



TRADE NOTICE NO. 06/2017-18 DATED 16.08.2017

Subject: - Clarification on issues related to furnishing of Bond/Letter of Undertaking for Export -Reg.

A copy of Circular No. 5/5/2017-GST dated 11.08.2017 vide F. No. 349/82/2017-GST issued by the Govt. of India, Ministry of Finance, Dept. of Revenue, Central Board of Excise & Customs, GST Policy Wing, New Delhi regarding Clarification on issues related to furnishing of Bond/Letter of Undertaking for Export is enclosed herewith for information, guidance and necessary action.

2. In this context, please also refer to the Trade Notice No.01/2017-18 dated 05.07.2017 and Trade Notice 03/2017-18 dated 12.08.2017 on the same issue.

3. All Trade Association/Chambers of Commerce and Members of Regional Advisory Committees are requested to publish the contents of this Trade Notice among their Members /Constituents.

Encl: As above

Reshma Lakhani
(Reshma Lakhani) 16/8/17
Commissioner

F.No.V/Misc-08/SIL/T/17-18

Dtd. 16.08.2017

Copy to:

1. The Chief Commissioner, Central GST & CE, Vadodara Zone, Vadodara.
2. All Principal Commissioner/Commissioner, Central GST & CE of Vadodara Zone.
3. The Deputy/Assistant Commissioner, Division-I/II/III/IV/V/VI/VII/VIII/IX & X, Daman CGST & CE Commissionerate.
4. The Assistant Commissioner (Systems) for uploading the Trade Notice on Daman Commissionerate's website.
5. All as per the official mailing list for Trade & Department.

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 11th August, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for Exports–Reg.

Please refer to Notification No. 16/2017 – GST dated 7th July, 2017 and Circular No. 2/2/2017 – GST dated 5th July, 2017 and Circular No. 4/4/2017 – GST dated 7th July, 2017. A large number of communications have been received from the field formations and exporters citing variation in the interpretation of above referred notification and circulars.

2. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, following issues are being clarified hereunder:

a. Eligibility to export under LUT: Notification No. 16/2017 – Central Tax dated 7th July, 2017 specifies conditions to be fulfilled for export under 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 it to all kind of suppliers. It is hereby clarified that any registered person who has received a minimum foreign inward remittance of 10% of export turnover in the preceding financial year is eligible for availing the facility of LUT provided that the amount received as foreign inward remittance is not less than

Rs. one crore. This means that only such exporters are eligible to LUT facilities who have received a remittance of Rs. one crore or 10% of export turnover, whichever is a higher amount, in the previous financial year. A few illustrations are as follows:

- i. An exporter had a turnover of Rs. 15 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.5 crore or more (10% of export turnover is more than Rs. 1 crore)
- ii. An exporter had a turnover of Rs. 5 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.0 crore or more (10% of export turnover is less than Rs. 1 crore)
- iii. An exporter has an export turnover of Rs. 2 crore. He has received Rs. 80 lacs as foreign inward remittances in FY 2016-17 which is 40% of the export turnover. He will not be eligible for LUT facility as remittance received is less than Rs. 1 crore.
- iv. An exporter has export turnover of Rs. 40crore. He has received Rs. 2 Crores as foreign inward remittances in FY 2016-17 which is 5% of the export turnover. He will not be eligible for LUT facility as remittance received is less than 10% of export turnover, even though it is in excess of Rs. 1 crore.
- v. An exporter has received Rs. 1 Crore 10 lacs as foreign inward remittances in FY 2016-17 which is 20% of the export turnover. In this scenario, he will be eligible for LUT facility.

