



Circular No.: IEX/MO/275/2018

Date: 28th March, 2018

Dear Members,

The CBEC, GST (Policy Wing) vide its letter dated January 04, 2018 has clarified that the Goods & Service Tax ('GST') is applicable on the Renewable Energy Certificates ('RECs'), however the rate and HSN number applicable was not mentioned. In view of this we had taken opinion from our tax consultants who had opined that RECs are in the nature of rights (i.e. right to fulfill Renewable Purchase Obligation) as such these are document of title and therefore are covered under the HSN Code 4907 0090, should be liable for GST @ 12%. This position was communicated to all Members/Clients of the Exchange vide our circular IEX/MO/270/2018 dated 30th January, 2018.

In the meanwhile Ministry of Finance issued Circular No. 34/8/2018-GST dated 1 March, 2018 regarding the Priority Sector Lending Certificates (PSLCs). Through this circular, the Ministry of Finance has clarified that Priority Sector Lending Certificates ('PSLCs') are goods and are akin to freely tradable duty scripts, Renewable Energy Certificates etc. They have further clarified that PSLCs are covered under S. NO. 453 (residuary entry for goods) of Schedule III of Notification No. 1/2017-Central Tax (Rate) and taxable @ 18%. This clarification has caused some confusion about the rate applicable on the RECs and few Members of the Exchange has raised queries whether 18% GST rate is also applicable on the REC.

The matter was discussed with our Tax Consultants and they have explained that the circular itself states that PSLCs are akin to freely tradable duty scripts, Renewable Energy Certificates etc, whereas the 'freely tradable duty scripts' were classified under the HSN Code 4907 (before being exempted vide Notification No. 35/2017-Central Tax (Rate), the 13th October, 2017 from GST to promote exports) and accordingly the RECs being a 'Document of Title' should also be classified under the same HSN code and taxed accordingly. The tariff heading 4907 covers various items which are similar to RECs, accordingly the rate of GST on RECs should be rate applicable to items as covered under heading 4907. Further Rule 3(a) of the 'General Rules for the interpretation of Schedule' prescribes that, the heading which provides the most specific description shall be preferred to headings providing a more general description, considering this the RECs should fall within tariff heading 4907 00 90 and should be chargeable to GST @ 12%.

In view of said opinion, the Exchange has decided to collect from buyers the GST @ 12% of trade value (on behalf of the sellers) and reimburse the same to the sellers. It has also been decided that Exchange will facilitate the process of GST settlement amount between the buyers and sellers at the rate of 12% only.

However, as informed in earlier circulars this rate is solely for reference purpose and is not an instruction/ direction issued by the Exchange, and sellers are requested to take an independent view on their part. Sellers may take opinion from their tax consultants and act accordingly and in case if they are of the opinion that the applicable rate of GST is different, then they are free to settle differential GST amount directly with their respective buyers.

This is to reiterate further that the Exchange shall not be liable in any direct/indirect manner for any claim/ liability / demand raised by the GST authorities towards rate of GST on RECs trades or any other matter related to REC sale. All these claims need to be settled between the buyers and sellers directly.

**For and on behalf of
Indian Energy Exchange Limited**

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Director (Market Operations)**

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