

This column is compiled by Consultant [EXIM Policy] of EPCH. It contains recent Public Notices, Notifications and Circulars of DGFT, CBEC and Department of Revenue. If a handicraft exporter has question[s] to ask on Foreign Trade Policy, he/she may please write / e-mail to EPCH at policy@epch.com

Impex # 1

Duty free entitlements (tools, trimmings and embellishments) on export of handicrafts incorporated in FTP (also)

DGFT issues notification incorporating duty free (only basic custom duty) entitlements on export of handicrafts

DGFT has issued Notification No. 9/2015-20 dt 28th May, 2018 on the subject given above. It is, however, stated that handicraft exporters are entitled to the benefit as per S.No. 229 of Custom Notification No. 50 dt. 30th June, 2017 wherein the items are also specified. The notification is applicable not only to handicraft but to handloom, leather, footwear and marine sector.

The operative part of notification applicable to handicraft is reproduced below:

(Extract)

Notification No: 9/2015-2020, New Delhi, the 28th May, 2018

Subject: **Amendment in the Chapter-I of FTP 2015-2020,**

S.O.(E) In exercise of the powers conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 1.02 of the Foreign Trade Policy, 2015-2020, the Central Government hereby makes the following amendments in the Foreign Trade Policy 2015-2020,

The following Para is inserted after Para 1.40 in Chapter 1 of the FTP 2015-20 w.e.f. 01.04.2015.

"1.41. With a view to expand employment opportunities, certain special focus initiatives for Handlooms, Handicraft, Leather, Marine, Sports Goods and Toys sectors are required. These sectors are being provided the following duty free (only basic customs duty free with effect from 01.07.2017) entitlements:

i. Handicrafts

a. Duty free import entitlement of tools, trimmings and embellishments upto 5% of FOB value of exports during previous financial year. Entitlement shall extend to merchant exporters tied up with supporting manufacturers.

b. Handicraft EPC is authorized to import trimmings, embellishments and consumables on behalf of those exporters for whom directly importing may not be viable

However, the term "Duty" specified above shall mean "Basic Customs Duty" w.e.f. 01.07.2017."

Effect of this Notification: Entitlement for duty free import of sector specific inputs which were available in Chapter 1B of FTP 2009-14 have been re-inserted in Chapter 1 of FTP 2015-20 w.e.f. 01.04.2015.

Impex # 2

DGFT notifies the updated addresses of the Regional Licencing Authorities

DGFT issue Public Notice updating the address, etc. of its Regional Authorities, etc.

It is a thoughtful action of DGFT to issue a Public Notice containing updated details of the Regional Licencing Authorities. It is a good facilitation measure.

Copy of the Public Notice No. 14/2015-20 dt 20th June, 2018 on the subject can be accessed at <http://dgft.gov.in/Exim/2000/PN/PN18/PN%2014%20eng.pdf>

These are the days of e-payment and various modes are available for the same.

DGFT has already in place the system of e-payment of application fee for thirteen types of applications as detailed in Appendix-2 K of the current HBP (Vol. 1). The system was, however, not available for Miscellaneous Applications. This too was introduced vide DGFT Trade Notice No. 25/2018 dt 14.03.2018 and called e-MPS. Representation were made to DGFT that a large number of importers and exporters could not avail of the above facility of e-MPS on account of the requirement of DSC (Digital Signature) which they did not have.

DGFT has now issued a Trade Notice No. 15/2018 dt 04.06.2018 removing the requirement of DSC for making e-MPS. A good facilitation measure.

Copy of Trade Notice dt 4th June 2018 is reproduced below:

(Copy)

Trade Notice No. 15/2018 dt. 04.06.2018

To,

1. All Regional Authorities of Directorate General of Foreign Trade
2. Members of Trade

Subject: **Doing away with the requirement of DSC for online/digital payment through e-MPS**

A facility for online/digital payment for miscellaneous applications (eMPS) was launched vide trade notice No. 25/2018 dtd. 14.03.2018. DGFT RAs can access e-MPS through login id/ password but exporters were required to have a DSC(IEC embedded) to make payment. The date for mandatory digital payment through e-MPS was extended to 01.06.2018.

