

Export of Goods and Services under GST

With introduction of GST, Government of India has introduced new norms and procedures for export of goods and services. Holistically, these norms and procedures are the same for export of goods but they are completely new for the service industry. In the earlier regime export of services was hassle free and simple, whereby only few conditions were required to be fulfilled amongst which main were that the services were required to be provided outside India and income thereof was received in convertible foreign currency. No procedure whatsoever was required to be followed and governmental intervention was required only for export of goods. This simple and non-invasive system which was prevalent from mid 1990's till June 2017 has been done away with and instead a new system has been introduced for export of goods as well services. We have analysed all the provisions, rules and various circulars issued by the Government and following is the easy to understand gist of the provisions:

I. Meaning of Export

1. **Export of goods** means taking goods physically out of Indian Territory. The definition of Export of Goods under Section 2(5) of IGST Act, 2017 is as under:

(5) "export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

2. **Export of Services** means provision of services to a person located outside India. Further, as provided in Section 2(6) of IGST Act, 2017 following conditions needs to be met to qualify as export of service under GST:
 - a. Supplier of services is located in India
 - b. Recipient of service is located outside India
 - c. **Place of supply** of service is outside India
 - d. Payment of such service must be received in convertible foreign currency
 - e. Supplier of service and Recipient of service are not merely establishments of distinct person

II. Options for Exporters of Goods and/or Services under GST

There are 2 options given to exporters under GST, they can choose any mechanism from the following:

1. Export of Goods and Services **with payment of IGST**
2. Export of Goods and Services **without payment of IGST**
 - a. Under 'Letter of Undertaking' (LUT) Only
 - b. Under LUT with Bond

1. Procedures for Export of Goods and Services **with payment** of IGST

If one chooses the 1st option, following procedure is required to be done:

- i. Invoice for Supply of Goods and services shall have clear endorsement that "SUPPLY MEANT FOR EXPORT ON PAYMENT OF INTEGRATED TAX".
- ii. A registered person shall be required to charge and pay IGST on such supply.
- iii. In case of Export of goods registered person shall be required to add GSTIN Number while filing shipping bill for Export of Goods.
- iv. Filing of shipping bill for Export shall be **deemed to be an application for refund** of IGST paid on export goods.
- v. The registered person shall be required to file valid GSTR-1 along with details of date of Shipping Bill or Bill of export.
- vi. GSTN portal will validate export consignment details with Ice gate portal (Custom's details) and will process the return automatically.
- vii. In case of Export of Services, a separate refund application has to be submitted on GSTN portal with proper details.

2. Conditions for Export of Goods and Services **without payment** of IGST

If one chooses the 2nd option, following procedure is required to be done:

- A. Export under LUT shall be allowed to following category of exporters only:
 - i. Who is a Status Holder as specified in paragraph 3.20 and 3.21 of the Foreign Trade Policy 2015-2020?
- OR**
- ii. Who has received the due foreign currency amounting to a minimum of 10% of the export turnover. Foreign Currency received in preceding financial year must be above Rs. 1 crore.

- B. Rest all other exporters shall be required to execute a Bond (equivalent to estimated GST liability involved on value of Export) with security as on the direction of the Jurisdictional Commissioner which shall not exceed 15% of the Bond Amount. For example, value of service is 1 crore then the IGST due thereon comes to 18 lacs, hence bond value has to be maximum upto 2.70 lacs. Person is required to give a Bank Guarantee of Rs. 2.70 lacs.

3. Procedural Steps for Exports without payment of Duty:

1. Submit Form GST RFD 11 (Online) along with Letter of Undertaking **OR** Bond and/or with Security (wherever applicable) with Jurisdictional Commissioner.

However as per Circulars No. 2/2/2017-GST dated 04.07.2017 due to large number of applications with the enactment of GST, these documents can be submitted manually (till the GST portal goes live) to Jurisdictional Deputy/Assistant Commissioner.

The requisite documents for export without payment of duty can be submitted before Central Tax Authority or State Tax Authority till the administrative mechanism implemented properly. (So the person who was already registered under Excise/service tax shall be required to submit the documents before excise/service tax authorities and who was not registered with Excise authorities but registered with VAT authorities can submit documents with VAT authorities.)

2. Invoice for Supply of Goods and services shall have clear endorsement that "SUPPLY MEANT FOR EXPORT UNDER BOND **OR** LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX".
3. In case of Export of goods, registered person shall be required to add GSTIN Number while filing shipping bill for Export of Goods.
4. Exporter shall be required to file a Refund application for duty paid on Inputs on common portal (GSTIN) electronically along with details of date of Shipping Bill or Bill of export.
5. Registered person shall be required to file valid GSTR-1 along with details of date of Shipping Bill or Bill of export.

4. Validity of LUT renewed before GST enactment (i.e. before 01.07.2017)

As per Circular No. 04/04/2017-GST dated 07.04.2017 in case Letter of Undertaking renewed before enactment of GST and the same has not been expired till date then the same shall be valid for the purpose of Export till 31.07.2017. Exporters shall be required to submit revised documents pertaining LUT latest by 31.07.2017

5. Factory stuffing of goods

Today, factory stuffing of goods by exporters is tedious procedure whereby the officer of excise department personally verifies and seals the container in the premises of the exporter. This causes undue hardship and delays. Under GST, it is proposed that a concept 'Self Sealing' will be introduced with effect from 1.09.2017 to create trust based environment and promote hassle free exports.

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