

# SEZ Supplies, Exports & Refunds under GST

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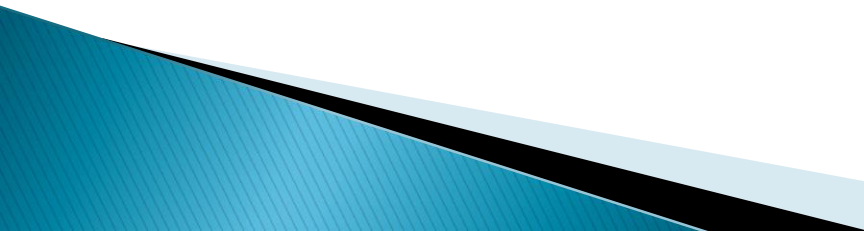
# Importance of Exports

- ▶ Growth of the economy is directly related to exports
- ▶ Lower exports means low foreign exchange and which in turn results in small purchasing capacity in global market.
- ▶ Employment growth

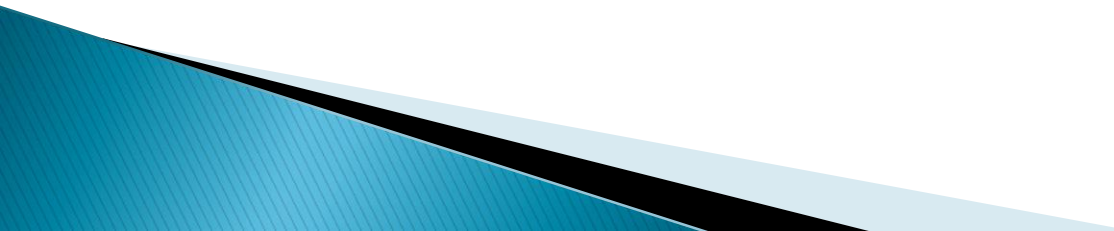
# Exports-Zero Rated Supplies

- ▶ GST is destination based consumption tax
- ▶ No tax on exports
- ▶ Taxes cannot be exported
- ▶ Taxes paid if any will be refunded
- ▶ To maintain high competitive prices in the international market
- ▶ To earn precious foreign currency

# Zero-Rated supplies

- ▶ Following supplies are zero-rated:
    - Export of goods or services
    - Supplies to SEZ unit or SEZ developer
  - Full ITC subject to section 17(5) restrictions
  - Full ITC even if exempted supplies - rule 42/43 inapplicable
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# 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.
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# 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?

# 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?? ITC available?



# Zero-Rated supplies

**Two options to claim refund under GST regime:**

- ▶ Export under Bond or LUT, without payment of IGST and claim refund of unutilized ITC

OR

- ▶ Export on payment of IGST and claim refund of such tax paid on such exports.

# **Export without payment of Tax**

# Exports under LUT

- LUT is required where export is made without payment of tax
- Submit in FORM RFD-11 online
- No Bond or BG required for exports
- Assessee prosecuted of offence beyond 250 lacs amount of tax in GST or Erstwhile CE/ST/VAT required to obtain bond.

# Exports under LUT

- Goods shall be exported within 3 months from date of export invoice.
- In case of services, the amount shall be received in CFC < 1 year.
- If the above condition is not satisfied, exporter have to pay IGST within 15 days.
- Otherwise Bond/LUT executed will be cancelled
- Any chance for extending of the timelines? – TH JC may consider for granting extension (*Para 5.1 of Circular 37/11/2018 dated 15-03-2018*)

# Refund in case of export under LUT w/o payment of IGST

- ▶ Unutilized ITC to be allowed as refund - 54 (3)
- ▶ May be claimed at the end of each tax period
- ▶ Provided.
  - Returns furnished
  - Tax, interest, penalty dues not stayed by courts...

# Continued....

- ▶ 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

# Sec 2(112) Turnover in state

- ▶ Value of taxable supplies
- ▶ Exempt supplies
- ▶ 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

# Time limit

- ▶ Refund to be filed within 2 years from :

## Goods

- Export by Sea/air - date of leaving from India
- Land - date of passing the customs frontier
- Post - date of dispatch by post office

## Services

- Receipt of CFE - if services completed earlier
- Issue of invoice - if payment received in advance



# Procedure

- ▶ File electronic application in Form RFD-01
- ▶ 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

# Procedure

- ▶ 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

# Exports under LUT - issues

## Output related

1. Whether furnishing of LUT is mandatory?
  - No refunds will be claimed
  - Export of exempted or non-GST goods
2. Delay in furnishing LUT?
3. Export conditions are violated?
4. Wrong disclosure in returns?
  - GSTR 3B v. GSTR -1 - Errors committed
5. Exports with IGST payment is allowed when LUT is executed & in force?

