



CBDT issues Various Guidelines under S 194O, S 194Q, and S 206C in order to remove difficulties.

**E-auction services carried out through electronic portal:**

From the representations made, the following facts have been noticed:

- (a) The e-auctioneer conducts e-auction services for its clients in its electronic portal and is responsible for the price discovery only which is reported to the client.
- (b) The price so discovered through e-auction process is not necessarily the price at which the transaction takes place and it is up to the discretion of the client to accept the price or to directly negotiate with the counter-party.
- (c) The transaction of purchase/sale takes place directly between the buyer and the seller party outside the electronic portal maintained by the e-auctioneer and price discovery only acts as the starting point for negotiation and conclusion of purchase/sale.
- (d) The e-auctioneer is not responsible for facilitating the purchase and sale of goods for which e-auction was conducted on its electronic portal except to the extent of price discover.
- (e) Payments for the transactions are carried out directly between the buyer and the seller outside the electronic portal and the e-auctioneer does not have any information about the quantum and the schedule of payment which is decided mutually by the client and the counterparty.
- (f) For payment made to e-auctioneer for providing e-auction services, the client deducts tax under the relevant provisions of the Act other than section 194-0 of the Act.

**In order to remove difficulty, it is clarified that the provisions of section 194-0 of the Act shall not apply in relation to e-auction activities carried out by e-auctioneers if all the facts listed at (a) to (f) of are satisfied**

**Adjustment of various state levies and taxes other than GST**

it is hereby clarified that in case of purchase of goods which are not covered within the purview of GST, when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of VAT/Sales tax/Excise duty/CST, as the case may be, has been indicated separately in the invoice, **then the tax is to be deducted under S 194Q of the Act on the amount credited without including such VAT/Excise duty/Sales tax/CST**, as the case may be. However, if the tax is deducted on a payment basis, if it is earlier than the credit, the tax is to be deducted on the whole amount as it will not be possible to identify the payment with VAT/Excise duty/Sales tax/CST component to be invoiced in the future.



**Applicability of section 194Q of the Act in cases where exemption has been provided under section 206C (1 A) of the Act**

It is seen that the provisions of section 194Q of the Act does not apply in respect to those transactions where tax is collectible under section 206C [except sub-section (I H) thereof of the Act. Since by virtue of sub-section (IA) of section 206C of the Act, the tax is not required to be collected for goods covered under sub-section (I) of the said section, it is hereby clarified that in such cases, the provisions of section 194Q of the Act will apply and the buyer shall be liable to deduct tax under the said section if the conditions specified therein are fulfilled.

**Applicability of the provisions of section 194Q in case of department of Government not being a public sector undertaking or corporation**

In case of any Department of the Government which is not carrying out any business or commercial activity, the primary requirement for being considered as a 'buyer' will not be fulfilled. Accordingly, such an organization will not be considered as 'buyer' for the purposes of section 194Q of the Act and will not be liable to deduct tax on the goods so purchased by them. However, if the said department is carrying on a business/commercial activity, the provision of section 194Q of the Act shall apply subject to the fulfillment of other conditions.

Issue has been raised in case where any department of the Government will be considered as a 'seller' for the purposes of deduction of tax under section 194Q of the Act. In this regard, it is hereby clarified that for the purposes of section 194Q, Central Government or State Government shall not be considered as 'seller' and no tax is to be deducted by the buyer, in cases where any Department of Central or State Government are seller of goods.