

# **EXPORT PROMOTION COUNCIL FOR EOUs & SEZs**

Ministry of Commerce & Industry, Government of India  
8G, Hansalaya Building, 15, Barakhamba Road, New Delhi-110001  
Tel: 23329766-69 Fax No.011-23329770  
E-mail : [epces@epces.in](mailto:epces@epces.in) Web: [www.epces.in](http://www.epces.in)

**Anand Giri**  
**Dy. Director General**

EPC/SEZ/AM-18/F-14  
September 15, 2017

## **EPCES CIRCULAR NO. 264**

- Sub : (1) Clarifications issued by Director General (Export Promotion), Department of Revenue on the issues submitted by EPCES concerning EOUs.**
- (2) Establishing “contact@dgft” service as single point contact for all foreign trade related issues.**

(1) EPCES has received a number of issues/problems faced by EOUs with regard to GST. Chairman EPCES has taken up all these issues with Director General of Foreign Trade, Shri Alok Vardhan Chaturvedi vide its letter F.No. EPC/SEZ/AM-16/F-9 dated 1.8.2017.

DGFT had forwarded the representation of EPCES to Director General (Export Promotion) Department of Revenue for examination and replies vide their OM F.No.01/94/180/127/AM-18/PC-4 dated 08-08-2017

EPCES has received letter No DGEP/EOU/GST/Misc/24/2017/1556 dated 13.9.2017 from DG(EP) along with annexure giving their replies on the issues submitted by EPCES.

A copy of the letter along with annexure is attached for kind information and records.

(2) Contact@DGFT system has been activated at the DGFT website [www.dgft.gov.in](http://www.dgft.gov.in) as a single point contact for resolving all foreign trade related issues. Members are requested not to send their queries through twitter or email and use Contact@DGFT service. A reference number will be issued for each request so that the status of the action taken can be tracked. Effective monitoring arrangements have been made. Please refer Trade Notice No. 17 dated 6/9/2017.

---

**DGEP/EOU/GST/Misc/24/2017/1556**  
**DIRECTORATE GENERAL OF EXPORT PROMOTION**  
**CBEC, Deptt. of Revenue, Ministry of Finance, Govt. of India**  
**Hotel Janpath, New Delhi – 110001.**  
**Tel : 23344616/622, Fax: 23344614/560**

13-9-2017

To

Shri Rahul Gupta  
Chairman  
Export Promotion Council for EOUs & SEZs  
8G, 8<sup>th</sup> Floor, Hansalaya Building, 15,  
Barakhamba Road, New Delhi 110 001

Sir,

**Sub : Representation from Export Promotion Council for Export Oriented Units (EOUs) and Special Economic Zones regarding issues faced by EOUs in the GST regime – reg.**

Please refer to your letter F.No. EPC/SEZ/AM-16/F-9 dated 01.08.2017 addressed to Shri Alok Vardhan Chaturvedi, IAS, Director General of Foreign Trade, Ministry of Commerce & Industry, regarding clarification/recommendations on the issues faced by EOUs.

2. The issues flagged by your office have been examined and their replies have been detailed in attached Annexure –A.

Encl: - As above.

Yours sincerely,

Sd/-

(Dev Dutt Nimesh)  
Asstt. Director

Copy to :-

Shri Kumar Rahul, Dy. DGFT, Udyog Bhawan, New Delhi, w.r.t. OM F.No. 01/94/180/127/AM-18/PC-4 dated 08-08-2017 for information please.

---

## ANNEXURE-A

**1. REPRESENTATION ON AMBIGUITY ON CLASSIFICATION OF BOOKS SUPPLIED BY PUBLISHERS:-** EOUs in printing sector are facing problem under GST regime regarding classification issue i.e. in case where only content is provided by the customer and own physical material is used for printing, binding, etc. and subsequent sale of books whether such supply shall qualify as supply of goods or supply of services.

