

EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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EPC/SEZ/AM-18/F-14
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EPCES CIRCULAR NO. 255

Dear Members,

EPCES is receiving queries from its members regarding CIRCULAR NO. 253 issued on 7 July, 2017 with regard to Question No. 2. Following is detailed reply to give better clarification in relation to the same:-

Clarification

Question 2

As per notification No. 15/2017 of integrated tax, the import of goods and services to SEZ (unit/developer) shall be exempted from payment of IGST. Subsequently notification No. 17/2017 has rescinded the notification No. 15/2017 and brought a fresh notification No. 18/2017, where by only services imported to the SEZ shall be exempted from payment of IGST. Whether SEZ can procure goods exempted from payment of IGST in case of domestic procurement & import ? and whether services rendered by any domestic service provider to SEZ shall be exempted from payment of IGST or not.

Answer

Case 1:-Import of goods by SEZ from Outside India- No IGST shall be levied on such imports for the purpose of authorized operations as exempted vide Notification 64/2017-Cus,dt. 05-07-2017, issued by CBEC. The same has also been attached herewith.

Also, exemption from payment of BCD shall continue in case of Imports by SEZ.

Case 2:-Imports of services by SEZ from Outside India- No IGST shall be levied on such imports for the purpose of authorized operations as exempted vide Notification 18/2017-Integrated Tax (Rate) dt. 05-07-2017, issued by CBEC. The same has also been attached herewith.

Case 3:-Supplies of goods/services from DTA to SEZ

Any supply of goods/service to SEZ developer/unit to be called Zero Rated Supply

As per Section 16(1) of the IGST Act, supply of goods/services for **export** or supplies to a **SEZ unit** shall be called '**Zero rated supply**'. Hence, any supplies made by DTA to SEZ unit shall be called Zero Rated Supply.

Zero rated supply should not be confused with exempt supply. Instead, the person making such zero rated supplies, has following **two options** as per section 16(3):-

- a) **Supply of goods/services under Bond/LUT WITHOUT PAYMENT OF IGST and claim refund of Unutilized Input taxes**
- b) **Supply of goods on PAYMENT OF INTEGRATED TAX and Claim Refund of such Tax paid on SUPPLY (Not available for supply of SERVICES, Available only for GOODS)**

Option (a)- Supply of goods/services under Bond/LUT WITHOUT PAYMENT OF IGST

If a supplier opts for this option, **Refund of Unutilized Input Tax Credit** can be claimed by following Procedure and conditions laid down under **Rule 96A**.

Prior to export, such bond or a Letter of Undertaking in **FORM GST RFD-11** should be filed by the supplier. Such bond or LUT is required to be filed on GSTN portal, however, Government has clarified that suppliers may file such declaration manually (in signed hard copy) to their jurisdictional Assistant Commissioners till the time portal is operational.

Further, it is advisable to check the value of stamp paper with GST authorities on which such bond or LUT is required to be furnished.

Eligibility criteria, notifications and procedures in relation to bond / LUT route are mentioned herein below and members may circulate this to DTA suppliers for ensuring compliance.

Letter of Undertaking (LUT)

The Board vide **Notification No. 16/2017**- Central Tax, has specified the following person can furnish LUT in place of Bond:

- a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020; or
- who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,

and he has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in case where the amount of tax evaded exceeds **two hundred and fifty lakh rupees**.

It shall be furnished in **duplicate** for a financial year in the annexure to FORM GST RFD – 11

It shall be executed by:

- Working partner
- MD
- Company Secretary
- Proprietor
- Duly Authorized person

Exporters not covered under the above notification would be mandatorily required to furnish bond.

Bond

As per Circular No. 2 and Circular No. 4, the board has given instructions in relation to furnishing of Bond:-

The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished. The exporters shall furnish a running bond in **FORM GST RFD - 11**.

The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself. The exporter shall ensure that the outstanding tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the tax liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability

FORM RFD -11 under rule 96A of the CGST Rules also requires furnishing a **bank guarantee with bond**. Jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

Option (b) Supply of GOODS on PAYMENT OF INTEGRATED TAX and Claim Refund of such Tax paid on SUPPLY (Available only in case of SUPPLY OF GOODS)

If a supplier opts for this option, **Refund of Output Integrated Tax** can be claimed by following Procedure and conditions laid down under **Rule 96**.

The shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:-

- (a) the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; and
- (b) the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR- 3B, as the case may be;

Members are requested to kindly note the above clarifications and also refer to Annexed Notifications/Forms/Rules for detailed guidelines.

We also request our members to kindly inform us any problem/issue/clarification so that we can clarify the same or take up with the concerned authorities.

For kind information of the members.
