News Flash

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The Government relaxes bond/ letter of undertaking requirement for export of goods without payment of IGST

Rule 96A of Central Goods and Services Tax Rules, 2017 provides that in case of export of goods or services without payment of GST, the exporter has to furnish a bond or letter of undertaking (LUT) in form RFD-11. This is also required in the case of provision of goods or services to SEZ units/ developer.

Considering the difficulties faced by exporters, the Government has issued notification no. 16/2017-Central Tax and circular no. 4/4/2007-GST, both dated 07 July, 2017 to clarify certain aspects relating to bond/ LUT. The clarifications are summarised below:

• Exports would be allowed under existing bonds/ LUTs by 31 July 2017. New LUT/ bonds need to be submitted in the revised format by 31 July 2017.

• Submission of LUT in place of a Bond

- 1. The following persons would be eligible to provide a LUT instead of a bond:
 - o Status holder as per Para 5 of Foreign Trade Policy 2015-2020; or
 - A person who has received foreign inward remittances equal to minimum of 10% of the export turnover, which should not be less than INR 10 million, in the preceding financial year.
- 2. Such a person should not have been prosecuted for any offence under the CGST Act or any existing law where the amount of tax evaded exceeds INR 25 million.
- 3. The LUT should be furnished in duplicate for a financial year in the prescribed format. The LUT should be executed by the working partner, the Managing Director, the Company Secretary, 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.
- 4. The LUT would be valid for 12 months.
- 5. If the exporter fails to comply with the conditions of LUT, he may be asked to provide a bond.

• Submission of bond

With regard to submission of bond, circular no. 4/4/2017-GST provides as follows:

- o All persons not eligible to issue LUT would need to submit a bond.
- A running bond will be submitted and the bond amount should cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter. A fresh bond is to be submitted if the amount in the bond is less than the outstanding tax liability on exports.
- The amount of bank guarantee would be decided by the jurisdictional Commissioner and it should not exceed 15% of bond amount. The Commissioner has the power to accept the bond without any bank guarantee in case of assessee with good track record.
- o The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.

• Jurisdiction for submission of LUT/ Bond

Bond/ LUT shall be accepted by the jurisdictional Deputy/ Assistant Commissioner having jurisdiction over the principal place of business of the exporter. Until a specific administrative officer is assigned, the exporter can furnish bond/ LUT before any officer (Centre or State). However, State Commissioners have power to direct exporters to submit bond/ LUT to Central tax officers till the administrative framework is ready.

PwC Comments

These clarifications bring much needed relief for the exporters with regard to export without payment of IGST. Exports had come to a halt in the absence of clarity on procedure for submission of bond/ LUT for exports. While exporters have option to export on payment of IGST and subsequently claim refund of IGST paid, this would impact the cash flow. Further, there is no clarify on payment of IGST on export out of the carried forward CENVAT balance since the credit amount would be credited to the electronic credit ledger only after submission of the Transition forms. Now, the assessees can continue exports without payment of IGST under the relaxed procedure.

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