

# EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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## EPCES CIRCULAR NO. 279

### **Sub : Weekly updates on amendments made in 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. Trade Notice No. 24/2015-2020 dated 21<sup>st</sup> February, 2018**

The Director General of Foreign Trade has issued this trade notice for the exporters who have shipping bills which got ticked "N" (for No) instead of "Y" (for Yes) in "Reward" column of shipping bills while filing the EDI shipping bills, but have declared the intent in the affirmative (in wordings) on the shipping bills. Such exporters may send the details in excel format, in the specified format by 31.03.2018 at the mail address: [lokesh.hd@nic.in](mailto:lokesh.hd@nic.in). It is to be noted that the shipping bills which had a Let Export date from 01.10.2015 to 31.03.2016 only should be included. Also, shipping bills in which declaration of intent has been allowed by customs authorities later, by manual amendment or otherwise should be excluded from the table below.

Name of the Firm	IEC	Shipping Bill Number	Let Export date	Port of Export	FOB value as per shipping bill

#### **2. Circular No. 05/2018-Customs dated 23<sup>rd</sup> February, 2018**

CBEC has issued the captioned circular w.r.t. Refund of IGST on Export – Invoice mis-match Cases. The circular gives pre-requisites and precautions that need to be taken for successful processing of refund claims

- i. Filing of GSTR 3B including taxable value for export and IGST paid.
- ii. Filing of GSTR 1 including details of Invoice number, Taxable value, IGST paid, Shipping Bill number, Shipping Date and Port Code.
- iii. Aggregate IGST paid amount claimed in GSTR 1 should not be greater than the IGST paid amount in GSTR 3B of the corresponding month.
- iv. Use Table 9 of GSTR 1 of the following month to amend the records of previous month.
- v. Filing of electronic Export General Manifest (EGM).

The circular also provides the method to track refund status and errors pertaining to shipping bills, hosted on the ICEGATE website. Once the registration is obtained, the exporters can check the status of IGST refunds and corresponding error message, if any. This enquiry takes GSTIN Number, Port-code and Return Month as inputs and based on the input, Shipping Bill Number, Shipping Bill Date, Return Month, Invoice Number, Invoice Date, Response Code and Processed date is displayed as a result of the enquiry.

An alternative mechanism has been prescribed to rectify invoice mismatch errors. Refund claims would be processed in only those cases where the error code is mentioned as SB005. Further, it may also be noted that all refunds will be credited electronically through the PFMS system, and no manual payment / cheque should be issued.

The procedure for processing of IGST refund claims, would be as follows:

- a. A Concordance table indicating mapping between GST invoices and corresponding Shipping Bill invoices, as annexed to refund claim to the designated Custom officer. Option of e-mailing scanned copy of table to Customs location from where exports took place. [Format Attached]
- b. Customs officer to verify the following:
  - Duly Certified Concordance
  - IGST taxable value and IGST amount declared in the Shipping Bill.
  - IGST details declared in the Shipping Bill should be in proportion to the goods actually exported.
- c. Custom officer to verify the refund amount and accept or reject or amend the same in the Customs EDI System.
- d. After verification of invoices pertaining to Shipping Bill, calculation of scroll amount against a shipping bill, after subtracting the drawback amount for each invoice where applicable, and display the refund amount.
- e. Invoices for which refund is sanctioned shall be disabled in the system to prevent refund against same invoice again in future.
- f. After refund is sanctioned, shipping bills are available for scroll generation.

This procedure is available only for Shipping Bills filed till 31st December 2017.

### **3. Instructions for Filing LUT online on GST Portal**

GSTN has enabled online filing of Letter of Undertaking (LOU):

1. Go to User Services and Select the Tab "Furnishing Letter of Undertaking".
2. Select the Financial Year for which you want to furnish the LUT.
3. If you have already furnished LUT Offline, for previous period, please attach the same here and continue to file your application.
4. If you're filing LUT, please read and select all the three checkboxes for accepting the conditions prescribed in Letter of Undertaking
5. Enter the details of two independent witnesses
6. Primary Authorized signatory or other Authorized signatory can sign the Application Form.
7. Once signed and filed, Form cannot be edited.

### **4. Circular No. 33/07/2018-GST dated 23<sup>rd</sup> February, 2018**

Vide this circular, CBEC has issued the following directions regarding non-transition of CENVAT credit under CGST Act or non-utilization thereof in certain cases:

- CENVAT credit credited to the electronic credit ledger, which was held as inadmissible in last adjudication order or last order-in-appeal, pertaining to a SCN issued under Rule 14 of CENVAT Credit Rules, 2004, shall not be utilized by a registered taxable person to discharge his tax liability, till such order is in existence. In case of utilization, such credit shall be recovered with Interest and penalty, as per the provisions of the Act.
- CENVAT credit carried forward in return relating to period ending with the day immediately preceding the appointed day, which is not eligible under Section 17(5) of the CGST Act such as, telecommunication towers and pipelines laid outside the factory premises, shall not be utilized to

discharge tax liability. In case of utilization, such credit shall be recovered with Interest and penalty, as per the provisions of the Act.