It may however be noted that a status holder as specified in paragraphs 3.20 and 3.21 of the Foreign Trade Policy 2015-2020 is eligible for LUT facility regardless of whether he satisfies the above conditions.

b. Form for LUT: Bonds are furnished on non-judicial stamp paper, while LUTs are generally submitted on the letterhead containing signature and seal of the person or the person authorized in this behalf as provided in said Notification.

c. Time for acceptance of LUT/Bond: As LUT/bond is *a priori* requirement for export, including supplies to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority and should be accepted within a period of three working days from the date of submission of LUT/bond along with complete documents by the exporter.

d. Purchases from manufacturer and form CT-1: It is learnt that there is lack of clarity 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 holds no relevance under GST since transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST even on submission of LUT/bond. Therefore, such supplies would be subject to GST. The zero rating of exports, including supplies to SEZ, is allowed only with respect to supply by the actual exporter under LUT/bond or payment of IGST.

e. Transactions with EOUs: Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them. Therefore, supplies to EOUs are taxable under GST just like any other taxable supplies. The EOUs, to the extent of exports, are eligible for zero rating like any other exporter.

f. Forward inward remittance in Indian Rupee: Various representations have been received with respect to receipts of proceeds of supplies in Indian Rupee especially with respect to exports to Nepal, Bhutan and SEZ developer/SEZ unit. Attention is invited to Para A (v) Part-I of RBI Master Circular no. 14/2015-16 dated July 1, 2015 (updated as on November 5, 2015), which states “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”.

Accordingly, it is clarified that acceptance of LUT instead of a bond for supplies of goods to Nepal or Bhutan or 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 applicable RBI guidelines. It may also be noted that supply of services to SEZ developer or SEZ unit will also be permissible on the same lines. 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.

g. Bank guarantee: Circular No. 4/4/2017 dated 7th July, 2017 provides that bank guarantee should normally not exceed 15% of the bond amount. However, the Commissioner may waive off the requirement to furnish bank guarantee taking into account the facts and circumstances of each case. It is expected that this provision would be implemented liberally. Some of the instances of liberal interpretation are as follows:

i. an exporter registered with recognized Export Promotion Council can be allowed to submit bond without bank guarantee on submission of a self-attested copy of the proof of registration with a recognized Export Promotion Council

ii. In the GST regime, registration is State-wise which means that the expression ‘registered person’ used in the said notification may mean different registered persons (distinct persons in terms of sub-section (1) of section 25 of the Act) if a person having one Permanent Account Number is registered in more than one State. It may so happen that a registered person may not satisfy the condition regarding foreign inward remittances in respect of one particular registration, because of splitting and accountal of receipts and turnover across different registered person with the same PAN. But the total amount of inward foreign remittances received by all the registered persons, having one Permanent Account Number, maybe Rs. 1 crore or more and it also maybe 10% or more of total export turnover. In such cases, the registered person can be allowed to submit bond without bank guarantee.

h. Jurisdictional officer: It has been clarified in Circular Nos. 2/2/2017 – GST dated 4th July, 2017 and 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. It is reiterated that the Central Tax officers shall facilitate all exporters whether or not the exporter was registered with the Central Government in the earlier regime.

i. Documents for LUT: Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise. For example, a self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of notification No.

16/2017 - Central tax dated 7th July, 2017. Verification, if any, may be done on post facto basis. Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient.

j. Applicability of circulars on Bond/LUTs: It is learnt that some field officers have inferred that the instructions given by the said circulars are effective in respect of exports made only from the date of its issue despite the fact that it has been categorically clarified specifically in the said circular (dated 7th July, 2017) that the instructions shall be applicable for exports on or after 1st July, 2017. It is reiterated that the instructions issued vide said circular and this circular are applicable to any export made on or after the 1st July 2017.

3. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)



TRADE NOTICE NO. 03/2017-18

DATED 12.07.2017

Subject: - Issues related to Bond/Letter of Undertaking for exports without payment of integrated tax -Reg.

A copy of Circular No. 4/4/2017-GST dated 07.07.2017 issued vide F. No. 349/82/2017-GST issued by Govt. of India, Ministry of Finance, Dept. of Revenue, Central Board of Excise & Customs, GST Policy Wing, New Delhi on the above cited subject is enclosed herewith for information, guidance and necessary action.

