

# EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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## **EPCES CIRCULAR NO. 299**

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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### **Notification No.3/2018 dated 15<sup>th</sup> June 2018 (F. No. 3(163)/Policy-GST/2018/298-307)**

The captioned notification would be effective from 16th June 2018 and states that:

- No E-way bill is required for movement of goods originating and terminating within Delhi (without passing through any other State) where consignment value does not exceed Rs. 1,00,000/-.
- No E-way bill is required for intra-state supply from registered taxable person to an unregistered end consumer, accompanied by a tax invoice, irrespective of any value.

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### **Circular No.19/2018-Customs dated 18th June 2018**

It has been decided by the Board to extend RFID (Radio Frequency Identification) sealing to transport of goods for deposit in a warehouse as well as removal therefrom. The importer or owner of goods shall use RFID anti-tamper one-time locks (RFID-OTL). Since goods may be removed from different types of vehicles, different types of RFID-OTL's shall be used as specified.

The said circular covers:

- Specifications in relation to seals: (1) for containers (RFID One-Time-Bolt Seal) (2) For closed body vehicles (RFID wire cable seals)
- Specifications w.r.t. Readers.
- Data elements to be captured in the web application in the case of removal of goods from a customs stations to a bonded warehouse, from warehouse to a customs station for export, from warehouse to another warehouse.
- Procedure to be used under the regulations for warehousing.

The above procedure shall come into effect from 1st August 2018.

Principal Commissioner of customs can permit movement of goods without affixation of RFID OTL's where the nature of goods or manner of transport so warrant.

Copy of circular is enclosed for your reference.

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### **Notification No.28/2018 – Central Tax dated 19<sup>th</sup> June 2018**

The said notification makes the following amendments in CGST rules 2017:

- **Amendment in Rule 58:** Provision for records to be maintained by owner or operator of godown or warehouse and transporters have been amended by inserting sub-rule which states that a transporter who is registered in more than one State/Union Territory having the same PAN, may apply for a 'Unique Common Enrolment Number' by furnishing requisite details in Form GST ENR-02. The transporters may apply using any one of his GSTIN and once the Unique Common Enrolment

Number is generated, the said transporter shall not be eligible for use of any of his GSTINs for the purpose of E-way bill.

- **Amendment in Rule 138C:**It lays down the procedure to be followed by a proper officer in case of an inspection and verification of goods wherein it is provided that the said officer is required to record an online summary report of every inspection of goods in transit in Part A of Form GST EWB-03 within twenty-four hours of such inspection and recording of a final report in Part B of the said Form within three days of such inspection. The said time period for furnishing final report in Part B of Form GST EWB-03 has been extended for further three days on sufficient cause being shown to the Commissioner.
  - **Form GST ENR-02 introduced:**Application in Form GST ENR-02 for obtaining Unique Common Enrolment Number by a transporter is notified as a consequential amendment Rule 58 of the CGTS Rules.
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## Judicial Pronouncements

