

[UNDER CGST ACT]

Conditions and safeguards for furnishing a Letter of Undertaking in place of a bond for export without payment of integrated tax.

*Notification No. 16/2017- Central Tax, [F. No. 349/74/2017 – GST],
dated July 7, 2017*

G.S.R. 848(E).— In exercise of the powers conferred by sub-rule (5) of rule 96A of the Central Goods and Services Tax Rules, 2017, the Central Board of Excise and Customs hereby specifies the conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax, for furnishing a Letter of Undertaking in place of a Bond.

i. The following registered person shall be eligible for submission of Letter of Undertaking in place of a bond:—

- (a) a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020; or
- (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,

and he has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

ii. The Letter of Undertaking shall be furnished in duplicate for a financial year in the annexure to FORM GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor on the letter head of the registered person.

(Dr. Sreeparvathy S. L.)

Under Secretary to the Government of India

[UNDER GST LAW]

Letter from CBEC explaining provisions of GST law which have effect on Customs law and Customs administration.

*D.O.F. No. 450/100/2007-CUS.IV
20th June, 2017.*

Subject.— GST roll out and preparation thereof-reg.

With the GST set to be rolled out on 1st July, 2017, the final phase of preparation for its implementation is in full swing. Customs too has a major stake in the early implementation of GST as IGST would begin to be levied on the imports from the very first day, the credit of which shall be available to the importers. Similarly, the refund on export of goods is contingent upon filing of (a) shipping bill accompanied by the GST invoice and (b) export general manifest. You would thus appreciate the immediate need for sensitising our officers, trade and partner stakeholders to the changes imminent on the Customs side.

Changes in Customs law and procedure are accompanied by changes in the EDI system so as to effectively implement the IGST law from 01-07-2017. The changes are broadly in the following areas:

- *Levy of duties* – IGST and Compensation Cess (wherever applicable) to be levied on imports
- *Change in Bill of Entry and Shipping Bill forms* – To capture additional details required for validation with GSTN in case of IGST refund claims (export) or availability of IGST credit (imports)
- *Procedure in respect of manual filing of Bills of Entry and Shipping Bills* – To electronically capture basic data required for validation with GSTN on imports and exports

Readiness of Customs administration and the trade shall be crucial for the smooth roll out of GST. In this regard, an Advisory is attached herewith with details on the above changes for the benefit of the departmental officers and trade. You are requested to go through the Advisory carefully and appraise the officers and trade about the changes mentioned therein. You may conduct workshops/meetings with Trade Associations, Customs Brokers, Chambers of Commerce and Industry and other EXIM trade bodies to disseminate the information about changes and ensure movement of goods across borders without disruption.

Yours sincerely,

(Ananya Ray)

All Chief Commissioners of Customs/Customs (Preventive)
All Chief Commissioners of Customs & Central Excise
D. G. Systems (for para 12 of the Advisory)

Advisory on Customs related matters on introduction of Goods and Service Tax regime

Levy of Duties

- I. Sub-section (1) of section 5 of the Integrated Goods and Services Act, 2017 states that "Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-state supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the Taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at The point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962."

2. Thus, *with effect from* 01.07.2017, all imported goods shall attract IGST (and compensation cess, wherever applicable) in addition to the Customs duties such as Basic Customs Duty etc. However, the levy of CVD and SAD shall cease to exist on imported goods other than those on which Central Excise Duty/VAT continues to be levied even in the new regime. In this regard necessary amendments have been made in section 3 of the Customs Tariff Act, 1975 *vide* the Taxation Laws (Amendment) Act, 2017 (18 of 2017) dated the 4th May, 2017 wherein under sub-section (7), sub-section (8), sub-section (9) & sub-section (10) of section 3 of the Customs Tariff Act, 1975, it has been provided as below:

- (7) Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent, as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8).
- (8) For the purposes of calculating the integrated tax under sub-section (7) on any imported article where such tax is leviable at any percentage of its value, the

value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of —

- (a) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and
- (b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as a duty of customs, but does not include the tax referred to in sub-section (7) or the cess referred to in sub-section (9).

(9) Any article which is imported into India shall, in addition, be liable to the goods and services tax compensation cess at such rate, as is leviable under section 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (10).

(10) For the purposes of calculating the goods and services tax compensation cess under sub-section (9) on any imported article where such cess is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of —

- (a) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and
- (b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as a duty of customs, but does not include the tax referred to in sub-section (7) or the cess referred to in sub-section (9).

3. It is requested that the officers and the trade are kept well informed about the above new levies and the levies that are being subsumed, replaced or repealed. In this context, it is further requested that the fine-print of Taxation Laws (Amendment) Act, 2017 is read by field officers in detail. Customs ICES 1.5 application is also being modified to ensure that the new levies are applied and collected on all the imports from July 1st.

