

# EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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No.EPC/SEZ/AM-18  
April 12, 2018

## **EPCES CIRCULAR NO. 285**

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.

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### **Trade Notice No. 01/2018-2019 F. No-01/94/180/361/AM18/PC-4 dated 4<sup>th</sup> April, 2018**

This is in relation to Export Obligation Discharge Certificate (EODC) Monitoring System for Advance/EPCG Authorisations.

- EODC monitoring system can be accessed at <http://eodc.online>.
- Designed for monitoring the progress of EODC applications of Advance and EPCG authorisations.
- Facility to view status of pending EODC applications.
- All Regional Authority's (RAs) are expected to input data related to applications submitted by exporters for EODC and update the status when either Deficiency letter or EODC is issued.
- If EODC applications by exporters are pending and system does not show it as pending, a query can be raised and RAs would take consequential action in this matter
- RA shall verify whether any such application is submitted for EODC of AA/EPCG which is yet to be disposed off.
- Query can be rejected if it is found that no such application has been submitted or RA has already entered the details of pending case.
- Query shall be accepted if such application is already submitted by the applicant but the same is not yet entered by RA in the EODC monitoring system.
- Exporters whose EODC cases are pending, may feed their pending data using 'Raise Query' option enabling RAs to monitor and dispose cases faster
- It is advised to authorisation holders to check the status of their applications online before raising any query.
- Exporters may draw attention of RA's using [contact@dgft](mailto:contact@dgft) service (addressed to RA concerned).
- Queries related to the functioning of this EODC monitoring system can be addressed by email to [sbsreddy@nic.in](mailto:sbsreddy@nic.in).

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### **Circular No. 40/14/2018-GST dated 6<sup>th</sup> April, 2018**

CBIC has issued the following clarifications regarding the furnishing of Bond/Letter of Undertaking for exports:

- LUT shall be submitted in Form GST RFD-11 online on the GST portal.
- LUT shall be deemed to be accepted when acknowledgment for the same bearing Application Reference Number (ARN) is generated online.
- No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.
- In case of an exporter who's LUT has been accepted, was ineligible to furnish an LUT in place of bond as per the eligibility under Notification No. 37/2017-Central Tax, then the exporter's LUT will be liable for rejection and deemed to have been rejected ab initio.

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### **Notification No. 42/2018-Customs dated 6<sup>th</sup> April, 2018**

Central Government has through this notification rescinded the following notifications:

- Notification No. 07/2018- Customs dated 02.02.2018 - exempting all goods in the First schedule to the Customs Tariff Act, 1975 from Education Cess, when imported into India.
  - Notification No. 08/2018- Customs dated 02.02.2018 - exempting all goods in the First schedule to the Customs Tariff Act, 1975 from Secondary and Higher Education Cess, when imported into India.
  - Notification No. 19/2018- Customs dated 02.02.2018 - exempting Additional Duty of Customs (Road Cess) levied under section 103 of the Finance (No.2) Act, 1998, on the goods specified under Second Schedule to the said Finance Act.
  - Notification No. 20/2018- Customs dated 02.02.2018 – exempting Additional Duty of Customs (Road Cess) levied under section 116 of the Finance Act, 1999, on the goods specified under Second Schedule to the said Finance Act.
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### **Press Release regarding Roll-out of e-Way Bill system for Intrastate movement of goods**

It is hereby informed that E-Way Bill system for Intra-State movement of goods would be implemented from 15th April, 2018 in the following states:

- i. Andhra Pradesh
  - ii. Gujarat
  - iii. Kerala
  - iv. Telangana
  - v. Uttar Pradesh
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### **Notice by Directorate of Commercial Taxes, West Bengal**

SEZ units located in the state of West Bengal have state code 19 (of West Bengal) in GSTIN. In GST E-waybill System, movement of the goods within the same state (intra-state) where the consignor and consignee both have the same state code, i.e., 19, have been not enabled as yet. Hence, e-waybill cannot be generated for the movement of the goods to/from the SEZ units from/to units located within the same state, i.e., West Bengal.

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### **Order No. 5/2018-GST F. No. 2(60)/Policy-GST/2017/13-18 dated 4th April, 2018**

The Refund Approval Committee has been re-constituted to grant approval in cases of refund of SGST, CGST, IGST and Cess above Rs. 50 Lakhs under DGST/CGST Act, 2018, comprising of the following members:

- Three Special Commissioners as nominated by Commissioner - Members
  - Controller of Accounts- Members
  - Zonal Incharge- Members Secretary
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### **Judicial Pronouncements**

- **Advance Ruling - Kerala AAR - M/s SYNTHITE INDUSTRIES LTD - Applicability of GST on import/High Sea Sales** - The following two scenarios were involved here –
  - a) The applicant receives order from a customer in USA for the supply of spice products. They place a corresponding order to a supplier in China for supplying the goods ordered by the customer in USA. The supplier in China, based on the request of the applicant, ship the goods directly to the customer in USA. In other words, the goods do not come to India. The Chinese supplier issues invoice to the applicant, for which, payment will be made by the applicant in due course. Subsequently, the applicant will raise invoice on the customer in USA, and collect the proceeds.
  - b) The applicant buys materials from a company in China in bulk and stores it in the presidential warehouse in Netherlands for subsequent delivery to various customer. The material is not coming to India at any point. The Chinese supplier will invoice the applicant for which payment will be given in due course. Subsequently, the warehouse authorities will arrange split deliveries

to their various overseas customers as per their instructions. The applicant would issue invoice to the ultimate customers and collect the proceeds in foreign exchange.

