F.No. 20/16/04/2018 -GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 7th March, 2019

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioners of Central Tax (All)

The Principal Director Generals/ Director Generals (All)

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Madam/Sir,

Subject: Corrigendum to Circular No. 76/50/2018-GST dated 31st December, 2018 issued vide F.No. CBEC- 20/16/04/2018-GST- Reg.

Vide serial number 5 of Circular No. 76/50/2018-GST dated 31st December, 2018, it was clarified that the taxable value for the purposes of GST shall include the Tax Collected at Source (TCS) amount collected under the provisions of the Income Tax Act, as the value to be paid to the supplier by the recipient is inclusive of the said TCS.

2. In the light of the representations received from the stakeholders, the matter has been re-examined in consultation with the Central Board of Direct Taxes (CBDT). The CBDT has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible "income" arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer.

3. Accordingly, in S. No. 5 of the Circular No. 76/50/2018-GST dated 31st December, 2018:

For

5.	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	1. Section 15(2) of CGST Act specifies that the value of supply shall include "any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier."

		2. It is clarified that as per the above provisions, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS.

Read

5.	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	1. Section 15(2) of CGST Act specifies that the value of supply shall include "any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier." 2. For the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

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2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

3. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Principal Commissioner (GST)