

# GOODS & SERVICES TAX UPDATE – 22

## CENTRAL GOODS & SERVICES TAX

### Facility of furnishing Letter of Undertaking extended to all exporters and related clarifications

Central Government vide [Notification No. 37/2017-Central Tax, dt. 04-10-2017](#) has specified **following conditions and safeguards** for furnishing a Letter of Undertaking in place of a Bond by a registered person who intends to supply goods or services for export without payment of integrated tax:

- a) Eligibility to furnish a Letter of Undertaking in place of a bond available to all exporters except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws in force in a case where the **amount of tax evaded exceeds Rs. 250 lakh./ Rs. 2.5 Crore**
- b) Letter of Undertaking needs to be furnished on the letter head of the registered person, **in duplicate**, for a financial year in the annexure to **FORM GST RFD – 11** referred to in **Rule 96A(1)** 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.
- c) Where the registered person fails to pay the tax due along with interest, as specified under Rule 96A(1) of Central Goods and Services Tax Rules, 2017, within the period mentioned in clause (a) or clause (b) of the said sub-rule, the **facility of export without payment of integrated tax will be deemed to have been withdrawn**. However, if the amount mentioned in the said sub-rule is paid, the facility of export without payment of integrated tax shall be **restored**.

The aforesaid conditions and safeguards will apply *mutatis mutandis* in respect of zero-rated supply of goods or services or both made **by a registered person** (including a Special Economic Zone developer or Special Economic Zone unit) **to** a Special Economic Zone developer or Special Economic Zone unit without payment of integrated tax.

Further, to ensure uniformity in the procedure in this regard, Central Government vide [Circular No. 8/8/2017-GST dated 04-10-2017](#) has clarified the following issues:

- a) **Validity of LUT:** The LUT will be **valid for the whole financial year** in which it is tendered. However, in case the goods are not exported within the time specified in Rule 96A (1) of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be **deemed to have been withdrawn**. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be **restored**.
- b) **Form for bond/ LUT:** Till the time FORM GST RFD-11 is available on the common portal, the registered person (exporters) may **download the FORM GST RFD-11** from the website of the Central Board of Excise and Customs ([www.cbec.gov.in](http://www.cbec.gov.in)) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business. The bond, wherever required, shall be furnished on **non-judicial stamp paper** of the value as applicable in the State in which the bond is being furnished.

- c) **Documents for LUT:** Self-declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. Verification, if any, may be done on post-facto basis.
- d) **Time for acceptance of LUT/Bond:** LUT/bond should be accepted within a period of **three working days of its receipt** along with the self-declaration as stated in para 2(d) above by the exporter. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall be deemed to be accepted.
- e) **Bank Guarantee:** Bond will be required to be furnished by those persons who have been prosecuted for cases **involving an amount of tax exceeding Rupees 250 lakhs**. A bond, in all cases, shall be accompanied by a bank guarantee of **15% of the bond amount**.
- f) **Running Bond:** The exporters will furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter need to ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a **fresh bond** to cover such liability. The **onus** of maintaining the debit / credit entries of integrated tax in the running bond will **lie with the exporter**.
- g) **Sealing by Officers and their Jurisdiction:** Till mandatory self-sealing is operationalized, **sealing of containers**, wherever required, will be done under the supervision of the central excise officer having jurisdiction over the place of business. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.
- h) **Purchases from manufacturer and Form CT-1:** There is **no provision for issuance of CT-1** form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime. Thus, manufacturers shall charge applicable GST from the merchant exporters.
- i) **Transactions with EOUs:** Supplies to EOUs are taxable like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter.
- j) **Realization of export proceeds in Indian Rupee:** The acceptance of LUT for supplies of goods to Nepal or Bhutan or supply of goods or services to SEZ developer or SEZ unit will be permissible irrespective of **whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines**. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

**It is also worth highlighting that consequent upon issue of present Circular No. 8/8/2017-GST, following circulars are rescinded except as respects things already done or omitted to be done:**

- (i) **Circular No. 2/2/2017 – GST dated 5th July 2017,**
- (ii) **Circular No. 4/4/2017 – GST dated 7<sup>th</sup> July 2017**
- (iii) **Circular No. 5/5/2017 – GST dated 11th August 2017**

[\[Notification No. 37/2017-Central Tax, dt. 04-10-2017&Circular No. 8/8/2017-GST dated 04-10-2017\]](#)

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