Basis above two scenarios, the applicant requested a ruling on the below mentioned question –

1. Is GST payable on procuring goods from China, when the goods purchased are not brought into India?
2. Is GST payable on sale of goods to the company in USA, where goods sold are shipped directly from China to USA without entering India?
3. Is GST payable on procuring goods from China not against specific export order, when the goods purchased are not brought into India?
4. Is GST payable on sale of goods from Netherlands warehouse to their end customers in and around Netherlands when the goods have not entered India?

Advance Ruling Authority analyzed the law at large and stated that from a combined reading of the provisions of the IGST Act, 2017, the Customs Tariff Act, 1975, and the Customs Act, 1962, it is evident that the integrated tax on goods imported into India shall be levied and collected at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962 i.e.- on the date determined as per provisions of Section 15 of the Customs Act, 1962.

Accordingly, the Advance Ruling Authority ruled that the integrated tax on goods imported into India shall be levied and collected at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962. The goods are liable to IGST when they are imported into India and the IGST is payable at the time of importation of goods. The applicant is neither liable to GST on the sale of goods procured from China and directly supplied to USA nor on the sale of goods stored in the warehouse in Netherlands, after being procured from China, to customers, in and around Netherlands, as the goods are not imported into India at any point.

- **BANGALORE CESTAT: Ripple Fragrances Exports Pvt Ltd Vs CCE, C & ST-** Assessee is manufacturers of candles, fragrance oil and agarbathis - Prior to August 2014 they were registered as EOU and they were availing Cenvat credit on inputs, capital goods and input services - During July 2014, they opted out of EOU scheme and converted into DTA unit - It is the contention of Department that they have availed credits when they were operating as EOU and there are no specific provisions under CCR, 2004 to transfer credit when EOU is converted into a DTA - Hence, a SCN was issued to them - Considering the decision of Tribunal in case of Tecumseh Products India P. Ltd, it is found that the credit has been denied by invoking Notification 21/2014 which was issued to amend Rule 4(1) and 4(7) of CCR, 2004 which prescribes the Rule for availing credit to the period of 6 months - Commissioner (A) has observed that the credit of duty paid on debonded goods was availed after a period of 6 months from the date of payment of duty and the date of bill of entry and therefore, same is ineligible in terms of said Notification - Though the Commissioner has allowed transfer of unutilized Cenvat credit from EOU to the DTA unit of assessee by relying upon decision of Tecumseh Products - Further, said Notification became effective for invoices raised post September 2014 and in present case credit was availed prior to September 2014 therefore, assessee is not affected by said Notification - Commissioner (A) has also traveled beyond the SCN and has raised completely new ground for denying the credit which is not permissible under law - Therefore, impugned order is not sustainable in law - Appeal allowed.
- **AHMEDABAD CESTAT: M/s ESSAR PROJECT INDIA LTD Vs C.C.** - imported goods were not used for authorized operations but cleared to DTA - whether the appellant is required to discharge interest on the duty free imported goods to SEZ on its clearance to DTA - Department contends that the imported goods being not used for authorized operations in the SEZ area, therefore, the duty paid deemed to have been due as on the date of its initial import into the SEZ for authorized operation. Consequently, interest is payable under Section 47 of Customs Act, 1962 - The appellant case is that the provisions of Section 25, 34 relates to the developer of SEZ and not applicable to the appellant – HELD – From Section 30 of the SEZ Act it is clear that on clearance/removal of the goods from the SEZ to DTA, the applicable duties of Customs as levied under the CTA, 1975 are required to be paid and the rate of duty and tariff valuation, if any applicable would be the rate as in force on the date of its removal or payment of duty as the case may be. Nowhere under the said provision there is any

mention of the payment of interest on clearance of the goods from SEZ to DTA - Thus, under the SEZ Act and Rules, there is no substantive provision for charging interest - In the present case, after assessment, within five days the duty was paid. Thus, there was no delay in discharging the duty after assessment under Section 47 of the Customs Act, 1962. The Revenue's attempt to levy interest from the date of initial import by the SEZ developer is not supported by the provisions contained either under the SEZ Act or Rules made thereunder nor under the Customs Act, 1962 - Therefore, interest cannot be levied from the date of initial import by the SEZ developer - the impugned order is set aside and the appeal is allowed.

- **Advance Ruling - Kerala AAR - M/s. Caltech Polymers Pvt. Ltd. -taxability of recovery of food expenses from employees for canteen services** under Goods & Service tax Act 2017.

The applicant had filed advance ruling to seek clarification on ***"Whether reimbursement of food expenses from employees for the canteen provided by company comes under the definition of outward supplies as taxable under GST Act."***

The applicant had put forward their contention stating that services provided to employees is not being carried out as a business activity and the applicant also referred to the **Mega Exemption Notification No. 25/2012 –ST dated 20.06.2012** issued by the Government of India whereby services in relation to supply of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948 was exempted under the Service Tax Law.

Advance Ruling Authority examined the contentions raised by the applicant and after analyzing the law they stated that from a combined reading of relevant provisions of the CGST Act 2017 & Schedule II to the CGST Act, it is perceptible that even though no profit is claimed by the applicant on the services provided to employees, still there is "supply" in accordance with the provisions of GST Law. Therefore, GST shall be levied and collected when expenses are recovered from employees in lieu of canteen services provided by the company.

Accordingly, the Advance Ruling Authority ruled that recovery of food expenses from the employees for the canteen services provided by company would come under the definition of 'outward supply' as defined in **Section 2(83) of the Act, 2017**, and therefore, taxable as a supply of service under GST.

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 the Officiating Chairman EPCES.

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