Keeping in view the difficulties faced by the exporters/importers in obtaining digital signatures for making miscellaneous payment digitally/online, the requirement of DSC for exporters/importers to make digital/online payment through e-MPS has been done away with. Now, a person desiring to make online/digital payment can login in e-MPS using his PAN details. There is no need for having digital signatures for making digital/online payment. The updated help available at <http://164.100.128.143/eMPShelp/eMPShelpOnline.pdf> should be referred for the details.

CBIC organises a 'Refund Fortnight' from 31.05.2018 to 14.06.2018 to clear the pending claims (filed before 30.04.18) of GST

The requirement of GST law that you pay the GST first and in case you are entitle to its refund, then claim it by refund procedure has resulted in the blockage of huge amounts of importers and exporters. The problem became so huge that the CBIC and GST Council had to devise short measures to facilitate refunds. To ease the situation CBEC (CBIC) organises 'Refund Fortnight' for the purse.

The second 'Refund Fortnight' was observed by CBIC from 31st May, 2018 to 16th June, 2018.

About organisation of clearance fortnight CBIC gave advertisements in the dailies, etc. The ad contained guidelines also which are given below for guidance of the people concerned for future.

IGST Refund on Exports

- Please check the status of your refund on the ICEGATE website & visit the concerned Custom House for rectification of error, if any.
- Circular No. 12/2018 - Customs has been issued for cases where records have not been transmitted by GSTN to Customs EDI system. For small exporters having total pending IGST refund amount below Rs.10 Lakh, a simplified mechanism has been prescribed allowing for self-certification.

- Please logon to <https://www.icegate.gov.in/icelogin/loginAction?> and register if not already done, to know the status of your shipping bill.

DGFT issues Trade Notice reintroducing the online/ digital payment through e-MPS sans DSC (Digital Signature)

Input Tax Credit Refunds & Other Refunds

Please act as per the following steps while applying for refund in FORM GST RFD-01A:

- File FORM GST RFD-01A on the common portal www.gst.gov.in.
- Take a print out of the filled in form and submit it before the jurisdictional tax officer along with all supporting documents.

- The refund claim needs to be filed with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued by the Chief Commissioner of Central Tax and the Commissioner of State Tax.
- The refund claim needs to be filed only with one tax authority. No need to file separately with Centre and State for refund of CGST and SGST respectively.
- It is not enough to file FORM GST RFD-01A on the common portal. Your refund will not be processed until you submit a printout of the form to the jurisdictional tax office.

On 20th June, 2018 CBIC issued a 'Press Release' containing details about the drive (copy reproduced below):

(Copy)

Press Release by CBIC, Dated 20.06.2018

In line with the commitment of Government to liquidate all pending GST refunds filed till 30th April, 2018, the Central Board of Indirect Taxes and Customs (CBIC) has successfully concluded the second refund extended fortnight from 31st May, 2018 to 16th June, 2018.

During the period, all field formations of CBIC and States, once again worked hard to provide refund relief to the exporters. Special refund cells manned by experienced staff were put in place throughout the country. Exporter awareness campaigns using both print media and social media were carried out so that the benefit could be extended to maximum exporters. All field formations were tasked to go the extra mile in order to facilitate the sanctioning of refunds. Issues which threw new challenges while sanctioning of refunds were clarified by circulars, advisories etc.

By the end of 16th June, 2018, Rs. 6,087 crore IGST refund has been sanctioned in the refund fortnight. The interesting facts during the second fortnight are (i) about 1,68,191 shipping bills have been processed (ii) IGST refund claims of about 9,293 exporters have been sanctioned including about 3500 new exporters, whose refunds had been held up, have got their refund sanctioned.