**DGEP Comments:** Being a GST classification matter, this issue has been forwarded to GST policy wing.

**2. ISSUANCE OF PROCUREMENT CERTIFICATE:-** There is a lack of clarity among stakeholders for continuance of procedure related to issuance of procurement certificate. Further whether fresh bond is to be executed by following the procedures of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

**DGEP Comments:** The procedure of Procurement Certificate for import has been discontinued, instead EOU shall follow rule 5 of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Further it has been clarified by circular No. 29/2017-Customs dated 17.07.2017 that the B-17 bond, being a general purpose running bond will serve the requirement of continuity bond under Customs(Import of Goods at Concessional Rate of Duty) Rules, 2017. Therefore EOU/STP/EHTP units are not required to submit separate continuity bond.

**3. BANK GUARANTEE IN THE NAME OF ASSISTANT COMMISSIONER OF CENTRAL TAX:-** M/s BBraun Medical India Pvt Ltd (EOU) had submitted Bank Guarantee for Rs. 30 lakh towards 5% of B-17 Bond executed of Rs. 6 Crores for availing the exemption of customs duties for our imports and exports. The Bank Guarantee is executed in favour of the Assistant Commissioner of Central Excise, Maraimalai Nagar, Division, Chennai III Commissionerate on behalf of the President of India. This bank guarantee is valid upto 30<sup>th</sup> June 2020. In GST regime, whether they have to execute a new bank guarantee in favour of The Assistant Commissioner of Central Tax, Maraimalai Nagar, division, Chennai Outer Commissionerate on behalf of the President of India instead of the above BG or we can continue with old bank guarantee till the validity period.

**DGEP Comments:** As clarified earlier vide Circular no. 29/2017-Customs dated 17-7-2017, the B-17 bond alongwith Bank Guarantee will serve the purpose of continuity bond under IGCR rules for duty free import by an EOU.

However, it is further clarified that exporter (including EOU) may undertake exports under separate bond or Letter of Undertaking without payment of IGST, as provided rule 55 A of CGST Act 2017. The Circular no.4/4/2017-GST, dated 7th July, 2017 ; Circular No.5/5/2017-GST dated 11.08.2017 and Notification No. 16/2017-Central tax, dated 7<sup>th</sup> July, 2017 may be referred for detailed provisions in this regard.

#### **4. ISSUES REGARDING EOUS :-**

**4.1 EOUs already executed B-17 Bond (Single Bond) with security or without security, whether same can be used for procurement of import of goods without payment of customs duties or not.**

**DGEP Comments:** Yes, B-17 Bond can be used for import of goods by following rule 5 of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, as clarified vide circular 29/2017-Customs dated 17.07.2017.

**4.2 EOUs already submitted projection to respective Development commissioner and accordingly letter of permission granted for 5 years. Time to time Letter of Undertaking executed for import of new material. Whether same approved imported list is sufficient for import of goods or new list of material with quantity and value to be submit for import under concessional notification.**

**DGEP Comments:** No, the information given to Development commissioner is in view of FTP/HBoP stipulations while the intimation for import is one of conditions of Notification no. 52/2003-Cus dated 31-3-2003 (as amended). The procedure of giving intimation, about quantity and value of goods to be imported, to Jurisdictional AC/DC of Customs [Central Excise for time being] as well as AC/DC of Customs station of importation is required under rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

**4.3 Like earlier procurement certificate for duty free import goods issued by Range Jurisdictional authority same is to be continued under concessional notification or not?**

**DGEP Comments:** No., the procedure of Procurement Certificate is required no more, instead new procedure for import as mentioned above is required to be followed.

**4.4 Under concessional notification No. 68/2017-Cus (NT) can import only raw material, there is no provision to import capital goods, spares, please clarify.**

**DGEP Comments:** The EOU are required to follow only rule 5 of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 for import of items without payment of basic customs duty. The type of items allowed to be imported duty free by EOU are governed by the Notification No. 52/2003-Customs dated 31.03.2003(as amended), which provides for import of capital goods etc besides raw materials.

