

GOODS & SERVICES TAX / IDT UPDATE – 64

Extension of due date of filing Form GSTR 9 & 9C

The Central Government vide *Order No. 1/2018-Central Tax dated 11th December, 2018* has extended the due date of filing annual return (Form GSTR-9)for the period (1st July, 2017 to the 31st March, 2018) to 31st March, 2019 as the technical utility for filing at online portal of the same is not available and expected to be available for the taxpayer by 31st Jan, 2019 only.

As the Annual Return is required to file along with a copy of the audited annual accounts and reconciliation statement (GSTR 9C) in case of aggregate turnover exceeds Rs.2 Crore Therefore, due date of filing GSTR 9C has also been extended to 31st March, 2019.

[Order No. 1/2018-Central Tax dated 11th December, 2018]

Comment: Given order is passed under Section 172 which provides Govt. a power to issue order to make provision not inconsistent with the provisions of this Act for the purpose of removing any difficulty arising to give effect to any provisions of the Act and the said order has to be approved by Parliament when it is in session.

Revision of All Industry Rates (AIRs) of Duty Drawback.

The Central Government vide *Circular no. 52/2018-Customs dated 12th December, 2018* has clarified salient features of the revised AIR's which are discussed below:

- The revised AIRs of Duty Drawback neutralize incidence of duties of Customs on inputs used and remnant Central Excise duty on specified petroleum products used in manufacture of export goods. For claiming these AIRs, the relevant tariff item have to be suffixed with suffix 'B' e.g. for export of goods covered under tariff item (TI) 640609, the drawback serial no. should be declared as 640609B
- The notification also specifies the alternative AIRs on garments exports made against the Special Advance Authorization. For claiming these alternative AIRs, the relevant tariff item has to be suffixed with suffix 'D' instead of the usual suffix 'B'.
- The AIR of Duty Drawback for items of marine products and seafood, chemicals, leather articles and footwear, cotton , textiles , silk, sports goods etc. have been increased on account of various factors such as change in duty structure, change in prices (CIF) of imported inputs and FOB of export goods, change in import intensity of inputs, etc.
- Rationalization of rates for some readymade garments have been done on account of various reasons viz. decrease in Central Excise. Duty rate on diesel, change in prices (CIF) of imported inputs and FOB of export goods and change in import intensity of inputs etc.
- Appropriate caps have been provided wherever felt necessary to prescribe

upper limit of Duty drawback.

[Circular no. 52/2018-Customs dated 12th December, 2018]

AEO website has been developed

The Central Government vide *Circular no. 51/2018-Customs dated 6th December, 2018* has provided regarding AEO website namely aeoindia.gov.in which has been developed under the aegis of DIC for online filing and processing of AEO T1 applications. This AEO Website was launched by the Chairman; CBIC on 30.11.2018 and subsequently the access to the website was made available to both the applicant, for filing of AEO T1 application (annexures), and Customs officials, for processing and delivery of digitized AEO Certificate online of newly filed applications.

[Circular no. 51/2018-Customs dated 6th December, 2018]

Clarification with respect to amendments to Customs and Central Excise notifications for EOUs

The Central Government vide *Circular no. 50/2018-Customs dated 6th December, 2018* has clarified various aspects covered in the *Notification no. 79/20148 dated 5th December, 2018*; *Notification no. 23/2018-Central Excise dated 5th December, 2018* which are explained below:

The Central Government vide *Notifications No. 79/2018–Customs dated 5th December, 2018* has amended Notification No. 52/2003-Customs, dated the 31st March, 2003 in order to align them with the present Foreign Trade Policy (FTP), 2015-2020, as amended, as well as to remove redundancies that had crept in over the time on account of changes/supersession of certain other notifications and legal developments such as the introduction of GST and exempting the EOUs from the application of the Customs warehousing provisions.

The Notification No. 52/2003-Customs, dated 31.03.2003 provides for exemption from various custom duties on various goods listed therein, when imported by the EOUs for specified purposes.