# Exports under LUT

## Input related

1. Old credits transferred to GST , whether refund eligible?
2. Capital goods ITC
3. Periodicity of the refund claims? - Tax period
4. Accumulated ITC refund in a month where exports are nil
5. Refund rejected due to claiming of transitional credit
6. What could be the implication when refund applied under earlier law was rejected - No transitional credit claimed

# Exports with IGST payment

# Export with payment of IGST

- ▶ The shipping bill filled at the time of export shall be deemed to be application for refund provided
  - EGM has been filed
  - Exporter should have filed valid GSTR-3B.
- Details of export invoices submitted in GSTR-1 will be transmitted to ICEGATE

# Export with payment of IGST

Implication of notification no. 39/2018 dated 04.09.2018, 53/2018 and 54/2018 dated 08.10.2018 on refund

During the period 23.10.2017 to 08.10.2018

- ▶ Exporter procured goods from supplier who availed benefits:
  - At concessional rate of 0.1% - Merchant exporters
  - To EOU wherein supplier claiming refund of GST
  - Supplied/imported under EPCG, Advance authorisation scheme without IGST
  - EOU imported goods without IGST

# Export with payment of IGST

Implication of notification no. 39/2018 dated 04.09.2018, 53/2018 and 54/2018 dated 08.10.2018 on refund

From the period 09.10.2018 onwards

- ▶ Exporter procured goods on which he availed benefits of:
  - At concessional rate of 0.1% - Merchant exporters
  - To EOU wherein supplier claiming refund of GST
  - Supplied/imported under EPCG, Advance authorisation scheme without IGST
  - EOU imported goods without IGST



# Export with payment of IGST

- ▶ Mis match b/w. Shipping bill v. GST invoice value
- ▶ Invoice raised in one month + Shipping bill/exports in different month? - how to claim refund?
- ▶ ITC of CG can be used?
- ▶ On what value IGST need to be paid ?
  - FOB or invoice value

ERROR CODE	MEANING	RECTIFICATION MEASURES
SB000	Successfully Validated	Records found matching without errors
SB001	Invalid SB details	Amending Table 6A of GSTR-1 using Table 9A of GSTR-1
SB002	EGM not filed	Exporter to approach shipping line to ensure electronic filing
SB003	GSTIN Mismatch (Guide Released by Directorate Systems )	Amending Table 6A. Declaration from other entity of same PAN that no refund is claimed against the SB.
SB004	Record already received and validated	Duplicate Record can be eliminated in GSTR-1
SB005	Invalid Invoice Number (Circular 5/2018-Cus dt 23.02.2018)	Clerical Error (Amend GSTR-1). Two sets maintained (Concordance Table)
SB006	Gateway EGM not available Circular 8/2018-Cus dt 23.03.2018	Requesting shipping line to file supplementary EGMs electronically for the period July'17 to October'18. Has decided to allow officer interface by DG (sys) to rectify this error

# Refund Common Errors & Rectification

- ▶ Difference in export TO disclosed in GSTR 1 and 3B
- ▶ Customs policy wing should prepare a list of such exporters and share it to GSTN
- ▶ GSTN shall share the details to exporters through emails.

# Refund processing time

- ▶ Refund of tax on input/input services used in exports-
  - 90% refund within 7 days
  - 10% within 60 days 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 table 6A of GSTR-6A/GSTR-1 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

# **Special Economic Zone 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 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.

# Supplies to Merchant Exporter

- ▶ Notification 40/2017-CGST (Rate) and Notification 41/2017-GST (Rate) provides for concessional rate of GST at 0.1% for supplies to merchant exporter. The following are the conditions to be satisfied
  - Both the supplier and recipient should be registered under GST.
  - Recipient should be registered with export promotion council or commodity board recognised by department of commerce.
  - Supply order for concessional rate should be produced to jurisdictional officer.
  - Recipient should export the goods within 90 days from invoice date
  - Indicate GSTN and Invoice No. in shipping bill
  - Proof of such export shall be submitted to jurisdiction officer etc.

**ITC of 0.1% available to merchant exporters?**

**Inverted duty structure refund to the suppliers?**



# Deemed Export

- ▶ Section 147 empowers CG to notify certain supplies as deemed exports.
- ▶ Notification 48/2017–Central Tax lists down the following transactions as deemed exports.
  - Supply of goods by a registered person against advance authorization
  - Supply of capital goods by a registered person against EPCG Authorisation
  - Supply of goods by a registered person to EOU
- ▶ In terms of section 54, the tax paid on deemed exports shall be eligible for refund. Rule 89 provides that there fund claim can be filed either by recipient or the supplier.
- ▶ In order to consider the supplier's claim for refund, the recipient of deemed exports should give an undertaking that no input tax credit has been availed on the said deemed exports.

# Other Refund Scenarios

- ▶ 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

# Other Refund Scenarios

- ▶ 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



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