or sum total of total invoices for a customer/supplier to be considered?

Section 206C (1H) of the Income-tax Act, 1961 (Act) envisages "value or aggregate value of consideration". Accordingly, for the purpose of determining the applicability or otherwise of TCS, the total amount of sales consideration paid to the supplier during a financial year has to be considered.

It is, however, pertinent to mention that, if the amount of consideration received by a supplier from a customer during a financial year exceeds the threshold prescribed by section 206C(1H) i.e., Rs. 50 lakh, TCS would be applicable on consideration received in excess of Rs. 50 lakh.

# 2. TCS is applicable at the time of billing or payment of sale consideration?

Section 206C(1H) specifically provides that, TCS has to be collected at the time of receipt of consideration from the buyer. Thus, unlike other sections dealing with TCS which require TCS to be collected at the time of debiting the account payable by the buyer or at the time of receipt of payment, whichever is earlier, the provisions of section 206C(1H) would trigger only at the time of payment of sale consideration.

Now the question arises whether or not TCS would also be applicable on consideration payable in respect of sales effected on or before 30<sup>th</sup> September, 2020. While different interpretations could be possible, we are of the view that, since the trigger for TCS is the actual payment of sale consideration, the same should be applicable on every consideration paid on or after 1<sup>st</sup> October, 2020, despite the fact that same pertains to the sale effected prior thereto.

# 3. Base value for applying TCS percentage.

The term "consideration" has not been defined under the Act; in common parlance, the same is defined to mean compensation, payment or reward.

As regards inclusion of VAT, GST or any other indirect taxes, in the amount of consideration for the purpose of TCS, it is relevant to mention that, as per FAQ issued earlier by the Incometax Department in the context of section 206C (1) of the Act, if the amount debited to the account of buyer or payment received by seller is inclusive of VAT/ excise/GST, TCS has to be collected on the amount inclusive of such taxes. Further, in terms of section 145A of the Act, the valuation of purchase and sale of goods or services would be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location.

Thus, in light of the above, we are of the view that, unless and until the Central Board of Direct Taxes (CBDT) comes out with a specific clarification regarding inclusion/non-inclusion of VAT, GST or any other indirect tax in sale consideration for the purpose of section 206C (1H), the amount of such indirect levies billed and payable to the supplier should be treated as forming part of consideration and should be subject to TCS accordingly.

# 4. Products and transactions on which TCS is applicable.

Section 206C (1H) of the Act deals with applicability of TCS on sale of any goods other than the goods already covered within the ambit of section 206C. Thus, barring the specified categories of goods already covered under different sub-sections of section 206C such as tendu leaves or other forest produce, scarp, minerals being coal or ignite or iron ore, motor vehicle, TCS u/s. 206C(1H) would be applicable on sale of all other goods.

Hence, for the purpose of section 206C (1H), the term "goods" is of wide import; anything which comes to the market may be covered within the meaning thereof.

Accordingly, TCS w/s. 206C (1H) would be applicable on purchase of goods/materials. Payments towards services are, however, not covered within the ambit thereof.

# 5. Applicability of TCS in the cases of composite contracts

In the cases of composite payments or LSTK contracts, we are of the view that, if material procurement component is identifiable then, the sums payable there against should be subject to TCS. If, however, it is not feasible to segregate the materials component, then, the pith and substance of the contract has to be seen; if contract is for procurement of materials/goods and the services rendered are merely incidental thereto, then, TCS would, in our view, be applicable on entire sums payable under the contract.

The aforesaid clarifications are based on our own understanding and interpretation of the statutory provisions. This being a new provision, there are certain issues which may be subject to differential interpretations. It is, therefore, expected that, the CBDT may come out with certain clarifications in the form of FAQs or otherwise to operationalize the scheme of TCS. If any such communication is issued by the CBDT, the same would be duly circulated.

### Process Guide on TCS payable on Purchases made by ONGC

The Finance Act, 2020, has inserted a new sub-section (1H) under section 206C of the Act to provide for collection of TCS on sale of goods other than goods already covered under any other sub-section of section 206C of the Act.

The aforesaid amended provisions would come into force with effect from 1st October, 2020.

In the view of the above, Invoices raised by vendors to ONGC on or after Oct 01, 2020 may have TCS amount included in total invoice amount.

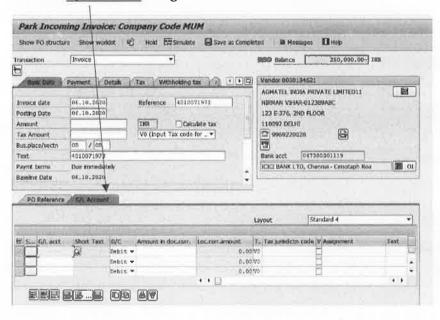
Process for the same is explained below:

Following 2 GL a/c has been created:

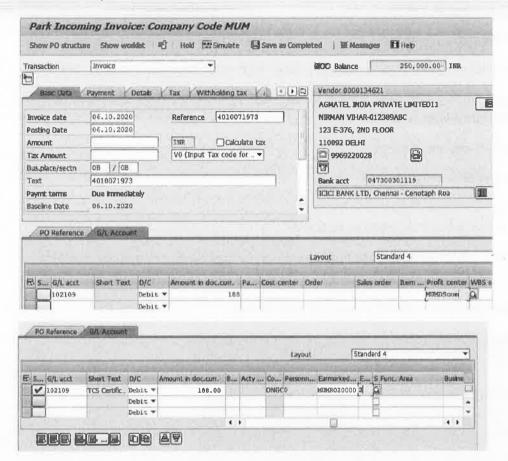
- 1. 102109 TCS Certificate Receivable Account
- 2. 102123 Advance Tax-Tax Collected At Source

Execute T-code MIR7 – Enter all details like Purchase order, Posting date, section code, Business place, IMS no. etc.

New tab G/L Account along with PO reference has been added.

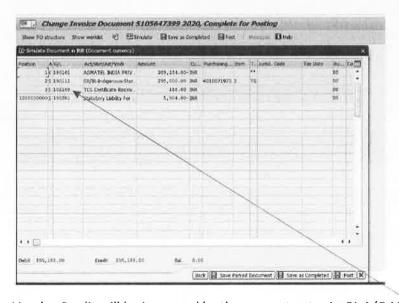


Enter TCS GL a/c 102109 in GL Account tab, enter TCS amount payable to vendor as per Invoice, Business Area, Profit Centre



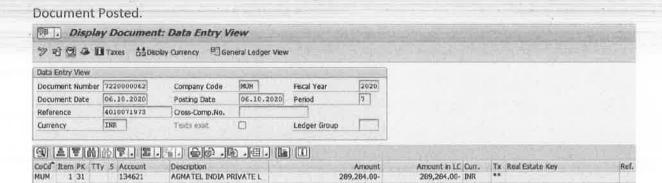
Rest other details will remain same.

Simulate Document.



Vendor Credit will be increased by the amount enter in GL A/C 102109.

Save Document.



289,284.00-

295,000.00

188.00

5,904.00-

289,284.00- INR

295,000.00 INR

188.00 INR

5,904.00- INR

TG

Amount in lying in GL A/C 102109 needs to be transferred to DDN in GL a/c -102123 - Advance Tax-Tax Collected at Source after receipt of TCS certificate from the Vendor.

AGMATEL INDIA PRIVATE L

GR/IR-Ind-Store&Spar

TCS Certificate RecA

STLB-TDS-OthrthanEmp

1 31 2 86

3 40

4 50

190112

102109

190281