**4.5 As per circular No. 35/2016-Customs, EOU's need to maintain records in FORM-A, now as per amended notification No. 59/2017-Customs dated 30.06.2017, para 2A EOU's need to follow the procedure prescribed under rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, for import of goods. In this case EOU again need to be file by Form Quarterly Return. Please clarify.**

**DGEP Comments:** The quarterly return prescribed under Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 are not required by EOU, since such return is

prescribed in Rule 6. The EOUs are required to follow only rule 5 of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 for import of goods. The EOUs would continue to maintain records in Form-A, as provided in circular no. 35/2016-Customs.

**4.6 If EOU's need to execute new bond i.e. continuity bond, in this case how much Bank Guarantee (BG) to be submitted. Department asking to trade to submit the fresh 15% Bank Guarantee whereas EOU's are eligible to submit BG 5% in case B-17 Bond. Please clarify. Whereas EOU's already submitted the BG with B-17 Bond.**

**DGEP Comments:** As clarified vide circular 29/2017-Customs, EOUs are not required to give Continuity Bond instead B-17 Bond would be sufficient for import. Therefore, there is no question of fresh Bank guarantee when B-17 Bond is alive. In case of difficulty, the Jurisdictional Commissioner may be approached.

However, it is further clarified that exporter (including EOU) may undertake exports under bond or Letter of Undertaking without payment of IGST, as provided rule 96 A of CGST Act'2017. The Circular no.4/4/2017-GST, dated 7th July, 2017 ; Circular No.5/5/2017-GST dated 11.08.2017 and Notification No: 16/2017-Central tax, dated 7<sup>th</sup> July, 2017 may be referred for extent of bank guarantee required in this regard.

**4.7 Earlier B-17 Bond is valid with coterminous with validity date of Letter of Permission. What is the validity of continuity bond for EOU?**

**DGEP Comments:** Since Continuity Bond is not required for EOU , therefore there is no question of validity.

## **5 LEVEL PLAYING FIELD IS MAINTAINED FOR EOU MANUFACTURERS :-**

It has been requested to clarify whether education cess is payable on BCD reversal on DTA clearances. Also whether exemption notification can be applied for arriving at duty forgone?

**DGEP Comments:** The EOUs are required to repay Basic Custom Duty foregone along with Customs cess, if any, on inputs used in finished goods, by product etc cleared in DTA. However, there is no bar for application of exemption notification for arriving at effective rate of BCD, provided conditions mentioned, if any, in such notification are followed by EOU.

## **6. DTA CLEARANCES.**

**(a) In the GST, whether the BCD+Cess paid can be charged to the customer in the invoice or only GST to be charged to the customer. If so, whether BCD is to be paid separately ?**

**DGEP Comments:** Yes, BCD and cess, if any, are required to be paid besides GST. Such duty and cesses are required to be shown separately on invoice.

**(b) Is it payable before or after DTA clearance?**

**DGEP Comments:** It is payable before DTA clearance.

**(c) Whether interest is payable on the BCD if paid post dispatch.**

**DGEP Comments:** The EOU cannot supply goods to DTA unless reversal of duty (BCD) foregone is paid as per exemption mentioned in notification No. 59/2017-Customs dated 30.06.2017.

**(d) Whether the BCD payable is on the value of the clearance or on the value of goods imported?**

**DGEP Comments:** BCD is payable on the value of goods imported.

**(e) Since the tax is paid at the full rate whether the permission is still required to be obtained for DTA clearance(including clearance of waste and scrap).**

**DGEP Comments:** The DTA clearances by EOU would be subject to provisions of Foreign Trade Policy and Handbook of Procedures.

**7. NORMS FIXATION : - Please clarify whether we need to continue to apply for fixation of norms for the products manufactured in EOU under the GST?**

**DGEP Comments:** The duty free inputs are required to be properly accounted for, as per SION, by EOU. Since post GST, the EOUs continue to enjoy basic customs duty free goods for manufacture or production of goods meant for export or DTA sale, therefore, they are required to observe SION norms.