

Refund scenarios in GST

A. Refund of **unutilized** Input tax credit allowed only in following cases **Sec.54**

I. Exports of goods and services incl. Zero Rated Supplies. It can be tax paid on the inputs used in the use of goods and services which are exported at zero rate or if tax is paid on such exports ; such tax

*Exception: **No refund** of Unutilized ITC, if goods exported are subjected to **export duty***

Contd....

Zero Rated Supplies

1. **Introduction:** "Zero Rated Supply" shall have the meaning assigned to it in Sec 16 (of the IGST Act).
2. **Sec. 16 (1):** Sec. 16 of the IGST Act defines Zero Rated Supplies to mean any of the following taxable supply of goods and/or services, namely –
 - (a) *Export* of goods and/or services; or
 - (b) Supply of goods and/or services to a *SEZ developer or an SEZ unit*.
3. **Deemed Exports:** "Deemed exports" means such supplies of goods as may be notified under section 147 [Sec. 2(39) of the CGST Act, 2017]
4. **Sec. 147 of CGST Act:** The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.
5. The Tax impact on Imports, Exports and Zero-Rated Supplies are discussed herewith in the following paras.

Zero Rated Supplies

1. **"Export of Goods"** with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India [Sec. 2(5) of IGST Act].
2. **"Export of Services"** means supply of any service when -
 - (a) Supplier of service is located in India
 - (b) The recipient of service is located outside India,
 - (c) The place of supply of service is outside India,
 - (d) The payment for such service has been received by the supplier of service in convertible foreign exchange or *in Indian rupees wherever permitted by the Reserve Bank of India; (W.e.f 01.02.2019)* and
 - (e) The supplier of service and recipient of service are not merely establishments of a distinct person; [Sec. 2(6) of IGST Act]
3. **Zero Rated Supplies [Sec. 16(1)]:** Sec. 16 of the IGST Act defines Zero Rated Supplies to mean any of the following taxable supply of goods and/or services, namely –
 - (a) Export of goods and/or services; or
 - (b) Supply of goods and/or services to a SEZ developer or an SEZ unit.

Zero Rated Supplies

4. **Input Tax Credit [Sec. 16(2)]:** Credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.
5. **Options [Sec. 16(3)]:** A registered taxable person exporting goods or services shall be eligible to claim refund under one of the following two options, namely –
 - (a) He may supply goods or services under Bond /Letter of Undertaking subject to such conditions, without payment of IGST and claim refund of unutilized input tax credit

Popularly Known as Zero Rated Supplies without payment of Tax... discussed as Option I below

- (b) He may supply goods or services, on payment of Integrated tax and *claim refund of such tax paid* in accordance with Sec. 54 of the CGST Act, read with rules made thereunder. This is however subject to such conditions, safeguards and procedure as may be prescribed in this regard.

Popularly Known as Zero Rated Supplies on payment of Tax... discussed as Option II below

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Formula – GST Refund

In the case of zero-rated supply of goods or services or both without payment of tax under Bond or LUT, refund of input tax credit shall be granted as per the following formula –

$$\text{Refund Amount} = \left[\frac{\text{Turnover of zero rated goods} + \text{Turnover of zero rated supply of services}}{\text{Adjusted Total Turnover}} \right] \times \text{Net ITC}$$

Refund shall be the least of the following [Cir. 59/33/2018 CT]–

- (a) Refund as per above formula
- (b) The balance in the e-credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
- (c) The balance in the e-credit ledger of claimant at the time of filing the refund application

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Formula – GST Refund

- (b) "Net ITC" means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both;
- (c) "Turnover of zero-rated supply of goods" means –
- The value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or
 - The value which is 1.5 times the value of like goods domestically supplied by the same / similarly placed, supplier, as declared by the supplier, whichever is less, other than Turnover where refund is claimed u/r 89(4A) / (4B) [Notfn 16/2020 CT dt.23.03.2020]
- (d) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely: -

