

Export Procedures & Refund - GST

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Export of Goods - Earlier law

- Export of Goods means taking goods from **India to place outside India both under Central Excise and Customs.**
- Receipt of Foreign currency is not criteria for export of goods.

Export of Goods- GST

- 2(5) of IGST Act Export of Goods means taking goods out of India to a **place outside India**.
- Receipt of Foreign currency is not criteria for export of goods.
- India defined in the CGST Law – territory, territorial water, seabed, subsoil etc.

Export of Goods- GST

2 (39) “**deemed exports**”, to be notified by CG/ SG on recommendation of the Council, where goods supplied do not leave India, and payment for such supplies is received in INR or CFE. Goods manufactured in India.

- Not yet notified

Export of Service –GST (Sec 2 (6) of IGST)

- Supplier of Service located in India
- Recipient of Service O/s India
- Place of Supply Outside India
- Payment for such service received in convertible foreign exchange
- Supplier & Recipient of service are not merely establishment of distinct person
(Not Branch and HO)

Export of Service

- Explanation: An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.
- What if any conditions not satisfied?
Difference from ST Law?

Are Export supplies taxed in GST

- Section 2(23) – Zero rated supply – meaning assigned in section 16
 - (a) Export of goods or services or both; or
 - (b) Supply of goods or services or both to a SEZ developer or SEZ Unit
- Zero rated supply to be made w/o payment of tax but ITC eligible
- What if exempt supply exported?? Input available?

Refund Scenarios

- Export of goods or services
- Supplies to SEZs units and developers
- Deemed exports
- Refund of accumulated ITC on account of inverted duty structure
- Refund of taxes on purchase made by UN or embassies etc
- Refund on a/c of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
- Finalization of provisional assessment
- Refund of pre-deposit
- Excess payment due to mistake
- Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India
- Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied
- Refund of CGST & SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice versa

Exporter – Refund under earlier law

- Rebate (Rule 18 of CER. Notfn 39/2012-ST)
- Refund (Rule 19 of CER & Rule 5 of CCR)
- Merchant exporter – excisable goods w/o payment of duty/penultimate sale
- Service Tax – 41/2012-ST

Exporter – Refund under GST – Sec 16 of IGST

- A registered person making zero rated supply – eligible to claim refund under either of following options:
 - Supply goods or services under bond or LUT without payment of IGST and claim refund of unutilised ITC
 - Supply of goods/services on payment of IGST and claim refund of such tax paid on goods or services supplied

Subject to notified conditions, safeguards and procedures

Export without payment of Tax

Bond/LUT

- Required where export is made without payment of tax
- Submit in FORM RFD-11 to jurisdictional commissioner
- Submit manually till the opening of window on common portal
- Submission to Deputy/assistant commissioner also allowed
- Who can use LUT-
 - Status Holder (1 Star, 2 Star, 3 Star, 4 Star & 5 Star export house)
 - Received inward foreign remittances minimum of 10% of export turnover and should not be less than 1 Crore in PY
- Other persons to submit Bond
- Running Bond on non judicial stamp paper of value applicable in state
- Bond to cover tax amount involved in exports
- BG to be submitted along with Bond – Max. 15% of Bond value
- Validity of LUT – 12 months
- Use of Existing LUTs ??

Refund in case of export under bond w/o payment of IGST

- Unutilised ITC to be allowed as refund – 54 (3)
- May be claimed at the end of each tax period
- Provided
 - No Duty draw back/ or refund claimed on tax paid on export.
 - Returns furnished
 - Tax, interest, penalty dues not stayed by courts...

Refund in case of export under bond w/o payment of IGST

- Refund to be allowed as per following formula:

Refund = T/O of Zero rated supply (goods/service)*Net ITC/Adjusted total T/O

- Refund: Maximum refundable amount
- Net ITC: ITC availed on input/input service during relevant period (CG??)
- T/O of zero rated supply of goods – export w/o pmt of tax
- T/O of zero rated service:
 - PMT received for supply made+ supply made in period for which advance received earlier – advance received but supply not completed
- Adjusted T/O – T/O in State excluding exempted supplies incl. zero rated supply
- Relevant Period: for which claim filed