The amount of RFD-01A refund claims received by the Centre as on 30th April, 2018 was Rs. 9,816 crores. The target for the Special Refund Fortnight was to dispose off this amount. During the refund fortnight, an amount of Rs. 1,548 crores was sanctioned by the Centre and Rs. 2,290 crores by the States. This takes the amount of RFD-01A refund claims disposed, as on 16.06.2018, by the Centre to Rs. 10,824 crores and by the States to Rs. 7,287 crores. Thus, the total amount of RFD-01A claims disposed off stands at Rs. 18,111 crores.

In all, Rs 21,142 crore (IGST refunds), Rs. 9,923 crore (RFD-01A refund by CBIC) and Rs 6,997 crore (RFD-01A refund by States) all totaling Rs 38,062 crore has been sanctioned till 16th June, 2018. Considering the amount of rejected claims, the total IGST disposed is Rs 23,437 Crore, RFD-01A (by CBIC) is Rs 10,824 crore, RFD-01A (by States) is Rs 7,287 crore and total GST refund disposed till 16th June, 2018 stands Rs 41,548 crore.

The momentum gained during this fortnight would be carried on by all formations where refunds are still pending. The CBIC is dedicated to sanction all the legitimate refund claims of exporters. Efforts are being made to resolve those issues which are still pending. However, the exporters need to ensure that the correct procedure of filing returns, giving accurate information in Shipping Bill and submitting RFD01A application forms to the jurisdictional formations are followed for quick disbursement of their refund claims.

Question : Is it possible for me to change to my own username, password as the intermediary who was authorized by me to apply for GST registration on my behalf had used his own e-mail & mobile number during the process. This intermediary is not sharing the user detail with me now.

Answer : The goods & service tax (GST) registrants can approach jurisdictional tax officer with valid documents to change the email and mobile number recorded against their GST identification number (GSTIN). The revenue wing had received complaints from taxpayers that the intermediaries who were authorized by them to apply for registration on their behalf has used their own email and mobile number during the process. These intermediaries are not sharing the user details with the taxpayers. Taxpayer would be required to approach the jurisdictional tax officer to get the password for the GSTIN allotted to the business. Taxpayers can check jurisdiction through 'Search Taxpayer' option available on GST portal.

Question : What are timelines of refund of ITC in respect of export of goods or services under the GST?

Answer : In case of refund of tax on inputs used in exports:

- Acknowledgement is issued within 15 days from the date of application for refund.
- Refund of 90% is granted provisionally within seven days of acknowledgement of refund application.
- Remaining 10% is paid within a maximum period of 60 days from the date of receipt of application complete in all respects.
- Interest @6% is payable if full refund is not granted within 60 days.

Question : Can I pay IGST amount on imports of goods from my ITC Credit?

Answer : Since IGST on imports is levied on Reverse Charge Mechanism (RCM) and all RCM taxes have to be paid in cash, IGST on import of goods cannot be paid from ITC. But, the IGST amount paid in cash on imports is available as ITC to importer which can be utilized by him for settling his further liabilities. However, the SGST liabilities can be settled only in respect of the State where the importer is located. Thus, if the importer is located in UP, he can only discharge his SGST liabilities in respect of UP and not in respect of other States.

Question : We are a trader with principal place of business as Chennai in Tamil Nadu. We are outsourcing the material for exports from Andhra Pradesh (AP) and are exporting from port at Krishnapatnam in AP. We have no registered branch office in AP. Are we required to add some location in AP as additional place of business? Where do we need to mention the Codes of Chennai and AP in the shipping bill?

Answer : The principal place of business and additional places of business is confined to a State only. If you are outsourcing the material for exports from AP, you need not to register in AP as the supplier is required to be registered only in the State from which goods are being supplied. In the shipping bill, State code of the exporter is required to be quoted at master level which is the first two digits of the GSTIN of the exporter, where you will give the Code of Tamil Nadu. At the item level, you can mention the State of Origin which should be the State from which goods were procured for exports, and in this case you need to mention AP.