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Formula – GST Refund

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services

Add: Zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period

Less: Advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

- (e) "Adjusted Total turnover" means
- (i) the turnover in a State or a Union territory, as defined under section 2(112), excluding turnover of services; &
 - (ii) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding:
 - the value of exempt supplies other than zero-rated supplies; and
 - the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period

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Case Study - 1

A. Credits to the Manufacturing and Trading Account of Ms.X Ltd	Rs. Crores
1. Income from Goods Segment [Out of which Export Goods are to the extent of Rs. 300]	1500
2. Electricity sold to the Central Grid	50
3. Income from Service Segment [Out of which Export was Rs. 50]	250

The Extract of the ITC Account of the Assessee reveals the following –

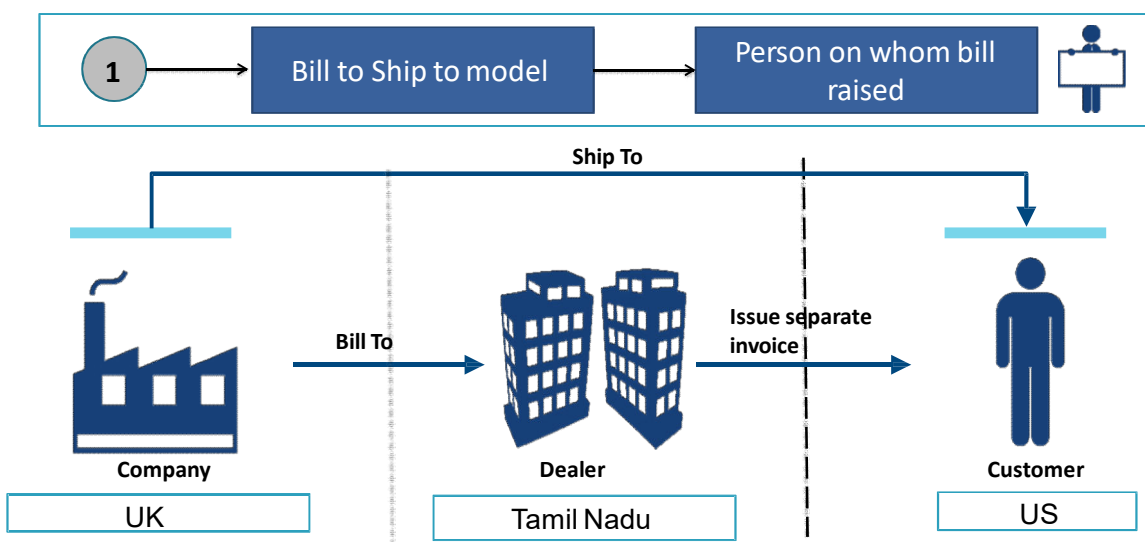
Particulars	Rs. Crores
1. Cenvat Credit availed relating to Inputs	100
2. Cenvat Credit relating to Capital Goods (50% availed during the period)	5
3. Cenvat Credit relating to Input Services	20

Find the amount of Cenvat Credit Refund for which the Assessee is eligible during the relevant period, if the credit of inputs and Input Services at the time of refund claim filing is 50 Crores

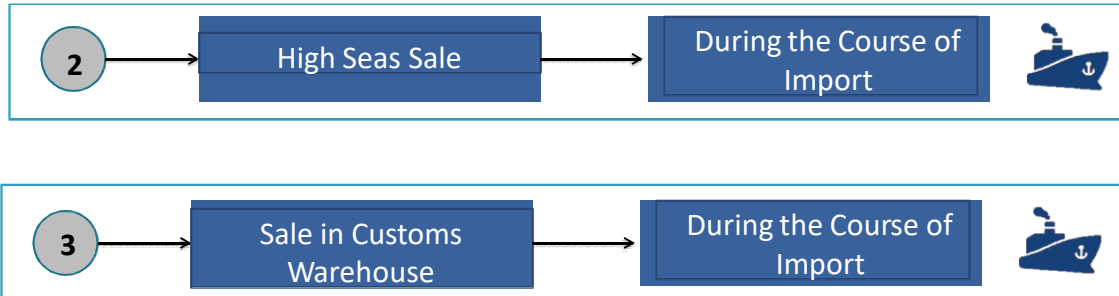
Sol: Refund = $(300+50) \times 120 / (1500+250) = 24 \text{ Cr}$

