

EXPORT PROMOTION COUNCIL FOR EOU's & SEZs

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EPCES CIRCULAR NO. 307

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.

Notification No.22/2015-2020 dated 26th July 2018

The Central Government hereby makes the following amendments to the Foreign Trade Policy 2015-2020 with immediate effect:

- **Amended Para 2.47:**

"Export through Courier Service/Post - Exports through a registered courier service is permitted as per Notification issued by DoR. However, exportability of such items shall be regulated in accordance with FTP/ ITC (HS), 2017. The value limit for such exports through courier service and Post shall be Rs 5,00,000 per consignment."

- **Amended Para 3.05:**

"Entitlement under MEIS for Export of goods through courier or foreign post offices - Exports of goods through courier or foreign post office, as notified in Appendix 3C, of FOB value upto Rs 5,00,000 per consignment shall be entitled for rewards under MEIS. If the value of exports, is more than Rs 5,00,000 per consignment then MEIS reward would be calculated on the basis of FOB Value of Rs 5,00,000 only."

Effect of this Notification is that the value limit for exports through Courier service/ Post has been placed at Rs 5,00,000 and the eligibility criteria for entitlement under MEIS for courier/ post exports have been increased to Rs 5,00,000 per consignment from the earlier Rs 25,000 per consignment. The limitation on the port of exports for courier exports for the purpose of incentivisation under MEIS has been done away.

Copy of the relevant notification is attached herewith for your reference.

Notification No. 30/2018 – Central Tax dated 30th July 2018

Vide the said notification, government has extended due date for filing of GSTR-6 for the months of July 2017 to August 2018 till 30th September 2018.

Circular No. 50/24/2018-GST dated 31st July 2018

The present circular withdraws circular No. 28/02/2018-GST dated 08.01.2018 and order No 02/2018-Central Tax dated 31.03.2018 with effect from 27.07.2018, wherein the Government provided clarification with respect to supply of food articles by an educational institution and catering services in train respectively.

As per the present circular, it is clarified that the clarifications made by the earlier circular dated 08.01.2018 and order dated 31.03.2018 have been incorporated under the law by way of amendment of the Notification No. 13/2018-Central Tax(Rate) dated 26.07.2018 so as to insert the following:

Insertion	Description	CGST Rate	Condition
Explanation to S. No. 7(i)	Supply at a canteen, mess, cafeteria or dining space of an institution such as a school, college, hospital, industrial unit, office, by such institution or by any other person based on a contractual arrangement with such institution for such supply, provided that such supply is not event based or occasional.	2.5%	Credit of input tax charged on goods and services used in supplying the service has not been taken
S. No. 7(ia)	Supply, of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms.		

Circular No. 51/25/2018-GST dated 31st July 2018

The captioned circular has been issued in relation to ambulance services provided by Private Service Providers (PSP's) to Government under National Health Mission (NHM).

In this regard, it has been clarified that supply of such services shall be covered under 'Health and sanitation' functions entrusted to Panchayat and Municipalities and accordingly, the same shall be exempt under Notification No. 12/2017- CT (R) dated 28.06.2017 vide S. No. 74, wherein it has been provided that services provided to Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

Note on Simplified Returns and Return Formats - July 2018

This is with reference to a note released by CBIC in relation to the proposed simplification of GST returns.

The salient features of the proposed return filing process are as follows:

- **Monthly return:** Taxpayers (other than composition dealer, ISD, non-resident registered person, person liable to collect or deduct tax at source) will be required to file one monthly return with due dates staggered basis the turnover reported in FY 2017-18 (self-declaration income will be considered for new registered taxpayers) as per the following criteria:
 - i. Small taxpayers: Taxpayers who have a turnover upto Rs. 5 Crores in the last FY will now have the option to file quarterly returns but payment of tax has to be on monthly basis on self-declaration basis;
 - ii. Large or other taxpayers: All other taxpayers will have to file one monthly return for which the due date shall be 20th of the next month.
- **Nil return:** Taxpayers with no purchase, output tax liability and no ITC to avail in any quarter of the FY are required to file just one NIL return for the entire quarter. Further, the facility of SMS shall be available to report NIL transaction during the first and second month of the given quarter.
- **Continuous uploading and viewing of Invoices:** The draft formats also provide for regular uploading of supply invoices which would be available for viewing and acceptance by the recipient. Once the invoice is accepted by the recipient, it would get locked in the system. A recipient would be eligible to avail credit of the invoices uploaded by the supplier till 10th of the next month. The invoices uploaded after 10th of the subsequent month would be available for credit in the next month.
- **Missing invoice reporting:** The credit will be available for receiver only for those invoices which are uploaded by the supplier on the GST portal. Invoices not uploaded but credit taken are hereafter called missing invoice,

if the invoice is not uploaded within two months, the recipient needs to reverse credit and pay interest and penalty at applicable rates.

