

GOODS & SERVICES TAX UPDATE – 7

CENTRAL GOODS & SERVICES TAX (CGST)

Clarification regarding Letter of Undertaking in place of a bond for export without payment of integrated tax for Exports

Rule 96A of the Central Goods & Services Tax Rules, 2017 provides for procedure for refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking. Further [Notification No. 16/2017-Central Tax, dt. 07-07-2017](#) has notified conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax, for furnishing a Letter of Undertaking in place of a Bond.

In addition to above Central Government vide [Circular No. 4/4/2017-GST dt. 07-07-2017](#) has further clarified the following:

- a) 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 will be furnished on **non-judicial stamp paper** of the value as applicable in the State in which bond is being furnished.
- b) the exporters will furnish **a running bond**, in case he is required to furnish a bond, in FORM GST RFD -11 as the consignment wise bond would be a significant compliance burden on the exporters. 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 will 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 will furnish a fresh bond to cover such liability.
- c) 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**.
- d) LUT will be valid for **12 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 will submit the LUTs/bond in the revised format latest by 31st July 2017.
- e) the Bond/LUT will 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. 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.
- f) Further [Circular No. 26/2017 – Customs dated 1st July 2017](#) has 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 will be done under the

supervision of the officer having physical jurisdiction and a copy of the sealing report would be forwarded to the concerned Deputy/Assistant Commissioner. These practices would also apply to exports made on or after 1st July 2017.

[\[Circular No. 4/4/2017-GST dt. 07-07-2017\]](#)

INTEGRATED GOODS & SERVICES TAX

Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance

A person making inter-State supply of goods or services or both is compulsorily required to be registered. Further as per Section 25(4) of the CGST Act, 2017 a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

In this regard, Central Government vide [Circular No. 1/1/2017-IGST dt. 07-07-2017](#) has clarified that inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of CGST Act, 2017, not involving further supply of such conveyance, including:

- i. Trains,
- ii. Buses,
- iii. Trucks,
- iv. Tankers,
- v. Trailers,
- vi. Vessels,
- vii. Containers,
- viii. Aircrafts,

(a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST will be leviable on repairs and maintenance done for such conveyance.

[\[Circular No. 1/1/2017-IGST dt. 07-07-2017\]](#)

GST – Ease of Doing Business

Gifts up to a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST.

Gifts upto a value of Rs 50,000/- per year by **an employer to his employee** are outside the ambit of GST. However, gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

It is pertinent to note that the services by an employee to the employer during or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered between the employer and the employee, will not be subjected to GST. Further, the Input Tax Credit (ITC) Scheme under GST does not allow ITC of membership of a club, health and fitness Centre [section 17 (5) (b) (ii)]. Therefore, if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).

Key Takeaways from Govt's first masterclass on GST on 10th July 2017

Department of Revenue, Government of India and the Central Board of Excise & Customs (CBEC) are organizing GST- Ki -Master Class covering issues relating to Registration & Migration, Transition & Invoice Making and Composition and Record Keeping. The First class was held on 10th July 2017 on Registration & Migration issues and the following important points were brought out:

- a) It is important for the traders and dealers to complete the Part-B of their GST registration within the period of 90 days.
- b) An individual not well versed with online registration process make seek help of excise, VAT or Service Tax office of state and central government where officials will help him with the registration process.
- c) The registrations can now be made even for names bearing special characters like P&G etc.
- d) There are two types of fields in a registration application
 - Core Fields- These include Legal name of the business, Address of principal and additional place of business, Details of Partners/ Board of Directors etc.
 - Other Fields – Bank Account details, phone number, e-mail ID etc.

The changes to the core fields can be made only by the GST officials. For changes required in the other fields the person may himself/ herself log on to the portal and update the requisite information on the GST registration portal. The facility of making changes will commence from 17th July 2017.

- e) Mandatory registration required for person making inter-state supply of goods or services or both.

- f) For inter-state supplies of goods or services or both from one point of business i.e. only from one particular state to any of the states across the country only one registration is required to be taken in the state from which supplies are made.
- g) The provisional ID number received at the time of registration will be the same as the ID number received at the completion of registration.
- h) All registered dealers will have to furnish their GSTN registration numbers on signboards.
- i) In case, a dealer is facing problems in uploading Digital Signature Certificate (DSC), he/she can also opt to authenticate using an OTP (One Time Password) sent to his/her mobile number and e-mail ID.

The recording of the first **GST ki Masterclass** is available on <https://youtu.be/buzmwEFsPdE>.

Source: www.cbec.gov.in, www.pib.nic.in

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