2. In this context please also refer to Trade Notice No. 01/2017-18 dated 05.07.2017 on the same issue.

3. All Trade Association/Chambers of Commerce and Members of Regional Advisory Committees are requested to publish the contents of this Trade Notice among their Members /Constituents.

Reshma Lakhan

Encl: As above

(Reshma Lakhani) 14/7/17
Commissioner

F.No.V/Misc-08/SIL/T/17-18

Dtd. 12.07.2017

Copy to:

1. The Chief Commissioner, Central GST & CE, Vadodara Zone, Vadodara.
2. All Principal Commissioner/Commissioner, Central GST & CE of Vadodara Zone.
3. The Deputy/Assistant Commissioner, Division-I/II/III/IV/V/VI/VII/VIII/IX & X, Daman GST Commissionerate.
4. The Assistant Commissioner (Systems) for uploading the Trade Notice on Silvassa Commissionerate's website.
5. All as per the official mailing list for Trade & Department.

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
(GST Policy Wing)**

New Delhi, the 7th July, 2017

To,

**The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners/
Commissioners of Central Tax (All)**

Madam/Sir,

**Subject: Issues related to Bond/Letter of Undertaking for exports without payment
of integrated tax – Reg.**

Various communications have been received from the field formations and exporters that difficulties are being faced in complying with the procedure prescribed for making exports of goods and services without payment of integrated tax with respect to furnishing of bonds/Letter of Undertaking. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, these issues are being clarified hereunder.

2. As per rule 96A of the Central Goods and Services Tax Rules, 2017 (The CGST Rules), any registered person exporting goods or services without payment of integrated tax is required to furnish a bond or a Letter of Undertaking (LUT) in FORM GST RFD-11.

3. Attention is invited to notification No. 16/2017-Central Tax dated 01-07-2017 vide which the category of exporters who are eligible to export under LUT has been specified along with the conditions and safeguards. All exporters, not covered by the said notification, would submit bond. The procedure for submission and acceptance of bond has already been prescribed vide circular No. 2/2/2017-GST dated 4th July, 2017. The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished.

4. A clarification has been sought as to whether bond to be furnished for exports is a running bond (with debit / credit facility) or a one-time bond (separate bond for each consignment / export). It is observed consignment wise bond would be a significant compliance burden on the exporters. It is directed that the exporters shall furnish a running bond, in case he is required to furnish a bond, in FORM GST RFD -11. The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself. The exporter shall ensure that the outstanding tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the tax liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability.

5. FORM RFD -11 under rule 96A of the CGST Rules requires furnishing a bank guarantee with bond. Field formations have requested for clarity on the amount of bank guarantee as a security for the bond. In this regard it is directed that the jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

6. As regards LUT, it is clarified that it shall be valid for twelve months. If the exporter fails to comply with the conditions of the LUT he may be asked to furnish a bond. Exports may be allowed under existing LUTs/Bonds till 31st July 2017. Exporters shall submit the LUTs/bond in the revised format latest by 31st July, 2017.

7. It is further stated that the 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 taxpayer to respective authority is implemented. However, if in a State, the Commissioner of State Tax so directs, by general instruction, to exporter, the Bond/LUT in all cases be accepted by Central tax officer till such time the said administrative mechanism is implemented. Central Tax officers are directed to take every step to facilitate the exporters.

8. Attention is further invited to circular No. 26/2017 – Customs dated 1st July 2017, vide which it has been clarified that the existing practice of sealing the container with a bottle seal

under Central Excise supervision or otherwise would continue till 01st September, 2017. Such sealing shall be done under the supervision of the officer having physical jurisdiction over the place of business where the sealing is being done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

9. These instructions shall apply to exports on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

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(Upender Gupta)
Commissioner (GST)