Case Study - 2

Bill To Ship To Model



Case Study 3 / 4



Important Issues #1

Circular No. 78/52/2018 GST dated 31.12.2018

Subcontracting of services by an exporter of services to another person located outside India:

It is hereby clarified that, when an exporter of service outsources a portion of that service to outside India, he may not get the full consideration in convertible foreign exchange, because the consideration is directly paid by the recipient of such service to the outsourced service provider.

Hence in such cases, the following two supplies happens:

- Supply of services from the exporter of services located in India to the recipient of services located outside India for the Full Contract Value;
- Import of services by the exporter of services located in India from the supplier of services located outside India with respect to the outsourced portion of the contract. *(IGST RCM to be paid on this, and ITC can be availed)*

Important Issues #2 and #3

Circular No. 79/53/2018 GST dated 31.12.2018 – Clarification on the term ‘Input’

It is clarified that ITC of the GST paid on inputs shall be available to a registered person as long as he/she uses or intends to use such inputs for the purposes of his/her business and there is no specific restriction on the availment of such ITC anywhere else in the GST Act. The GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies and the ITC for such inputs is not restricted under section 17(5) of the CGST Act.

Further, CG have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

Circular 108/27/2019 dated 18.07.2019

It is hereby clarified that, the activity of sending/ taking goods out of India for exhibition or on consignment basis for export promotion does not constitute supply as the said activity does not fall within the scope of Sec. 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a ‘supply’, the same cannot be considered as “zero rated supply” as per the provisions contained in section 16 of the IGST Act.

Thus, activity of sending/ taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required

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Deemed Exports

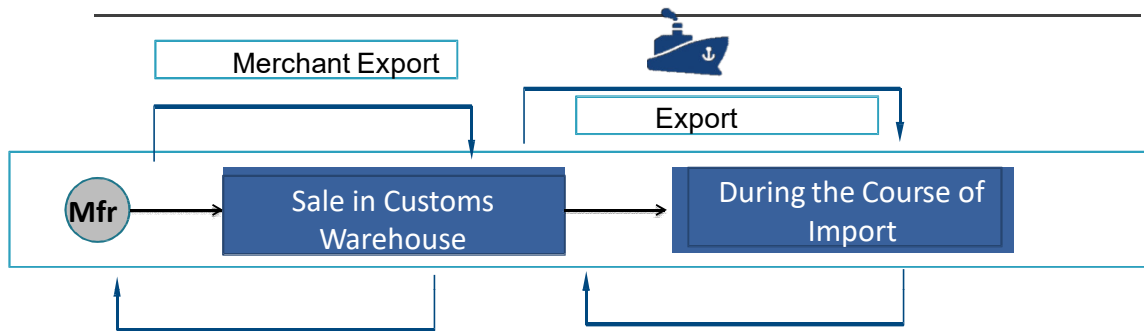
1. *Sec. 2(39) “Deemed Exports”* means such supplies of goods as may be notified u/s 147.
2. *Sec. 147:* The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where -
 - (a) Goods supplied do not leave India, and
 - (b) Payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.
3. **Notification 48/2017 (CT)** The Central Government, has notified the following supplies as deemed exports [M 19(Old)] –

S.No.	Description of supply
1	Supply of goods by a registered person against Advance Authorisation
2	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation (EPCG)
3	Supply of goods by a registered person to Export Oriented Unit
4	Supply of gold by a bank or Public Sector Undertaking specified in the Notification No. 50/2017- Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

4. In case of deemed exports, GST shall be payable like any other supply. However, Refund of such GST Paid is available as refund *either to the Supplier or to the Recipient of the Supply.*

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Merchant Exports – Notfn 40/2017 in a nutshell



Refund scenarios in GST

2. On account of accumulation of rate of **tax on inputs higher than the rate of taxes on Output Supplies.**

Credit accumulation due to output being tax exempt or nil-rated and Credit accumulation due to inverted duty structure i.e. due to tax rate differential between output and inputs).