- a) Imported goods could be temporarily cleared without payment of all Customs duties, IGST and Compensation Cess not paid at the time of their import. However, the applicability of GST on supply of such goods shall be independently governed by GST laws.
- b) When duty has to be paid on the imported goods such as when these are cleared from the EOU, the same would be the duty/tax for which exemption was availed at the time of their import. However, in the case of capital goods, depreciation would be allowed as provided in para 4 of the Notification No. 52/2003-Customs, dated 31.03.2003. Further, for leftover textile fabric or textile material, such payment of duty would be based on the transaction value as per existing provisions.
- c) Removal/modification/update of the redundant/old notifications/ provisions of the FTP etc., as follows:-

- (i) Providing that a job worker would need registration under GST Act/Rules to enable the EOUs to export of GST goods directly from its premises.
 - (ii) Replacing the reference to Notification No. 62/2004-Customs, dated 12.05.2004 with presently valid Notification No. 50/2017-Customs, dated 30.06.2017 for payment of duty by Gem & Jewellery EOUs on the gold or silver content in the scrap, dust or sweeping cleared to DTA or for payment of duty by nominated agencies in case of failure of export in specified time frame.
 - (iii) Removing the reference to old DGFT Policy Circular No. 77(RE) 2003-2004/9, dated 31.03.2009.
 - (iv) Prescribing that wastage norms for manufacture of jewellery of gold/silver/platinum would be directly governed by the provisions of the FTP and Handbook of Procedures.
 - (v) Replacing the references to old FTP, 2004-2009 by the new FTP, 2015-2020 and its Appendix.
 - (vi) Replacing the reference to outdated Notification No. 106/58-Customs, dated 29.03.1958 by the presently applicable Notification No. 36/2017-Customs, dated 30.06.2017.
 - (vii) Removing the references to Commissioner of Central Excise/ Central Excise officer as the Customs work relating to the EOUs is now handled by the jurisdictional Customs officers.
- d) For promoting indigenization and export of electronics, Ministry of Electronics & Information Technology (MEIT) had recommended that the period of three years allowed for re-import of goods manufactured and exported by EOUs for the purposes of repair and reconditioning may be extended to seven years for specified goods. This was justified on the ground that overseas customers were otherwise constrained to prematurely scrap the repairable goods which are more than three years old. Accordingly, Sr.No. 14 of the Annexure-I of the notification has been amended to list specific goods manufactured and exported by EOUs that can be re-imported within seven years. These goods are required to be re-exported within one year of the date of re-importation.

The Central Government vide *Notification no. 23/2018-Central Excise dated 5th December, 2018* has amended Notification no. 22/2003-Central Excise dated 31.03.2003 which provides for exemption from various duties of Excise on the goods listed therein when procured indigenously by the EOUs for specified purposes. This notification has been amended to provide for:-

- (a) Deletion of reference to the Additional Duties of Excise (Goods of Special Importance) Act, 1957) and Additional Duties of Excise (Textile and Textile Articles) Act, 1978 these Acts are not in existence post-GST.
- (b) Modification of clauses (a) to (e) of the opening para of the said notification to allow procurement of excisable goods falling under the Fourth Schedule to the Central Excise Act, 1944 (1 of 1944). Also, Annexures I, II, IV and V of the said notification

which listed various excisable goods that were allowed to be procured indigenously without payment of Excise duties have been removed as post GST; most of the goods now fall under GST.

(c) continuation of the facility extended to the EOUs engaged in processing or manufacture of articles of granite, processing of agricultural products and production or manufacture or packaging of goods in horticulture, agriculture and animal husbandry sector to temporarily remove specified goods procured prior to 30.06.2017 without payment of Excise duty to granite quarries and to the fields and farms.

(d) Clearance of capital goods and goods other than packaging material unsuitable for repeated use which were procured without payment of Excise duty prior to 30.06.2017, on payment of Excise duty availed as exemption. Further, allowing the depreciation on capital goods, as provided and charging duty on leftover textile fabric or textile material on the transaction value as at present.

