



**The Chamber of  
Tax Consultants**  
Mumbai | Delhi

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25<sup>th</sup> January, 2020

To,

1. Smt. Nirmla Sitharaman,  
Hon'ble Finance Minister,  
Government of India,  
North Block, Delhi 110001.
2. Shri Ajay Bhushan Prasad Pandey  
Hon'ble Revenue Secretary,  
Central Board of Direct Taxes (CBDT)  
North Block, Delhi 110001.
3. Shri Pramod Chandra Mody  
Chairman CBDT  
Central Board of Direct Taxes (CBDT)  
North Block, Delhi 110001.

Respected Sirs/ Madam,

**Ref:** Providing facility for accepting payments through prescribed electronic modes referred to in section 269SU of the Income-tax Act, 1961 ('the Act').

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1. The Chamber of Tax Consultants (CTC), Mumbai was established in 1926. CTC is one of the oldest (about 93 years) voluntary non-profit making organizations in Mumbai formed with the object of educating and updating its members on Tax and other laws. It has a robust membership strength of about 4000 professionals comprising of Advocates, Chartered Accountants and Tax Practitioners.

2. **We have received representations from our fellow members regarding the requirement of providing facility for accepting payments through prescribed electronic modes referred to in section 269SU of the Act read with Rule 119AA of the Income-tax Rules, 1962 ('the Rules').**

On perusal of the representations received, it is seen that as per section 269SU of the Act read with Rule 119AA, **every person carrying on business** (and the total sales/turnover/gross receipts in business exceed the prescribed threshold) is required to comply with the said provisions, and there is no exception carved out.

Accordingly, even if the assessee is currently accepting payments only through banking channels/electronic payment modes other than those prescribed, it would still be required to provide facility for payment through the three modes prescribed in Rule 119AA. The requirement of providing facility for accepting payments through prescribed modes *viz.* Debit Card powered by RuPay, Unified Payment Interface (UPI) (BHIM-UPI) and Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code) results into undue hardship and incurrence of additional cost specifically in the case of the assessee engaged in B2B transactions. Therefore, the present representation.

3. Requirement of providing facility for accepting payments through prescribed electronic modes referred to in section 269SU of the Act read with Rule 119AA is described hereinbelow:

- a. Finance (No. 2) Act, 2019 introduced section 269SU in the Act with effect from 1 November 2019 with an objective to encourage digital economy and move towards a less cash economy. It requires every person carrying on business and having total sales, turnover, or gross receipts exceeding Rs. 50 crores to provide facility for accepting payment through prescribed electronic modes.
- b. On 30 December 2019, the Central Board of Direct Taxes (CBDT) vide Notification no. 105 has introduced a new Rule 119AA with effect from 1 January 2020, prescribing the following electronic modes of payment (in addition to the facility for other electronic modes of payment) for the purpose of section 269SU of the Act-

- Debit Card powered by RuPay;

- Unified Payment Interface (UPI) (BHIM-UPI); **and**
  - Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code).
- c. On 30 December 2019, CBDT has also issued Circular No. 32 clarifying that the specified person must provide the facilities for accepting payment through the prescribed electronic modes with effect from 1 January 2020.
- d. Finance (No. 2) Act, 2019 also introduced section 271DB of the Act with respect to the levy of penalty for failure to comply with the provisions of section 269SU of the Act. In order to allow sufficient time to the specified person to install and operationalise the facilities for accepting payments through the prescribed electronic modes, CBDT has clarified that penalty under section 271DB shall not be levied if the specified person installs and operationalises the facilities on or before 31 January 2020. However, on failure to comply with the same, the specified person shall be liable to pay a penalty of INR 5,000 per day from 1 February 2020 till such failure continues.
- e. Simultaneously, section 10A of the Payments and Settlement Systems Act, 2017 has also been amended to provide that no bank or service provider shall impose any charge on a payer making payment, or a beneficiary receiving payment, through electronic modes prescribed above. Consequently, any charge including the Merchant Discount Rate shall not be applicable on or after 1 January 2020 on payment made through prescribed electronic modes.
4. While the above amendments are a welcome move towards a less cash economy generally, it will create genuine hardship to the assessee engaged in B2B businesses wherein the payments are received electronically or through normal banking channels. Further, it will also create hardships for SEZ units and 100 percent EOUs wherein the majority of the sales is in the form of exports and no cash is involved
5. On a bare reading of the provision, every 'person' under the Act, who is carrying on business, would be required to comply with the provisions, provided the threshold of Rs. 50 crores for turnover, sales or gross receipts, is met.
6. Further, the section states that the provision of such facility is ***in addition*** to the facility for other electronic modes of payment, if any, being provided by such person.