There will be **no refund of ITC of goods lying in stock at the end of the Financial year.** It is proposed to be carried forward.

Inverted Duty Structure – Case Studies #5 to #11

Input				Output	Remarks
X	Y	Z	E		
5%	12%	18%	28%	Pdt A -28%	
5%	12%	18%	--	Pdt B -18%	
5%	12%	18%	28%	Pdt C -18%	
5%	12%	18%	--	Pdt D -12%	
5%	12%	18%	28%	Pdt E -12%	
5%	12%	18%	28%	Pdt F - 5%	
5%	12%	18%	28%	Pdt G - Exempt	

Inverted Duty Structure – Advanced Case Study #12

A. Credits to the Manufacturing and Trading Account of Ms.X Ltd	Rs. Lakhs
1. Income from Pdt X (5%)	2700
2. Income from Services (18%)	300

The Extract of the ITC Account of the Assessee reveals the following –

Particulars	Rs. Lakhs
1. Inputs (Rm X - 18%)	150
2. Inputs (Rm X - 12%)	30
3. Inputs (Rm X - 5%)	20
4. Input Services	35

Find the amount of Cenvat Credit Refund for which the Assessee is eligible during the relevant period, if the credit of inputs and Input Services at the time of refund claim

filing is 40 Lakhs

Sol: Refund = $[2700 \times (150 + 30 + 20) / (2700 + 300)] - (2700 \times 5\%) = 45 \text{ Lakhs. However restricted}$

Important Issue #4

Circular No. 79/53/2018 GST dated 31.12.2018

- *It clarifies that both the law 96A and the rules 89(5) clearly prevent the refund of tax paid on input services and CG for which refund is claimed under sub-rules (4A) or (4B) or both as part of refund of input tax credit accumulated on account of inverted duty structure.*
- *Refund of unutilized ITC in case of inverted tax structure, as provided in section 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability. Where there are multiple inputs attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules, the term "Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.*

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Procedure

A. General procedures on submission of application

Refunds under GST is **application based and subject to verification**. Application to be submitted **through GSTN** Portal with provision for **uploading supporting documents**.

Any person claiming refund of any tax or interest shall make application to the proper officer.

Rules prescribe different persons who can claim refund and **event after which the application may be filed**.

The application shall be made **before expiry of 2 years from the relevant date**.

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Procedure

14. "Relevant Date" means-

- (a) In the case of goods exported out of India -
 - (i) If the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or
 - (ii) If the goods are exported by land, the date on which such goods pass the frontier, or
 - (iii) If the goods are exported by post, the date of dispatch of goods by the Post Office concerned to a place outside India;
- (b) In the case of supply of goods regarded as deemed exports, the date on which the return relating to such deemed exports is furnished;
- (c) In the case of services exported out of India, the date of-
 - (i) Receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India, where the supply of service had been completed prior to the receipt of such payment; or
 - (ii) Issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice;

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Procedure

- (d) In case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority / Tribunal / Court, the date of communication of such judgment, decree, order or direction;
- (e) In the case of refund of unutilized input tax credit under Inverted Duty Structure, the relevant date shall be the due date for furnishing of return u/s 39 for the period at the end of the financial year in which such claim for refund arises; (W.E.F 01.02.2019)
- (f) In the case where Tax is paid provisionally under this Act or the rules made there under, the date of Adjustment of Tax after the Final Assessment thereof;
- (g) In the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- (h) In any other case, the date of payment of tax.

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Documents to be accompanied with the Application form

General documents which will be **prescribed in the Rules** . [Only declaration if the amount of refund is less than 2 Lakhs (earlier 5 Lakhs)]

But the following documents for various scenarios are mentioned in the **Business Process document**.

