

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 Web: www.epces.in

Dr. Vinay Sharma
Chairman

NoEPC/SEZ/AM-18Offtg.
January 13, 2018

EPCES CIRCULAR NO. 275

Sub Update with latest announcements and amendments made in GST Law

In order to keep all our members updated with the latest announcements and amendments made in Law, we present to you a brief of updates that could be relevant for you all.

1. Letter No. D.12/19/2013-SEZ dated 02nd January, 2018

Department of Commerce (SEZ section) has issued an Order dated 2 January 2018 reiterating the benefits of exemption of IGST to SEZ units for 66 uniform list of services. The default list of services allows for exemption of IGST when they are rendered to SEZ unit.

Some of the state governments were not extending the IGST exemption to SEZ units post implementation of GST. Therefore, Board of Approval reiterated such benefits to SEZ units after deliberations in the meeting held on 17 November 2017.

Sl. No.	List of Approved Services
1.	Airport Authority Services
2.	Architect Services
3.	Asset Management Services
4.	Advertising agency services
5.	Airport services
6.	Banking and other financial services
7.	Business Exhibition services
8.	Cargo Handling services
9.	Chartered Accountant Services
10.	Cleaning Activity services
11.	Clearing & forwarding agents services
12.	Commercial or industrial construction services
13.	Company secretary services
14.	Computer network services
15.	Consulting Engineer's services
16.	Cost accountant services
17.	Courier services
18.	Credit rating agency services
19.	Custom house agent services
20.	Commercial training & coaching services
21.	Convention services
22.	Copyright services
23.	Design services
24.	Development & supply of content services

25.	Erection, commission and installation services
26.	General insurance business services
27.	Goods transport agency services
28.	Information Technology Software Services
29.	Interior decorator services
30.	Internet communication services
31.	Intellectual property services
32.	Legal consultancy services
33.	Management, maintenance or repair services
34.	Manpower Recruitment and supply agency services
35.	Market research agency services
36.	Other port services
37.	Outdoor caterer services
38.	Packaging activity services
39.	Port services
40.	Processing & clearing house services
41.	Renting of Immovable property services
42.	Security agency services
43.	Site formation & clearance, excavation earth moving
44.	Storage & warehousing services
45.	Supply of tangible goods
46.	Survey & map making services
47.	Scientific Or technical consultancy service
48.	Sound recording studio or agency services
49.	Technical inspection and certification
50.	Technical Testing and Analysis services
51.	Telecommunication services
52.	Transport of goods by Air services
53.	Transport of goods by Rail services
54.	Transport of goods by Road services
55.	Works contract services
56.	Transport of goods services
57.	Construction services
58.	On-line Information and database access services
59.	Rent-a-cab Scheme Operator's Services
60.	SEZ Online Services
61.	Air Travel Agent Services
62.	Rail Travel Agent's Services
63.	Travel Agent's Services
64.	Business Support Service
65.	Transport Passengers by Air
66.	Accommodation service

2. Circular No. 27/01/2018 – GST dated 04th January, 2018

Clarifications issued w.r.t. levy of GST on supply of certain services:

- Accommodation Services - GST rate would be determined according to declared tariff for the room, and GST at the rate so determined would be levied on the entire amount charged from the customer. In case different tariff is declared at different places, highest of such declared tariffs

shall be the declared tariff for the purpose of levy of GST.

- The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to sell those books on his own account.
 - Legal services other than representational services provided by an advocate including a senior advocate to a business entity, are also covered under reverse charge mechanism, i.e. GST is to be paid by the recipient of the service.
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3. Applicability of E-Way Bill System

- The nationwide e-way Bill system will be ready to be rolled out on a trial basis latest by 16th January, 2018. Trade and transporters can start using this system on a voluntary basis from 16th January, 2018.
 - Rules for implementation of nationwide e-way Bill system for inter-State movement of goods on a compulsory basis will be notified w.e.f. from 1st February, 2018.
 - The States may choose their own timings for implementation of e-way Bill for intra-State movement of goods on any date before 1st June, 2018. In any case uniform system of e-way Bill for inter-State as well as intra-State movement will be implemented across the country by 1st June, 2018.
 - **WEST BENGAL - TRADE CIRCULAR NO. 01/2018 Memo. No. 18CT/PRO/ 3C/PRO/2018 Dated 8th January, 2018 –**
 - Generation of waybill keys shall stop at midnight of 31.01.2018
 - Waybills generated till midnight of 31.01.2018 shall be valid for entry of taxable goods into West Bengal till 15.02.2018 or till its validity expires, whichever is earlier
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4. Judicial Pronouncements

- **Delhi High Court – Commissioner of Central Excise Vs. Welspring Universal** - HC upholds order of CESTAT that allowed CENVAT credit of duty paid by EOU on procurement of goods from sister unit, another EOU; Whether the supplier being a sister concern had taken undue advantage of the benefit by charging duty which was paid by the respondent-assessee - HELD - supplier, was also a 100% EOU and on the transaction, no duty was required to be paid in terms of paragraph 6.13(a) of the Foreign Trade Policy 2004-09, being a case of Inter Unit Transfer - assessee had asked for credit of duty actually paid and not duty which was payable and available - this is not a case of an arm's length transaction as the supplier and the assessee were related to each other - The show cause notice and the order in original do not record that the supplier has taken undue benefit by asking the respondent-assessee to pay the duty. Even otherwise, the impugned order permits the Revenue to proceed in case of any wrongdoing in the case of the supplier - This being the position, the impugned order doesn't requires any interference. Duty has been paid by the respondent-assessee to the supplier, hence they are entitled to benefit and refund on export – revenue appeal is accordingly dismissed.
- **Mumbai CESTAT - Wardha Power Company Ltd Vs. CCE - ST** - Refund in terms of Notification 17/2011-ST were disallowed on a suspicion that it was beyond imagination that the service has been provided in the SEZ. Held: Suspicion, however, great may be, is not substitute of proof and Revenue did not discharge burden of proof bringing out a case to substantiate allegation of non-

utilization of service in question in the SEZ -Spurious SCNs should not be issued to prevent waste of public time and resources - Appeals allowed

- **CHANDIGARH CESTAT - M/s DAIKIN AIR-CONDITIONING INDIA P LTD Vs. CCE, NEW DELHI** - Service Tax - Export of Service - liable to service tax on commission income in foreign convertible exchange towards product marketing and procurement of orders – Business Auxiliary Service - manpower recruitment or supply service - HELD - the Export of Service Rules, 2005, taxable services have been divided into three categories. Admittedly, the services provided by the appellant fall under the category 3. On the question whether the services mentioned in category 3 qualify as export, various judicial pronouncements have held that to qualify as export, the service recipient should be located outside India and the fact that the service is performed in India is not relevant - the services provided by the appellant qualify as export of service - appeal allowed.

Hope the newsletter was useful for you all.

In case of any queries, feel free to connect with the council.
