

EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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EPC/SEZ/AM-18/F-14
July 13, 2017

EPCES CIRCULAR NO. 256

Dear Members,

EPCES is receiving queries from its members regarding GST. Some of the clarifications are reproduced below as under :-

S N	Subject	Clarification
1	Procedure for traders to supply in SEZs is not clear-	<p>Supplies to SEZ shall be treated as “Zero Rated Supply” for which refund of taxes can be filed as per procedure laid under Rule 96/96A of Refund Rules. The procedure for claiming the refund has been shared with you earlier (vide EPCES Circular No. 255). However the same is stated below for your kind attention:-</p> <p><u>Option (a) - Supply of goods/services under Bond/LUT WITHOUT PAYMENT OF IGST</u></p> <p>As per Circular No. 2 and Circular No. 4, the board has given instructions in relation to furnishing of Bond:-</p> <p>a. 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.</p> <p>b. 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</p> <p>c. 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.</p>

		<p><u>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)</u></p> <p>a. 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.</p> <p>b. 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:-</p> <p>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</p> <p>b. the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR- 3B, as the case may be;</p> <p>Further detailed procedure in this regard is attached and the same should be referred for further clarification.</p>
2	<p>Procedure availing exemption for services like CHA, Handling charges, Ocean freight, Business support services, business auxiliary services, Chartered Accountant services, GTA, Port Services, Courier services, Banking and finance services etc</p>	<p>No ab-initio exemption has been notified by the government on above mentioned services (authorized/unauthorized) given to SEZ. As discussed earlier, supplies to SEZ shall be treated as “Zero Rated Supply” for which refund of taxes can be filed as per procedure laid under Rule 96/96A of Refund Rules.</p> <p>The procedure for claiming the refund shall be similar as stated under Question 1above.</p>
		<p>Further, in case of any supply made from DTA to SEZ, a discrepancy between law and rules exists, which makes it ambiguous whether option to pay IGST and claim refund in case of Supplies (Both goods and services) from DTA to SEZ is available or not.</p> <p>As per Section 16(1) any supply of goods/services to SEZ shall be zero rated supply. Hence supplies from DTA to SEZ shall be Zero Rated Supply.</p> <p>Further, as per Section 16(3)(a) of IGST Act, a person making such zero rated supply may supply goods/services on payment of integrated tax and claim refund of such tax paid as per the prescribed rules.</p> <p>However, as per the rules notified in this regard, Rule 96 of Refund Rules deals with refund of tax paid only in case of exports made for which shipping bill filed by the exporter shall be deemed to be the application for refund of such IGST.</p> <p>Hence, there is conflict between the act and the rules and therefore, ambiguity arises whether the supplies made from DTA to SEZ (Deemed export) can be made on payment of IGST or not.</p>

		<p>Also, the utility of sample GSTR1 return issued by the authorities also reflects an option which shows that supplies to SEZ may be made with payment of IGST.</p> <p>So, in a nutshell the rules (Rule 96) contradicts with Act and Sample return template. You are hence advised to follow LUT option as of now (provided you meet the eligibility laid down for the same) till any further clarifications are issued in regard to same.</p>
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This is for kind information of the members.