2(107) Turnover in state

- **Value of taxable supplies**
- Exempt supplies
- Export of goods &/or Services made within a State by a taxable person
- Inter state supplies of goods and/ or services made from the State by a taxable person
- Taxes, if any charged under the CGST Act, SGST Act & IGST Act

Export with payment of IGST

Refund of IGST paid on export of goods

- No separate application for refund
- Shipping bill shall be deemed to be refund application
- Conditions:
 - export manifest or an export report covering the number and the date of shipping bills or bills of export
 - Furnishing of GSTR-3/3B
- Automatic transmission of information-Link between GSTN and Custom portal
- After furnishing of valid return, automatic processing of IGST refund to bank account
- Withheld of refund in case of non-payment of taxes with intimation to registered person
- Export to Bhutan – Tax may be paid to Govt of Bhutan by GOI

Refund of IGST paid on export of services

- Refund of IGST paid on exports to be claimed
- FORM RFD-01 to be filed
- Within 2 years from the relevant date

Documentations

- Documentary evidence to establish that refund is due
- Statement containing no and date of shipping bills and no and date of relevant export invoices - where the refund is on account of export of goods without pay (Statement 3)
- Statement containing no and date of invoices and the relevant BRC or FIRC - where the refund is on account of the export of services (Statement 2)

Refund processing time

- Refund of tax on input/input services used in exports-
 - 90% refund within 7 days
 - 10% within 60 of application
 - 6% interest for delay in payment of refund
- Refund of IGST paid on exports
 - Upon receipt of information regarding furnishing of valid return in Form GSTR-3 by the exporter from the common portal
 - Customs shall process the claim for refund
 - an amount equal to the IGST paid in respect of each shipping bill shall be credited to the bank account of the exporter

Procedures

- File electronic application in Form RFD-01
- Refund to be filed within 2 years from
 - Goods
 - Export by Sea/air – date of leaving from India
 - Land – date of passing the frontier
 - Post – date of dispatch by post office
 - Services
 - Receipt of CFE – if services completed earlier
 - Issue of invoice – if payment received in advance

Procedures

- Acknowledgment of filing of claim – GST RFD 2
- Communication of deficiency – GST RFD 3
- Sanction of provisional refund within 7 days – GST RFD 4.
- Payment advice in GST RFD 5
- Final refund sanction in Form GST RFD – 6 mentioning provisional refund already sanctioned, amount adjusted against dues and net amount paid
- Complete adjustment of amount – GST RFD 7
- Issue of Notice for refund rejection –GST RFD 8
- Furnish reply within 15 days – GST RFD 9
- On rejection of refund claim – amount to be recredited to electronics credit ledger through GST PMT 3

SEZ Supplies

Supply to SEZ unit or developer

- To be treated as zero rated supply. All provisions similar to exports to be followed
- Refund to be claimed by supplier of goods – goods have been admitted by SEZ as endorsed by SEZ Officers – Statement to be furnished for such supply correlating with the goods endorsed
- Similar endorsement required in case of supply of service – Documents - Services Statement of export Inv no & date+ , payment details made by SEZ to supplier+ Proof of receipt of services at SEZ

Summary on SEZ transactions

Transaction	Taxability
DTA to SEZ – Supply of Goods/Services without payment of tax	Execute Bond/LUT
DTA to SEZ – Supply of Goods/Services with payment of IGST	DTA to claim refund. SEZ to pay only basic amount not tax.
Export of goods/services from SEZ	Zero rated supply. Treated at par with other export
SEZ to DTA – Supply of goods	DTA liable to pay BCD+IGST+Cus cess. SEZ not to report such transaction in GST return
SEZ to DTA – Supply of services	IGST to be paid. Report in GSTR-1
Import of goods/services in SEZ	Exempted
Procurement of goods/services by SEZ from unregistered persons	Transaction would be inter-state supply. Supplier liable to register and follow the compliances.

Drawback

- For the transition period of 3 months, Drawback at higher composite rates will continue to be granted.
- For claiming the higher rate of drawback, the exporter has to make a declaration and certificate is required that no Input Tax Credit (ITC) of CGST/IGST is claimed, no refund of IGST paid on export goods is claimed and no CENVAT credit is carried forward.
- In absence of such certification, drawback will be restricted to the customs portion of drawback.
- After 30th September 2017, drawback will be admissible only at lower rate determined on the basis of the custom duties paid on the goods imported for supplying goods for export.

