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भारत सरकार/ GOVERNMENT OF INDIA
वित्त मंत्रालय/ MINISTRY OF FINANCE
राजस्व विभाग /DEPARTMENT OF REVENUE

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PUBLIC NOTICE No. 12 /2017

Subject: - Issues related to exports in respect of bond/LUT-reg.

Attention of the Importers/Exporters/Customs House Agents & Trade is invited towards the Issues related to exports in respect of bond/LUT.

a. Export turnover and inward foreign remittances for LUTs: Notification No. 16/2017-Central tax dated 7th July, 2017 specifies conditions and eligibilities for Letter of Undertaking (LUT) in place of bond. In the extant central excise provisions, LUTs were limited to manufacturer exporters only. The intent of the said notification is to liberalize the facility of LUT and extend this facility to all kind of suppliers. Any person who has earned minimum foreign inward remittance of 10% of export turnover in the preceding financial year is eligible for LUT. As the intent was to put a minimum threshold of foreign inward remittances to be eligible for this benefit, Rs. 1 crore has been fixed as minimum amount of foreign inward remittances. The effect is that even a big exporter who may have exported goods worth hundreds of crores may not be eligible if his receipts are less than 10% of export (of course, if he satisfies the other condition of status holder he is still eligible).

b. Form for LUT: Bonds are acceptable on non-judicial stamp paper, while LUTs are normally submitted on a plain paper with signature and seal of the person. It is learnt that the field formations, in many cases, are insisting that LUT should be submitted on non-judicial stamp paper. If this view accepted, LUT would be as good as a bond without surety or security, which is not the intent of allowing LUT in place of a bond. Though no time limit has been prescribed for accepting LUT/bond, it is instructed that the same should be issued within a maximum period of 3 days from the date of submission of LUT/bond.

c. Purchases from manufacturer and form CT-1: It is learnt that field formations are not sure about treatment of CT-1 form which was earlier used for purchase of goods by a merchant exporter from a manufacturer without payment of central excise duty. The scheme has undergone automatic modification under GST. A transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST. So, it is chargeable to GST. The zero rating of exports is allowed only with respect to supply by the exporter.

d. Transactions with EOUs: EOUs have no special status vis-a-vis any normal supplier under GST and so there is no special dispensation for them. Supplies to EOUs are taxable under GST just like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter.

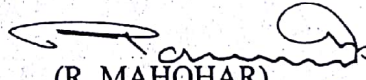
e. Supplies to SEZ: Rule 96A (6) of CGST Rules, 2017 provides that the supplies to SEZ unit or developer shall have same treatment as given to exports. This sub-rule also provides that the provision of Rule 96A (1) shall be applicable, *mutatis mutandis*. It has been learnt that sale proceeds from supplies to SEZ units or developer are not received in convertible currency so the eligibility condition for furnishing of LUT can never be satisfied in cases of such supplies. Since the phrase '*mutatis mutandis*' has been used, the provisions can be applied in a different situation keeping the essence intact. As the proceeds from supplies to SEZ unit or developer may not be in convertible foreign exchange, it is immaterial as long as receipt is not less than 10% of supplies to SEZ unit or developer and the receipt is not less than Rs. 1 crore.

f. Bank guarantee: Circular No. 4/4/2017 dated 7th July, 2017 provides that 15% bank guarantee is normally the maximum security for bond and the Commissioner has the power to waive off the bank guarantee, partially or fully. The discretionary power has been given to the Commissioner so that he/she can use this power depending upon the individual cases of the exporter. This circular clearly provides that "if Commissioner is satisfied with the track record of an exporter, then furnishing of bond without bank guarantee would suffice". The intent is to allow use of this power liberally.

g. Jurisdictional officer: It has been clarified in Circular No. 2/2/2017-GST dated 4th July, 2017 and in Circular No. 4/4/2017-GST dated 7th July, 2017 that Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. Central Tax officers should facilitate all exporters whether or not the exporter was registered with the Central Government in the earlier regime.

h. Documents for LUT: Documents as proof of fulfilling the conditions of LUT should be demanded reasonably. Self-declaration should be accepted where either we do not have document or record of an exporter or it would take some time to verify the antecedents of an exporter. Any of the exporters would be dealing with us for the first time. We may not have records for these exporters. We should accept, in such cases, their self-declaration and the same should not be declined unless we have some specific inputs with respect to the individual exporter. For example, a self-declaration by the exporter stating that he has not been prosecuted, as required under Notification No. 16/2017 - Central tax, should suffice; and jurisdictional officer should not wait for receipt of antecedent reports from different field formations before he accepts LUT. The self-declaration furnished on letter head of the taxpayer is acceptable.

i. Applicability of circulars on Bond/LUTs: There appears to be confusion over the applicability of above mentioned circulars on bond and LUT. It is learnt that some field officers have inferred that the instructions given by the said circulars are effective only from the date of issue of these circulars. There is no scope for such interpretation as this issue has been categorically clarified in the circular dated 7th July, 2017 which provides that the instructions shall be applicable for exports on or after 1st July, 2017.


(R. MAHOHAR) 2.8.17
Commissioner of Customs
Custom House, Marmagoa
Goa-403803

F. No. S/99-179/2017 Appg.
Date: 02.08.2017

To,
The Importers, Exporters and CHAs

Copy to:

- 1. PA to the Commissioner of Customs
- 2. The Additional Commissioner of Customs
- 3. All ACs/DCs
- 4. Custom House Broker Association
- 5. Office Copy

GOA CUSTOM HOUSE AGENTS ASSOCIATION


03/08/17
Authorised Signatory

गोवा कस्टम हाउस, मर्मागोवा
CUSTOMS HOUSE, MARMAGOA
दिनांक / Date: 03/08/17