Question : We are a manufacturer of exempted goods which we export. We have availed input stage rebate used in the manufacture of exported goods. How can we get GST refund since our supply remains an exempt supply?

Answer : Under IGST Act, a person engaged in export of goods, which is an exempt supply, is eligible to avail input stage credit for zero rated supplies. Once goods are exported, the refund of unutilized credit can be availed under Section 16(3)(a) of IGST Act, 2017 and Section 54 of the CGST Act, 2017 and the Rules made thereunder.

Question : Is the commission received by Buying Agents in India from foreign customers in foreign currency exempted from GST? Do Buying Agents need to be registered under GST?

Answer : The commission received by buying agents in India is taxable under GST. The buying agent should register under GST so that he can claim Input Tax Credit to lessen his liability by using ITC.

Question : Are the goods supplied by an exporter to a job worker taxable under GST?

Answer : No. The goods sent by a exporter to a job worker is not a supply, as there is no transfer of title and no consideration for the goods is involved. In terms of section 143 of the CGST Act, 2017, a registered taxable person (the principal) may send any inputs or capital goods, without payment of GST, to a job worker for job work and the principal shall either

- bring back such inputs or capital goods after completion of job work, or otherwise within the pre-scribed period, i.e. 1 year in case of inputs and 3 years in case of capital goods, or
- supply such inputs or capital goods, within such prescribed period, on payment of tax within India, or with or without payment of tax for export, as the case may be.

If the goods or, capital goods, as the case may be, are not returned to the principal within the time specified above, then such goods shall be deemed to have been supplied by the principal to the job worker on the date the goods were sent out to the job worker and the principal shall be required to pay tax accordingly on such supplies.

Question : Can we export under normal procedure without availing the benefit of 0.1% concessional duty while procuring goods for exports?

Answer : The facility of procuring goods at 0.1% is an optional facility which is available subject to the conditions mentioned in Notification No.41/2017, dated 23rd October, 2017. In case, an exporter wants to procure the goods for export on payment of applicable GST and subsequent export either on LUT or on payment of IGST, then he can do it and claim back ITC or IGST, as the case may be.

Question : We have availed EPCG authorisation under Notification No. 78, dated 13.10.17. Can we supply such goods for export to a merchant exporter or do we have to export them directly?

Answer : You can supply such goods to a merchant exporter without any restriction both under applicable GST rate or at 0.1%, as per the above Notification.

Question : How can we get the refund of compensation cess levied on inputs since our final export is not subject to compensation cess?

Answer : All supplies under compensation to State Cess Act are also zero rated supplies and therefore you can claim a re-fund of compensation cess also. However, ITC of compensation cess cannot be used for payment of IGST on exports.

Question : Is GST payable on goods sent overseas for display in exhibitions or trade fairs and brought back into India?

Answer : GST is not payable on such goods. But the exporter carrying these goods need exhibition participation letter and SDF/GR waiver letter from the concerned bank for the purpose of exchange control requirements. At the time of bringing back these goods into the country, the identity of goods needs to be established as the goods taken out to seek exemption from import duty in accordance with customs provisions. IGST will be exempted at the time of re-import in view of exemption granted by customs.

Question : What is the validity of an LUT which an exporter executes to clear goods for exports free of IGST?

Answer : The LUT is valid for the whole financial year in which it is accepted. However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said Rule, then the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said Rule is paid later, then the facility of LUT shall be restored.

Question : Is LUT required for export of goods which are exempted under GST?

Answer : No LUT is required if the exporter is exporting exempt goods or non-GST goods as in both the cases there is no IGST liability which is levied on inter-state supply of goods as exports are treated as Inter-State Supply.