1. For exports (a) to be submitted by the applicant. There will be a provision to **upload scanned copies** -

- i) Export invoice;
- ii) Shipping Bill (Export Promotion copy);
- iii) Mate's Receipt / Transporter's Challan (in case of export by road);
- iv) Packing list;
- v) Bill of Lading/ Airway Bill;
- vi) Bank Realization Certificate (BRC).
- vii) In case of services, invoice and FIRC / BRC

(Removed
in
Rules)

2. For Supplies to SEZ / Deemed Export

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Verification

The verification will be **mostly online**

The Import Export code (IEC) details captured at the time of issuance of GSTN can be **verified with DGFT** online.

As proposed, if the **linkage with** the customs network **ICEGATE** is worked out, shipping bill which includes relevant details from the export invoice and packing list can be verified online.

Note: W.e.f. 01.09.2019, The Government may disburse the refund of the State tax in such manner as may be prescribed, and a Single Window Clearance mechanism for Refunds have been notified in this regard.

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Refund Formula / Sanction etc.

A simple formula prescribed in the rules may be based on proportionate credit based on export turnover/total turnover.

Declaration obtained from the exporter regarding export duty / Receipt in SEZ / Deemed Export etc.

Refund shall be granted within 60 days from the date of application complete in all respects

For export refunds to notified category of dealers, 90% refund can be granted before verification subject to such conditions and restrictions.

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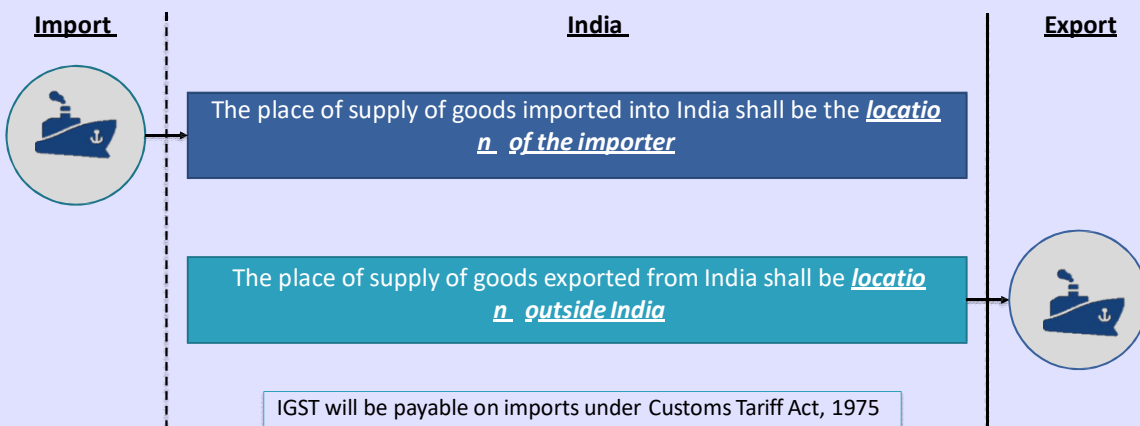
Place of Supply – Import / Export of Goods

➤ **Export of goods:** With its grammatical variations and cognate expressions, means taking out of India to a place outside India.[Sec. 2(18) of Customs Act, 1962 - similar definition in GST Law]

➤ **Import of goods:** With its grammatical variations and cognate expressions, means bringing into India from a place outside India.[Sec 2(23) of Customs Act - similar definition in GST]

Place of Supply – Goods: Import or Export

- ▶ Import – Location of Importer
- ▶ Export – Location outside India



Place of Supply – Services (Proxies)

Sec.	Situation	Place of supply	Impact
8(1)	Goods imported into India	Location of importer	Imports will be liable to IGST in addition to Basic Customs Duty (and other Customs Duties)
8(2)	Goods exported from India	Location outside India	Exports will be zero-rated with benefit of refund of Input Tax Credit or Rebate of tax paid.