- **Invoice uploaded but return not filed:** In case the supplier has uploaded the invoices but not filed the return, it shall be treated as self-admitted liability of the supplier and recovery proceedings shall be initiated against the supplier. The recovery from the recipient would be done only in exceptional cases.
- **Offline IT tool:** New offline IT tools would be introduced for matching the invoices.
- **Amendment of Invoices:** Amendment of an invoice may be carried out by the supplier where input tax credit has not been availed and the invoice has not been reported as locked by the recipient. After the invoice is locked only credit note or debit note can be issued for the same.
- **Amendment Returns:** Now there is an option for amending filed returns in cases involving wrong entries being made in the return. Currently it is proposed that maximum of two amendment returns can be filed for each tax period. Payment would be allowed to be made through the amendment return as it will help save interest liability. However, for change in liability of more than 10% through an amended return, a higher late fees may be imposed.
- **Ineligible Purchase information:** Purchase invoices on which no input tax credit is availed has to be declared in the annual return only.
- **Exports:** It has been proposed that a separate facility for uploading shipping bill details at a later date (post filing of return) shall be introduced for the benefit of exporters. Once the information pertaining to shipping bill is completed, the data shall be transmitted to ICEGATE. Further, the exporter shall also be allowed to amend details in export/ shipping bill through a special facility on the common portal.

Copy of the said note has been attached herewith for your reference.

Judicial Pronouncements

- **CHENNAI CESTAT: SE Forge Ltd Vs CCE-** The assessee an SEZ, filed claim for refund under Notification No.9/2009-ST as amended by Notification No.15/2009 - It claimed exemption of service tax paid on various services - In respect of refund claim on renting of immovable property service was rejected by the Revenue - The grounds for rejection were on the date of filing of the refund claim of renting of immovable property services was not approved by the Development Commissioner, as required under Notification 9/2009 as amended - Hence, the present appeal by the assessee.
Held - The Approval Committee has approved the aforementioned services - The requisite for obtaining approval is only a procedure to be complied, for the substantive benefit of exemption from payment of service tax - When the services have been approved, the benefit of exemption cannot be denied - The section 26 of the SEZ Act, lays down provisions for exemption from duties and taxes - In addition, section 51 of the said Act provides for overriding effect - Therefore the benefit of exemption cannot be taken away by the procedural prescriptions of Notification No.9/2009 or 15/2009 - The lapse in procedural compliance can be condoned - Hence, the assessee is eligible for refund - Appeal allowed.
- **ALLAHABAD CESTAT: Jubilant Chemsys Ltd Vs CCE & ST** - Assessee, (JCL) is engaged in research and development of drug chemicals and export thereof under the 100% EOU scheme - They have been granted permission for carrying out manufacturing operations in a bonded warehouse under Customs Act and also registered under Central Excise Act as a manufacturer - As per Revenue, assessee have not actually exported their services and/or products, but have given services and or sold their products to Jubilant Biosys Ltd.(JBL), as a sub-contractor or agent of theirs - The Commissioner in impugned order has held that under all the

agreements, the services have been ultimately exported by JBL - The Commissioner has examined and discussed the agreement between Eli Lilly and Company and JBL, JCL and Jubilant Life Sciences Limited (JLL) and has denied the benefit of export of services to the assessee for the reason that they have not produced anything to establish that JBL Bangalore has acted as their agent - As regards applicability of proviso to Section 73(1) of FA, 1994, fact of disclosure of value of disputed services in ST-3 returns is admitted in SCN - Further, SCN also records that assessee during relevant period was claiming refund of accumulated CENVAT credit - The refund orders passed by Assistant/Deputy Commissioner record the fact that entire export turnover and receipt of the export proceeds in convertible foreign exchange has been verified by Jurisdictional Range Superintendent - It is also on record that SCN has been issued in pursuance to an audit objection. Therefore, it is not a case of mis-declaration or suppression of facts but a case where there is a change of opinion on the manner of assessment by the Department - Proviso to Section 73(1) and provisions of Section 78 are not applicable - Accordingly, demand for the extended period is not sustainable and mandatory penalty under Section 78 cannot be imposed - As regards applicability of Section 80, there is no contumacious conduct on the part of assessee and the entire issue involves interpretation of the legal provisions - Moreover, the assessee has paid service tax to avoid any further dispute, in a revenue neutral situation - Therefore, it is fit case for invoking the provisions of Section 80 of FA, 1994 and setting aside penalty under Section 76 of Act, 1994.

As regards the issue of payment of interest on the duty paid through the CENVAT account when sufficient balance was available on the date the duty liability crystallized, issue is squarely covered by the decision in case of *Oil and Natural Gas Corporation Limited* - In view of the settled position of law, interest is not payable by assessee on the amount of duty paid through CENVAT account - Appeal allowed.

- **WEST BENGAL AAR: Garuda Power Private Limited** - The Applicant, stated to be a dealer of Cummins India Limited functioning mainly in the trading of diesel engines and its spare parts along with services of diesel engine, either on AMC basis or on an as and when required basis, is seeking a ruling on whether or not the supply of goods and on-site services to customers in SEZ area to any SEZ unit or SEZ developer, is zero rated supply under section 16 of the Integrated Goods & Services Tax Act, 2017, and whether GST is chargeable for the supply of goods or services to SEZ unit or SEZ developer.

RULING -The Applicant shall be liable to pay tax when supplying to Units and Developers of Special Economic Zones subject to the provisions of Section 16 of the Integrated Goods and Services Act, 2017. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

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 Offtg. Chairman EPCES.