Changes in Bill of Entry and Shipping Bill Forms :

4. Since new provisions for levy of IGST and GST compensation cess on imports have been introduced under the Customs Tariff Act, 1975, Bill of Entry, Shipping Bill and

Courier Regulations and Forms, both Manual and EDI, have been suitably modified and all such modified forms are available on the official website of CBEC (www.cbec.gov.in). All importers, exporters, Customs Brokers, Customs clearance software providers and other stakeholders are advised to get themselves familiar with the modified Forms. It is emphasized that other than the changes in the declaration, rest of the procedure with regard to clearance of imports and exports would remain the same.

EDI Bill of Entry :

5. It may be noted that with the introduction of GST, information in the Bill of Entry would be reconciled with their returns filed on GSTN. Accordingly, credit claimed in their GST Return in respect of IGST paid on imports would be cross checked with the Customs EDI system. Therefore, *with effect from 01.07.2017*, it would be mandatory for the importers to declare their GSTIN, *i.e.*, the GST registration number on the Bill of Entry if they wish to claim the credit of the IGST paid on the imported goods. Importers not registered with GSTN will be required to declare their PAN along with their state code as per the Census of India. This is required for transfer of the IGST paid by the non GST importers to the account of the "consumption" state. Diplomatic organizations or UN bodies can quote their UIN issued by GSTN on the Bill of Entry. In this regard, DGFT has also issued Trade Notice No. 09/2018 dated 12.06.2017 wherein it has been indicated that with regard to importer/exporter registered with GSTN, importer/exporter would need to declare only GSTIN at the time of import and export of goods and the importers who are not registered under GST would use their PAN for imports. Changes have been made in the BE forms to capture details like GSTIN, PAN, State code *etc.* of the importer. Similar changes will also be incorporated for imports at SEZ and imports through Courier. In case of Courier, GSTIN for GST registered consignees or PAN for non-GST registered consignees, as applicable, has to be quoted in the bill of entry filed by the Courier agency, wherever goods are subject to IGST. For the time being, importers/exporters are advised to declare GSTIN, PAN and IEC while filing document for import/export of goods. However, over a period of time, declaration with regard to only GSTIN and PAN shall be required in the Bill of Entry.
6. For calculating the IGST or Compensation Cess, chapter wise, rate wise GST schedule. IGST exemption, concession list and GST Compensation Cess rates are already available on the official website of CBEC. In this regard, notifications for (a) levy and (b) exemption shall be issued by TRU shortly. The importer shall have to quote the relevant number of the levy notification as well as the exemption notification (wherever applicable) in respect of each imported item for application of correct rate. The IGST and Compensation Cess notifications directories are being

developed in the EDI System to automatically calculate the levy on imported goods. The total IGST and Compensation Cess paid will be published on every Bill of Entry which can be quoted by the importer to claim the corresponding credit in the GST return.

EDI Shipping Bill :

7. The Integrated Goods and Services Tax Act, 2017, under section 16 provides that export of goods shall be zero rated supply and credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. The section further lays down that a registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:
 - (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
 - (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied.
8. Under the GST Laws, taxpayers would be filing their outward supply returns on GSTN for all the supplies made by them including exports. For the exports, they will be required to quote the Shipping Bill and export invoice details in the GST return. The information provided in the return with regard to export of goods shall be validated by Customs EDI system. The confirmation of the export details by Customs shall be made once the EGM is filed. The taxpayer (exporter) shall be granted refund of the IGST paid by him on the exported goods based on the validation by Customs EDI system. This validation shall also act as the proof of export in case the exporter has made the supply under bond or LUT without payment of IGST.
9. In order to facilitate proof of export, Shipping Bill forms have also been modified to capture details such as GSTIN of the exporter, GST export invoice number *etc.* The exporter shall have to declare item-wise taxable value and corresponding IGST on the Shipping Bill. All these details will be used to validate the declarations made by the exporter on the GST return to confirm export.
10. For the time being, importers/exporters are advised to declare GSTIN, PAN and IEC while filing document for import/export of goods. However, over a period of time, declaration with regard to only GSTIN and PAN shall be required in the Shipping Bill.

Manual Bill of Entry and Shipping Bill :

11. Since all the validation related to IGST refund or flow of IGST credit shall happen electronically between Customs EDI and GSTN, it is imperative hereon that the required data is captured electronically without fail for all the imports and exports whether or not through EDI locations. In case of EDI locations, Board has issued instructions *vide* F.No. 401/81/2011-Cus III dated 2nd June 2017 wherein it is envisaged that any manual bill of entry or shipping bill in EDI locations needs to be filed following the procedure laid out in the circular. Subsequently, Directorate of Systems issued ICES Advisory 009/2017(GST) dated 15.06.2017 on the subject enclosing the detailed user manual. The advisory was forwarded to all the system managers.
12. For non EDI locations also, Directorate of Systems is designing a utility where certain basic consignment data can be uploaded digitally, post clearance. This utility shall be web-based with added offline functionality. Directorate of Systems shall be issuing a communication on this utility separately. The non-EDI locations may consider having a nodal officer in each of such location who would be entrusted with overseeing uploading preferably the same day.
13. It is reiterated that the readiness of Customs administration and the trade shall be crucial for the smooth roll out of GST. Field formations are therefore advised to update themselves on the above changes and provide necessary guidance to the trade.