GST on Imports - Case Study #13

1. Assessable Value = Rs. 10 Lakh, BCD at 10%, IGST at 18%

Particulars	Rs.	Reason
1. Transaction Value u/s 14(1)	10,00,000	
2. Basic Customs Duty (BCD) at 10%	1,00,000	
3. Social Welfare Surcharge (SWS) on Customs Duty @10%	10,000	10% ×1,00,000
4. Total Customs Duty = BCD + ACD u/s 3(1) = (2) + (3)	1,10,000	
5. Integrated Tax at 18% on (1) + (4) Above	1,99,800	18% ×11,10,000
6. Total Customs Duty payable [(4) + (5)]	3,09,800	

GST on Imports - Case Study #14

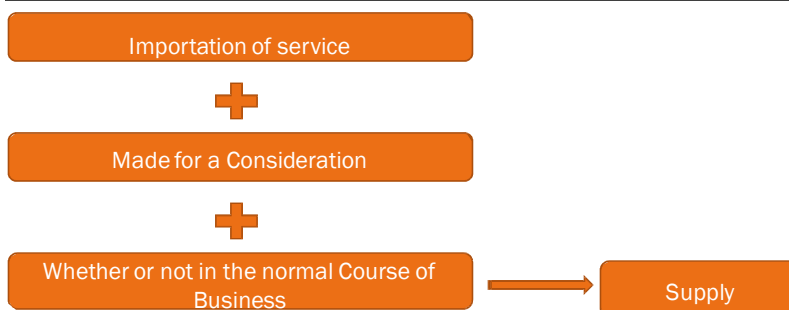
2. Assessable Value = Rs. 10 Lakh, BCD at 10%, IGST at 28%. Compensation Cess at 15%

Particulars	Rs.	Reason
1. Transaction Value u/s 14(1)	10,00,000	
2. Basic Customs Duty (BCD) at 10%	1,00,000	
3. SWS on Customs Duty @10%	10,000	10% ×1,00,000
4. Total Customs Duty = BCD + ACD u/s 3(1) = (2) + (3)	1,10,000	
5. Integrated Tax at 28% on (1) + (4) Above	3,10,800	28% ×11,10,000
6. Compensation Cess at 15% on (1) + (4) Above	1,66,500	15% ×11,10,000
7. Total Customs Duty payable [(4) + (5) + (6)]	5,87,300	

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Included Supplies - Case Study #15

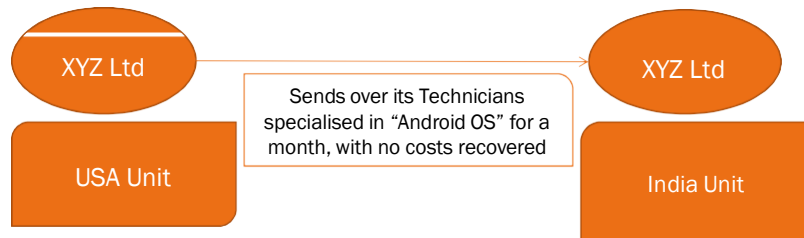
Section
7(1)(b)



Ex: Kareena Kapoor uses "Jean Claude" a designer based in Paris for designing her Wedding Dress

Note: These supplies are normally chargeable under Reverse Charge Mechanism (RCM), where it will be Taxable in the hands of Importer.

Deemed Supplies - Case Study #16



Note: 1. Here, Service is imported from an **establishment (of the same Assessee) outside India / Related person who is outside India**. This shall be treated as supply without involving consideration as per the Schedule I of the Goods and Services Act.

2. However, such import shall be **in the course of furtherance of business**

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Case Studies – #17 to 25

☐ Premier Ltd., manufacturer of Equipments / Industrial Inputs from their plant at Trichy. Calculate Tax liability based on the following –

- (a) Supply of goods within State, value Rs.7,50,000, [Recd. against such consignment – Rs.3,75,000].
 - (b) Export under LUT – Rs. 2,50,000.
 - (c) Export to an EOU unit in Coimbatore Rs. 5,00,000.
 - (d) Supply of Special purpose machineries for construction of road to State of TN– Rs.2,50,000 were charged towards machineries and Rs.50,000 for installation & commissioning.
 - (e) Advance of Rs.500000 received for machinery to be supplied to a SEZ Unit (under LUT)
 - (f) Supply w/i state against an advance received in previous month Rs.250000
 - (g) Legal consulting fee paid to an Advocate in Chennai Rs.25000
 - (h) Filing fees paid to MCA for Annual Returns amounted to Rs.1500
 - (i) Factory license fees paid to State Industrial Development Corporation Rs.2,50,000
 - (j) Fees paid for Technical consulting to UK Company Rs.120000
- Consider GST at 18% for the calculation of tax liability of industrial equipment.