- Where the credits of the afore-said nature are higher than Rs.10 lakhs, the taxpayers shall submit an undertaking to the jurisdictional officer of Central Government that such credit shall not be utilized or has not been availed as transitional credit.

## Judicial Pronouncements

- **Mumbai CESTAT: CCE Vs. Arrow Engineers:** M/s Arrow Engineers, as supplier of goods to entities in Special Economic Zones, applied for encashment of balance in CENVAT credit account attributable to supply of goods to units in Special Economic Zone deemed to be exports under the special statute governing such zones. It was held apparent that supplies to special economic zones are not exports except then viewed through the provisions of Special Economic Zones Act, 2005. Rule 5 of CCR, 2004 applicable only to physical exports –impugned order of Commissioner(A) had erred in allowing the application under rule 5 of CENVAT Credit Rules, 2004, hence same is set aside and Revenue appeal is allowed.
- **Madras High Court: Standard Shoe Sole And Mould India Ltd Vs. CC, CE & ST**  
Appellant was a 100% EOU, importing machinery spare parts and raw materials during the period up to March 1996, for manufacturing and exporting "Thermo Plastic shoe and polyurethane shoe soles" - SCN was issued to the appellant demanding duty of Rs.3.28 crore on the ground that since the export obligation was not fulfilled by them, the duty on the imported machinery and raw materials has to be recovered-appellant filed application for settlement before the first respondent [Settlement Commission] admitting a sum of Rs.25.29 lakhs -the Settlement Commission, vide Final Order, settled the case at Rs.46.52 lakhs (Rs.10.27 lakhs for capital goods on the depreciated value and Rs.36.25 lakhs on the raw materials) -challenging a portion of the order, viz., demanding duty of Rs.36.25 lakhs on the raw materials, the petitioner filed W.P.No.38054 of 2016 - the same was dismissed by the Writ Court [single Judge] on holding that the order impugned therein, requires no interference - appellant in writ appeal.

HELD: It is rightly held by the Writ Court that findings of fact recorded by the Commission are not open for examination or re-examination, by the High Court under Article 226 of the Constitution of India -merely because, the order of the Settlement Commission does not suit the appellant herein, the appellant cannot be permitted to dissect the order of the Settlement Commission - on perusal of para 20(a) of the affidavit filed in support of the writ petition, it is seen that the post hearing submissions of the applicant and of the jurisdictional commissioner have been discussed in detail by the Settlement Commission in the order -therefore, the contention of the appellant that there is violation of principles of natural justice, cannot be accepted - the Settlement Commission has exercised its jurisdiction properly, under section 127F(1) of the Customs Act by going through the factual aspects, as well as the legal position, and exercised discretion and allowed 90% depreciation on capital goods and directed the appellant to deposit the admitted liability of Rs.10.17 lakhs and thus, settled the liability on capital goods at Rs.10.27 lakhs, including the moulds, as capital goods and given categorical finding regarding the duty on raw materials at Rs.36.25 lakhs and granted immunity from payment of interest under section 127H of the Customs Act and by imposing a penalty of Rs.50,000/- only, also granted immunity to the appellant - Writ Court has rightly held that the argument of the appellant that the Settlement Commission should have exercised the power as an Assessing Officer does not merit acceptance -there is no infirmity in the order of the Writ Court and the said order cannot be interfered with - for the above stated reasons, this Writ Appeal fails and accordingly dismissed.

- **Delhi CESTAT: Johar Enterprises Vs. CC**  
Assessee had filed shipping bill on behalf of M/s Global Products. On a specific information, consignment of goods was examined with help of X-ray machines and it was found that it contains

19.7 kg of Ephedrene HCL, which is a narcotics and prohibited item. Assessee was involved in exporting narcotics which is prohibited in law. Being anti-national activity, merely the statement of Ms.BhartiChawla(M.D. of Johar Enterprises) that somebody has handed over the consignment is neither sufficient nor acceptable - Tribunal is surprised as to why penal action has not been taken against Ms.BhartiChawla - In this context, no reference has been made in impugned order - Unfortunately, Tribunal has no power to enhance punishment - In these circumstances, for anti-national activity and for exporting the drugs, impugned order sustained along with reasons mentioned: CESTAT - Appeal dismissed.

Hope the newsletter was useful for you all.

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

This issues with the approval of Offtg. Chairman EPCES.

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