FTP schemes

- Benefit of advance authorisation, EPCG, MIES and SEIS will be restricted only to Basic Customs Duty, Safeguard Duty, Transitional Product Specific Safeguard Duty and Anti-dumping Duty in respect of goods leviable to IGST.
- Import against EPCG – Exemption only to BCD. IGST needs to be paid
- Use of scrips (MEIS/SEIS) – Restricted to BCD or other additional duties of customs. No use against IGST



Questions ??

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FOR LUT

A) FOR ACCEPTANCE OF FORM GST RFD-11 (LETTER OF UNDERTAKING-
LUT- FOR EXPORT WITHOUT PAYMENT OF INTEGRATED TAX)

1. The registered person/exporter will submit request on its letter head for acceptance of GST RFD-11 signed by the proprietor/ partner/ director/ authorised signatory as the case maybe.
2. Along with letter he will submit the following documents:-
 - (a) Form GST RFD-11 duly filled and signed with seal on company/ firm letter head.
 - (b) Letter of Undertaking as prescribed on company/ firms letter head in duplicate duly signed by the competent person as per Notification No. 16/2017 dated 07.04.2017 issued by CBEC, Department of Revenue, Govt. of India.
 - (c) Certificate of status holder as per para 5 of Foreign Trade Policy 2015-2020.

(The status holder is exempted from furnishing of Bank Guarantee for schemes under FTP, unless specified).

OR

Bank Certificate mentioning that the registered person/exporter has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees in the preceding financial year.

- (d) Undertaking/ declaration on letter head that- he has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in case where the amount of tax evaded exceeds two hundred any fifty lakh rupees.
- (e) Copy of GST registration Certificate (Provisional / permanent).
- (f) Copy of Certificate of Importer- Exporter Code (IEC) issued by Ministry of Commerce, Govt. of India.
- (g) Copies of Returns (DVAT-16) of all four quarters 2016-17 or GSTR-3 of all months of the preceding year.
- (h) Export bill/invoice

3. The request letter along with above documents will be submitted to the concerned Assistant Commissioner (GST Export Cell).
4. The concerned Assistant Commissioner will process the request and after scrutiny of the documents will issue the acceptance letter in the prescribed format within one week.
5. On scrutiny if any document is found deficient/ improper by the concern Assistant Commissioner same will be communicated to the applicant. Thereafter, final decision on issuance of acceptance letter of LUT/Bond may be taken within a week after the deficiencies have been removed by the applicant.

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FOR BOND

B) FOR ACCEPTANCE OF FORM GST RFD-11 (BOND FOR EXPORT WITHOUT PAYMENT OF INTEGRATED TAX)

1. The registered person/exporter will submit request on its letter head for acceptance of GST RFD-11 signed by the proprietor/ partner/ director/ authorised signatory as the case maybe.
2. Along with letter he will submit the following documents:-
 - (a) Form GST RFD-11 (Bond) on dully filed and signed with seal on company/ firm letter head.
 - (b) Bond as prescribed on Rs. 100/- Non judicial stamp paper dully signed by the proprietor/ partner/ director/ authorised signatory as the case maybe. The Bond would cover the amount of Tax involved (which may be considered equivalent to IGST levied on such goods/ Services).
 - (c) Copy of GST registration Certificate (Provisional / permanent).
 - (d) Copy of Certificate of Importer- Exporter Code (IEC) issued by Ministry of Commerce, Govt. of India.
 - (i) Copies of Returns (DVAT-16) of all four quarters 2016-17 or GSTR-3 of all months of the preceding year.
 - (e) Bank guarantee of 15% of the amount of tax involved.
 - (f) Export bill/invoice
3. The request letter along with above documents will be submitted to the concerned Assistant Commissioner (GST Export Cell).
4. The concerned Assistant Commissioner of Export Cell will process the request and after scrutiny of the documents will issue the acceptance letter in the prescribed format within one week.
5. On scrutiny if any document is found deficient/ improper by the concern Assistant Commissioner same will be communicated to the applicant. Thereafter, final decision on issuance of acceptance letter of LUT/Bond may be taken within a week after the deficiencies have been removed by the applicant.