(e) changes on account of redundant references to old/superseded notifications/FTP etc., as follows:-

(i) Replacement of the reference to old Rule 20 of the Central Excise Rules, 2002 with the present Rule 16 of the Central Excise Rules, 2017.

(ii) Replacement of the reference to outdated Notification No. 106/58-Customs, dated 29.03.1958 with presently applicable Notification No. 36/2017-Customs, dated 30.06.2017.

(iii) Replacement of the references to old FTP, 2004-2009 with the new FTP, 2015-2020 and its Appendix.

The Central Government **vide** *Notification no. 23/2018-Central Excise dated 5th December, 2018* **has also amended Notification no. 23/2003-Central Excise, dated 31.03.2003** which prescribes effective duties leviable on the DTA clearance of excisable goods by EOUs. The main amendments are as follows:-

(a) Removal of reference to non-existing entries at Sr. Nos. 5, 5A, 6 and 7A of the Table which have been omitted by Notification No. 16/2017-Central Excise, dated 30.06.2017.

(b) removal of the reference to Duty Free Replenishment Certificate (DFRC), which has been replaced by Duty Free Import Authorization (DFIA).

(c) removal of the condition that the goods cleared to the DTA must be "similar" to those exported and also removal of the cap of 50% on DTA sale in line with the present FTP, 2015-2020.

(d) replacing the references to the old FTP, 2004-2009 with the new FTP, 2015-2020. Notification No. 24/2003-Central Excise, dated 31.03.2003 amended by Notification No. 23/2018--Central Excise, dated 05.12.2018

The Central Government **vide** *Notification no. 23/2018-Central Excise dated 5th December, 2018* **has amended Notification no. 24/2003-Central Excise, dated 31.03.2003** which provides for exemption from duties of Excise on the goods manufactured by a EOU provided these are not brought to any place in India. Post GST, the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and the

Additional Duties of Excise (Textile and Textile Articles) Act, 1978 are no more in existence. Therefore, suitable amendment has been made to remove reference to these Acts.

Further, B-17 bond (General surety/security) being submitted by the EOU's has been updated by *Notification No. 1/2018-Central Excise (N.T.), dated 05.12.2018*. The EOUs have been furnishing a "Mother Bond" in form B-17 (General Surety/Security) for Customs duty free import, Excise duty free domestic procurement, provisional assessment, export without payment of duty, movement of goods for job work and return, temporary clearances, proper account of goods, etc. This bond was notified vide Notification No. 6/98-Central Excise (N.T.), dated 02.03.1998 under the erstwhile Central Excise Rules, 1944. A revised B-17 (General Surety/Security) bond updated with references to GSTIN, present FTP provisions and Notification No. 52/2003-Customs dated 31.03.2003 etc., has been notified under the present Rules 7, 9, 21 and 22 of the Central Excise Rules, 2017. This new bond will be applicable to the new EOUs. The existing EOUs shall continue with the earlier B-17 bond already executed by them so that there is no disruption in their working. Also, all relevant instructions applicable for the old B-17 bond will be mutatis mutandis applicable to the new B-17 bond.

Comment: Goods (capital goods and inputs except packing material unsuited for reuse) on which customs duty or excise duty benefit was availed by EOUs are "taken outside" the premises in accordance with FTP, the whole of the customs duty or excise duty (originally foregone) will need to be paid back but on depreciated value. This will be in addition to applicable GST that will be attracted on their supply or disposal.

Please consider that vide notification 12/2017-CE dated 30 June, 2017 'all goods' (other than those continuing to be liable to ED) manufactured and lying in stock as on date of introduction of GST were exempted from the levy of Excise Duty. Similar benefit is also allowed to goods manufactured in EOU and sold in DTA.

[Circular no. 50/2018-Customs dated 6th December, 2018; Notification no. 79/20148 dated 5th December, 2018; Notification no. 23/2018-Central Excise dated 5th December, 2018]

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