7. Accordingly, in the absence of any exceptions being carved out, even if an assessee is currently accepting payments entirely through electronic modes or through the normal banking channels which are not prescribed in Rule 119AA of the Rules, it would still be required to provide a facility for payment through the electronic modes prescribed in Rule 119AA.
8. Therefore, as per the current provisions of section 269SU of the Act read along with Rule 119AA, will also be applicable to the following categories of assesseees-
  - a. an assessee engaged in B2B business model;
  - b. an assessee which is 100 percent export-oriented (i.e. no domestic sales, and therefore, all payments will always be received through normal banking channels); and
  - c. a foreign company carrying on the business through a Permanent Establishment (PE) in India.
9. Further, a bare reading of section 269SU and read with Rule 119AA indicates that every person to whom the section applies, would be required to provide the facilities for electronic payment, through **all** the 3 modes prescribed in Rule 119AA as listed above.
10. It is worth noting that assesseees listed in Para 8(a), 8(b) and Para 8(c) above are already providing facilities for electronic modes of payments and / or are accepting payments through normal banking channels and are already the major contributors to the less-cash economy. Income Tax Act already have enough provisions to curb the receipts and payments in cash. In most of the cases of B2B, individual sales will be more than Rs. 2 lakhs and hence receiving payment in cash will violate the provisions of Section 269ST of the Act. If a person makes payment exceeding Rs.10,000/-in cash, provisions of Section 40A(3) and 40A(3A) are attracted.
11. Requiring the above category of assesseees to additionally comply with the provisions of section 269SU read with Rule 119AA will result in substantial cost both (there is a one time set up cost which is not waived by the service providers, even if the the recurring cost of operating the facilities may be waived ) for the assesseees to set up and operate the facilities with no additional benefit either to the assessee or to the economy as a whole, as the desired objective of cashless transactions has already been met by them even before the above provisions were introduced.

12. Further, with regard to the assessee engaged in the B2B business model and having presence at multiple locations across the country (for example companies engaged in FMCG or Pharma sector and selling through stockists or CFAs across the country), it will be pertinent to note that aforesaid facilities will have to be provided at all the locations across the country. This in turn will result into multiplication of additional cost with no value addition at all.
13. Also, practically speaking, in a B2B business model where the transactions are between businesses, use of the 3 prescribed modes of payment will be rarely used as generally the normal banking channels or NEFT or RTGS are the preferred mode of payments. There are payment limits on amounts that can be paid using the methods prescribed and we understand that the maximum payment that may be possible using these modes would be Rs. 100,000 – even for a RuPAY debit card, it will be based on the limit set by the RuPAY card holder. Hence it is almost likely that most B2B operators after incurring set up costs and promoting these methods, may not be able to use any of these methods because of the value of individual transactions.
14. Therefore, compliance with section 269SU read with Rule 119AA will not only result in incurrance of additional cost but also result into lot of administrative hassle and inconvenience for no value addition.
15. It is pertinent to point out that based on the above discussion, the compliance of section 269SU read with Rule 119AA by the above categories of assessee will not have any value addition to those assessee or to their customers or even to the less-cash economy as a whole or as they are already the largest contributors to the less-cash. However, non-compliance of the said provisions will result into serious repercussions in the form of penalty under section 271DB of the Act which is Rs. 5,000 per day.
16. Further, the Section and Rules are being misinterpreted by many participants to state that account payee cheques are not an eligible method of payment anymore and that payments must be made only using electronic modes. Since the intent of the section was to discourage a cash economy, a clarification to this effect will also be relevant.
17. Lastly, additional compliance in this regard is also an hindrance in the step toward 'Ease of doing business' as it involves additional compliances for a desired outcome

which is already been met in the B2B cases even before the said provision was introduced. The refusal of various businesses in certain trades to accept payment by cheques due to the introduction of this section has further made it more difficult to transact regular business.

**18. In light of the above discussion, considering the genuine hardships to the specified categories of assesseees listed in Para 8 above, in the form of additional cost without any value addition to the economy or the system as a whole and also serious repercussions for non-compliance in the form of penal consequences, we request your learned self to kindly look into this issue and take appropriate measures in this regard to exclude the above category of assesseees or to grant carve outs / exceptions from the section for the same.**

19. We request your learned self to kindly consider the above issue on a priority basis, **considering the fact that the penal section triggers from 1 February 2020.** We look forward to your kind intervention and taking up our request for kind consideration.

Thanking you,

Sincerely,

**For The Chamber of Tax Consultants**

**Sd/-**

**Shri Vipul Choksi**

**President**

**Sd/-**

**Shri Mahendra Sanghvi**

**Chairman– Law and Representation  
Committee**