

# EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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## **EPCES CIRCULAR NO. 297**

This is to update you all in relation to **Circular No. 47/21/2018-GST dated 08th June, 2018** issued by CBIC and **Notification No. 10/2015-2020 dated 7th June 2018** issued by DGFT.

### **Circular No. 47/21/2018-GST**

Clarifications have been provided with respect to the following issues:

- Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case.

**CLARIFICATION:** Such a transaction between OEM and component manufacturer (not being related or distinct persons) does not constitute a supply as there is no consideration. Also there is no requirement for reversal of ITC availed on such moulds and dies by OEM, since these are provided on FOC basis in course of furtherance of business.

Further, value of moulds and dies shall not be included while calculating value of supply made by component manufacturer since such cost was not to be incurred by the component manufacturer.

However, if contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but same were supplied by OEM to component manufacturer on FOC basis, then the amortised cost of such moulds/dies shall be added to the value of the components. The OEM will also be required to reverse the ITC availed.

- Treatment under GST on servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately.

**CLARIFICATION:** The goods and services would be liable to tax at the rates as applicable to such goods and services separately.

- In case of auction of tea, coffee, rubber etc., whether books of accounts are required to be maintained at every place of business by the principal and auctioneer, and whether they are eligible to avail input tax credit.

**CLARIFICATION:** The principal and auctioneer may declare the warehouses, where such goods are stored, as their additional place of business. If the buyer wants to store goods purchased through auction in such warehouses, he is required to declare such additional place.

Books of accounts relating to each and every place of business are required to be maintained by principal and auctioneer for supply of tea through private treaty. An intimation in this regard must be given to jurisdictional officer. The said parties are eligible to avail input tax credit in accordance with provisions of CGST act.

- In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?

**CLARIFICATION:** Railways shall not deliver the goods unless the e-way bill is produced at the time of delivery as per rule 138 (2A) of CGST Rules 2017.

Note: Rule 138(2A) - Where the goods are transported by railways/air/vessel, the e-way bill shall be generated by the registered person, being the supplier/recipient, who shall, either before/after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01. Provided that where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery.

- Whether e-way bill is required for goods in transit through another State while moving from one area in a State to another area in the same State?

**CLARIFICATION:** Generation of e-way bill is not dependent on whether a supply is inter-state or not, but on whether the movement of goods is inter-State or not. Therefore, e-way bill will be required in this case.

- Whether e-way bill is required when goods move from a DTA unit to a SEZ unit or vice versa located in the same State?

**CLARIFICATION:** No e-way bill is needed where goods move from a DTA to SEZ unit or vice-versa in same state, only if movement of goods is within the areas specified/notified under CGST rule 138(14) (d).

### **Notification No. 10/2015-2020 dated 7th June 2018**

Vide this notification, DGFT amends Para 6.08(b) of Foreign Trade Policy 2015-2020. The revised paragraph states:

“For services, including software units, sale in DTA in any mode, including on line data communication, shall also be permissible up to 50% of FOB value of exports and/or 50% of foreign exchange earned, where payment of such services is received in foreign exchange. However, sale in DTA in respect of services classified under Chapter Heading 9988 and 9989 under GST, but covered in LOP/para 9.31 of FTP as manufacturing of goods, will continue to be covered under para 6.08(a) above. At the time of DTA clearance, applicable GST and compensation cess as per GST classification would apply.”

Thus, DGFT notifies that DTA supplies by EOU / EHTP / STP / BTP units of job-work and other manufacturing services classified under Chapter Heading 9988 and 9989 respectively and which are covered in LOP / Para 9.31 of FTP as manufacturing of goods, shall continue to be governed by Para 6.08(a) of FTP. Thus, such units can supply said services in DTA without restriction of 50% of FOB value of export and / or foreign exchange earned as per Para 6.08(b). At the time of DTA clearance, applicable GST and Compensation Cess as per GST classification would apply.

Copy of the said circular and notification are attached herewith for your reference.

This issues with the approval of Offtg. Chairman EPCES

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