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A few more Case Studies ... #26

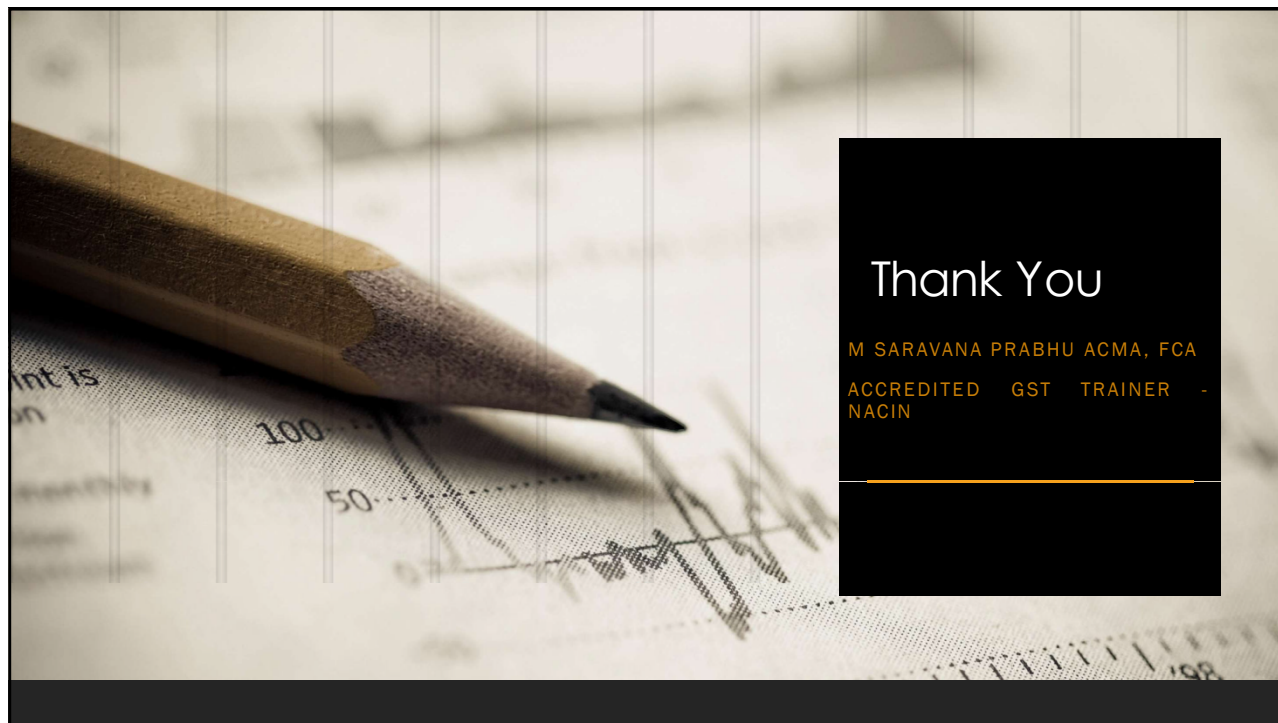
Transaction	
<i>Transfer/sale of goods while being deposited in a customs bonded warehouse</i> —In this transaction, the Importer files an into-bond Bill of Entry (BoE) and stores the goods in a customs bonded warehouse and thereafter, supplies such goods to another person who then files an ex-bond BoE for clearing the said goods from the customs bonded warehouse for home consumption.	

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A few more Case Studies #27

Goods imported by Special Economic Zone (SEZ)	
Goods imported by EOU	

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Thank You

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