



Circular No.: IEX/MO/270/2018

Date: 30<sup>th</sup> January, 2018

Dear Members,

In partial modification to Circular No. IEX/MO/269/2018 dated 23<sup>rd</sup> January 2018, point number c & d of the process are modified and the revised circular is issued as under:-

Members are informed that the CBEC, GST (Policy Wing) vide its letter dated January 04, 2018 (enclosed as Annexure- 1) has given clarification regarding applicability of Goods & Service Tax ('GST') on the Renewable Energy Certificates ('RECs'). As per clarification received the GST is applicable on the RECs. However, the said clarification is silent on the applicable rate and HSN Code. In view of this situation, and upon consultation with legal experts, the opinion received is that RECs should be liable for GST @ 12% under the HSN Code 4907. Rate and HSN code stated above, is on the basis of the legal opinion received by the Exchange, 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.

All are intimated that the liability of payment of GST is on the seller of the RECs, and thus the sellers are requested to also form a view on their part on the applicable rate and respective HSN Code and will be responsible for the same.

It is further stated that the Exchange would be only facilitating settlement of GST amount between the buyers and sellers, and 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.

The following process towards settlement of GST on RECs shall be followed:

- a. The Exchange will do pairing of buyers and sellers for REC trades, and this will be informed to the respective members for further processing of GST by their respective clients. As of now only Non Solar RECs are being traded, as such this process shall apply only for Non Solar REC. As and when trading on Solar REC recommences, separate circular shall be issued.
- b. For the RECs traded between July 2017 and December 2017, the members shall collect the GST amount from the buyers and remit the same to the IEX settlement account (except those from whom exchange has already recovered this amount). For future RECs trading, the GST amount will be recovered on behalf of the sellers together with the normal RECs pay-in obligation. In any case, the sellers would be liable to deposit GST amount and related claims with the Government directly.
- c. The GST amount will be collected from the Buyers @ 12% on Rs. 1000/ per REC. This amount will be transferred to the seller after receipt of invoice from them.**

- d. As and when final decision on the floor price of REC is issued by the competent court / authority, its effect on the GST value shall be given. To secure the same, buyer shall furnish FDR lien marked in favour of Indian Energy Exchange Limited / Bank Guarantee of a value equal to 12% of Rs 500/-. In case of Discoms or Government entities an undertaking can also be acceptable.
- e. For the past period for the 1<sup>st</sup> July 2017 till 31<sup>st</sup> Dec 2017, GST amount collected shall be reimbursed to the seller @ 12%, considering the price as Rs 1000/- per REC on receipt of invoice from them in favour of the buyer. Balance amount shall be refunded to the buyers after adjusting any amount payable towards GST for this period and on submission of FDR/BG as stated above.
- f. Sellers will directly raise the invoice to the buyers and provide a copy of the invoice to the Exchange through respective Member within 15 days, for delivery to the respective buyer.
- g. On receipt of the copy of the invoice, Exchange will disburse the GST value specified in the invoice to the seller only after receiving the same from the corresponding buyer of the RECs. Sellers should be liable to deposit GST amount directly to the Government as per the terms of GST provisions.
- h. In case, copy of invoice is not provided by seller to Exchange within stipulated time, the amount collected towards the GST from the Buyer will be refunded to the respective buyer and seller will be responsible for the said non-compliance, if any.

**For and on behalf of**

**Indian Energy Exchange Limited**

**Akhilesh Awasthy**  
**Director (Market Operations)**

----- Corporate office-----  
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F. No. 349/20/2016 – GST/68  
Government of India 4/1/18  
Ministry of Finance  
Department of Revenue  
CBEC, GST (Policy Wing)  
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Room No. 220-A,  
North Block, New Delhi  
Dated: 04<sup>th</sup> January, 2018

To,  
Shri Vijay Soni,  
Indian Energy Exchange Limited,  
Vijay.soni@felixadvisory.com

Sir,

**Sub: - Clarification regarding sale of renewable energy certificate under  
the goods and services Tax regime-reg.**

Please refer to your e-mail dated 19.12.17 on the above captioned subject. In this regard it is to inform that as per section 7 of CGST Act, 2017 the expression supply includes "all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course of furtherance of business.

2. Further IEX is an exchange where these renewable energy certificates get sold. Sale of these certificates cannot be considered as sale and purchase of electricity. As the person buying the certificate is paying consideration for discharging his obligation of generating renewable energy which he himself couldn't match. Therefore the renewable energy certificates are subject to GST.

This has the approval of Member (GST).

Yours faithfully

  
04.01.2018  
(Ravneet Singh Khurana)  
Joint Commissioner (GST)

o/c