

Customs – Circulars

Circular No. – 21/2019

Date – 24.07.2019

Clarification regarding applicability of Notification No. 45/2017-Customs dated 30.06.2017 on goods which were exported earlier for exhibition purpose/consignment basis.

Circular No. 108/27/2019–GST dated 18.07.2019 has clarified that the activity of sending / taking the specified goods (i.e. goods sent / taken out of India for exhibition or on consignment basis for export promotion except the activities satisfying the tests laid down in Schedule I of the CGST Act, 2017) out of India do not constitute supply within the scope of Section 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, 2017. Also that there is no requirement of filing any LUT/bond as required under section 16 of IGST Act, 2017 for such activity of taking specified goods out of India.

Situation mentioned at Sl. No. 1(d) of the Notification no. 45/2017-Customs dated 30.06.2017 require payment at the time of re-import of integrated tax not paid initially at the time of export, for availing exemption under the said notification.

As in the case of re-import of specified goods, no integrated tax was required to be paid for specified goods at the time of taking these out of India, the activity being not a supply, hence the said condition requiring payment of integrated tax at the time of re-import of specified goods in such cases is not applicable. It is clarified that such re-import cannot be taken to be falling under situation at Sl. No. 1(d) of the said Notification. Such cases will fall more appropriately under residuary entry at Sl. No. 5 of the said Notification even though those specified goods were exported under LUT, in view of the fact that the activity of sending / taking specified goods out of India is neither a supply nor a zero rated supply.

It is also clarified that, even in cases where exports have been made to related or distinct persons or to principals or agents, as the case may be, for participation in exhibition or on consignment basis, but, such goods exported are returned after participation in exhibition or the goods are returned by such consignees without approval or acceptance, as the case may be, the basic requirement of ‘supply’ as defined cannot be said to be met as there has been no acceptance of the goods by the consignees. Hence, re import of such goods after return from such exhibition or from such consignees will be covered by entry at Serial no. 5 of the Notification No. 45/2017 dated 30.06.2017, provided re-import happens before six months from the date of delivery challan.