- **CHANDIGARH CESTAT : Kadimi Tools Manufacturing Company Pvt Ltd Vs CCE** - Assessee, a 100% EOU engaged in manufacturing of Thread Rolling Dies and clearing the goods in DTA and was not paying education cess and higher education cess on the duty of excise as determined under proviso to Section 3(1) of CEA, 1944 - A SCN was issued to assessee demanding education cess and higher education cess on duty of excise leviable for the third time after the assessee had paid education cess already on two occasions, first on CVD and second as cess leviable on Customs duty.  
Held: Issue is no longer res integra and has been decided in favour of assessee by Tribunal in case of Sarla Performance Fibers Ltd and Kumar Arch Tech Pvt Ltd. Order of Commissioner (A) is not sustainable and accordingly, same is set aside, Appeal allowed.
- **CHENNAI CESTAT: Cheslind Textile Ltd Vs CC** - The assessee, a 100% EOU, sought conversion of EOU Shipping Bills to Drawback Shipping Bills - It also obtained approval for de-bonding from EOU to DTA unit under EPCG scheme - Upon payment of duty on value of capital goods, raw materials & finished stock, a NOC was issued - Pending receipt of Final Exit Order, the assessee continued to export goods - As the goods were manufactured using duty paid inputs, the assessee requested conversion of some Shipping Bills into Drawback & EOU Shipping bills - However, the Commissioner of Customs denied such permission, even though permission for goods similarly exported during an earlier period had been granted - The Commissioner reasoned that there was no provision in law which permitted drawback through payment of duty on inputs & raw materials used in manufacturing such exported goods.  
Held - The matter at hand stands settled by the Tribunal in M/s. Sri Anjaneya Cotton Mills Ltd. Vs. Commissioner of Customs - Therein, it was held that the EPCG scheme did not disallow simultaneous availment of drawback on exported goods - Hence the exporter therein was held to be entitled to seek conversion of "zero duty EPCG shipping bills" to "zero duty EPCG scheme cum drawback scheme shipping bills" - Following such precedent, the order in challenge is set aside- Appeal Allowed.
- **BANGALORE CESTAT: Exa Thermometric India Pvt Ltd Vs CCE, C & ST-** The assessee is a 100% EOU, manufacturing and exporting excisable goods - The assessee claimed refund of unutilized Cenvat credit - Such claim was rejected for being filed beyond one year from date of export.  
Held - In the case of export of goods, the relevant date for calculating the limitation period is one year from the date on which the goods were exported -This follows from the decision of Madras HC in GTN Engineering case - Hence, in the present case the claim is time barred - Thus, the rejection of refund claim is upheld- Appeal dismissed.

- **AHMEDABAD CESTAT: Jindal Saw Ltd Vs CCE-** Assessee engaged in manufacture of Coated Steel Pipes and availed Cenvat credit on amount of 2% Education Cess and 1% Secondary and Higher Secondary Education Cess paid on CVD portion of duty by 100% EOU, the inputs supplier, in accordance with Notification No.23/2003-CE - Alleging that the Cess paid on CVD portion of duty paid by 100% EOU is not admissible to credit, SCN was issued for recovery of said credit with interest and proposal for penalty - Issue of admissibility of Cenvat credit of 2% Education Cess and 1% Secondary and Higher Secondary Education Cess paid on CVD portion of duty by 100% EOU held to be admissible to credit by this Tribunal in case of Jai Corp Ltd - Following the said precedent and the subsequent judgement of this Tribunal in Zabatex Textiles India Pvt. Ltd., no merit found in impugned order passed by Commissioner (A) - Consequently, same is set-aside- Appeal allowed.
- **MUMBAI CESTAT: Spenlex Industries Ltd Vs CCE-** The assessee is a manufacturer and exporter of yarn - It filed claim of refund of tax paid on 'custom house agent', 'terminal handling charges' & 'banking and financial services' for the disputed period - The claim for refund was rejected by the Revenue on grounds that it was in connection with the goods cleared for export of earlier period. Held - The Revenue have not examined the eligibility for credit relating to earlier period for refund against the claim for disputed period - Therefore, the matter is remanded for re- examination of relevant date of export- Matter Remanded.
- **Andhra Pradesh AAR -M/s PARSAN BROTHERS**—Applicant are holders of Special Warehouse License for storage of duty free ship stores imported without payment of duty for supply to Indian Naval / Coast Guard ships and Ocean going merchant ships - Whether applicants are exempted from tax under GST on their outward supplies made to ocean going merchant vessels on foreign run, Indian Naval Ships and Indian Coast Guard Ships and if at all the applicants are liable for GST on their outward supplies whether they can collect the GST from the recipient for the goods – HELD - the goods which are received by the applicant are within the Customs area as defined under Section 2 (11) of the Customs Act, 1962. Accordingly goods cleared by the applicant are to be treated as supply of goods in the course of inter-State trade. Furthermore, the goods supplied by the applicant is also not an exempt supply as per the definition under Section 2 (47) of the CGST Act, 2017 as it is neither nil rated nor exempt by any Notification - The applicant are not exempted from tax under GST on their outward supplies made to ocean going merchant vessels on foreign run, Indian Naval Ships and Indian Coast Guard Ships - The applicant can collect the applicable GST from their customers, in case it is not exports. However, in case of exports the option lies with the applicant based on manner of exports i.e. whether they intend to export under bond or on payment of tax.

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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.