



PMC Cell – MM

Oil and Natural Gas Corporation Ltd

Corporate Materials Management

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Circular No. 08/2020

No: MAT/PMC/13(117)GST/2020

Dated: 11.02.2020

Sub: No GST under Reverse Charge by ONGC as importer on Ocean Freight where Service Provider and Service Recipient both are located outside India.

Office of Chief Corporate Finance, vide their letter No. DLH/Indirect Tax/Circular/31/2019-20/08 dtd. 11.02.2020, has issued guidelines, wherein it is mentioned that GST would not be payable under reverse charge by ONGC (as Importer of goods) on Ocean Freight where Service Provider (Shipper) and Service Recipient (Supplier) both are located outside India.

A copy of the above communications is enclosed for information and guidance of all concerned.

Sanat Kumar
11/2/2020


(Sanat Kumar)
ED-Chief MM Services

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1. EO to CMD, ONGC, New Delhi.
2. CEA to Director (T&FS) / Director (Offshore) / Director (HR) / Director (Exploration)/Director (Onshore) / Director (Finance), ONGC, New Delhi.
3. CVO, ONGC, New Delhi.

	OIL AND NATURAL GAS CORPORATION LTD. OFFICE OF EXECUTIVE DIRECTOR - CHIEF CORPORATE FINANCE (INDIRECT TAX DEPARTMENT) 3rd Floor, Tower-A, Zone-II, Plot No. 5A, Nelson Mandela Road, Vasant Kunj, New Delhi- 110070	
	DLH/Indirect Tax/Circular/31/2019-20/08	Date: 11.02.2020
From	: GGM (F&A)-Head Indirect Tax, ONGC, New Delhi	
To	: Key Executives at Assets/Basins/Plants/Services/Institutes; Finance Heads of Asset/Basins /Plants/Services /Institutes/ICE Through ONGC Reports	
CC	: EO to Director (Finance), ONGC, New Delhi ED-CCF, ONGC, New Delhi ED-Chief MM, ONGC, New Delhi	
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1. Kind reference is invited to Sl. No. 8(viii) of our Circular No. DLH/Indirect Tax/GST/03/2016-17 dated 03.07.2017 wherein it was clarified that ONGC (as an Importer) would be required to pay GST under Reverse Charge, on services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the customs station of clearance in India. This circular, *inter-alia*, was issued in compliance to Entry-10 of GST Notification No. 10/2017-IGST (Rate) issued by Govt.
2. In this regard, it is pertinent to mention that the validity of levy of GST on such ocean freight was challenged before Hon'ble Gujarat High Court by M/s Mohit Minerals Pvt. Ltd. and Others through various writ-applications. Consequently, the Hon'ble Court vide its order no. C/SCA/726/2018 dated 23.01.2020 has, *inter-alia*, declared Entry-10 of GST Notification No. 10/2017-IGST (Rate) as *ultra-vires* the IGST Act on the ground of legislative competence and declared it as unconstitutional.
3. In view of above, GST would not be payable under reverse charge by ONGC (as Importer of goods) on Ocean Freight where Service Provider and Service Recipient both are located outside India. Further, the refund of GST already paid during last 2 years may also be claimed as per Sec 54 of CGST Act.

This is for necessary compliance by work centres.


 (Anil Kumar)
 11/02/2020