

From

**The Excise & Taxation Commissioner,
Haryana, Panchkula.**

To

- 1. All Jt. Excise & Taxation Commissioners (Range/Appeal) in the State.**
- 2. All Dy. Excise & Taxation Commissioners (ST), in the State.**

Memo No. 1536/ST-2,

Panchkula, dated the 20-07-2017

**Subject:-Delegation of power for acceptance of Bond/Letter of Undertaking (LUT)
for exports without payment of integrated tax-Reg.**

As per the provisions of goods and services tax export of goods is defined as taking the goods out of India to a place outside India. Provisions of integrated GST Law, under section 7(5), define exports and, supplies to or by a Special Economic Zone Developer or Special Economic Zone Unit as inter-state supplies. Therefore, these supplies shall be governed by the provisions of Integrated GST Law.

The provisions of section 16 of Integrated GST provide that export of goods and services or both shall be zero rated. Similarly, a supply of goods and services or both to a special economy zone developer or a special economic zone unit is also a zero rated supply. A credit of input tax is availed of by the suppliers for making zero rated supplies including the supplies that may be exempted subject to negative list for credit of input tax provided under section 17(5) of the GST Law.

To avail of credit of input tax, section 16 of the IGST Act further provides an option to the exporters to supply goods or services or both under a bond or letter of Undertaking without payment of integrated tax and claim refund of unutilized input tax credit accruing from such supplies. Exporters may also make their supplies without furnishing Bond/LUT by making payment of integrated tax and claim refund of such tax on supply of goods or service or both in accordance with section 54 of the GST Law. Exporters are free to avail any of the two options. The refund shall be governed by provision of section 16 of the IGST Act.

Exporters opting to make supplies without payment of integrated tax by furnishing bond/LUT shall claim refund of unutilized input tax credit by filing an application electronically through the common portal. The application shall be accompanied by documents as prescribed in the rules. The application shall be deemed to have been filed only after export manifest or an export report, as the case may be, covering the number and date of shipping bills or bills of export, is delivered under section 41 of custom Act, 1962 in respect of such goods and the applicant having furnished a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be.

The details of outward export supplies from GSTR-1 shall be transmitted by the common portal to the system designated by the customs and the said system shall transmit back to the common portal a confirmation that the goods covered by the said invoice have been exported out of India.

The procedure for furnishing Bond/LUT has been laid down in rule 96(A) of the Haryana Goods and Services Tax Rules, 2017. The rules require that an exporter opting to supply goods or services or both for export without payment of integrated tax shall furnish, prior to export, a Bond/LUT in FORM GST RFD-11 to jurisdictional Commissioner binding him to pay tax along with applicable interest within a period of 15 days after the expiry of three months from the issue of invoice for export if the goods are not exported out of India; or 15 days from the expiry of one year from date of issue of invoice for export if the payment of such supply of services is not received in convertible foreign exchange.

Letter of Undertaking (LUT):

Letter of Undertaking(LUT) in place of bond may be accepted from registered persons, who are exporting goods or services or both, who are status holder as specified in paragraph 3.20 and 3.21 of the Foreign Trade Policy 2015-20 or who have received due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one Crore rupees, in the preceding financial year and he has not been prosecuted for any offence under the Goods and Services Tax Act, 2017 or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

The paragraph 3.20 and 3.21 of the Foreign Trade Policy 2015-20 are reproduced here as under for ready reference:

3.20 Status Holder

(a) Status Holders are business leaders who have excelled in international trade and have successfully contributed to country's foreign trade. Status Holders are expected to not only contribute towards India's exports but also provide guidance and handholding to new entrepreneurs.

(b) All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition depends upon export performance. An applicant shall be categorized as status holder upon achieving export performance during current and previous two financial years, as indicated in paragraph 3.21 of Foreign Trade Policy. The export performance will be counted on the basis of FOB value of export earnings in free foreign exchange.

(c) For deemed export, FOR value of exports in Indian Rupees shall be converted in US\$ at the exchange rate notified by CBEC, as applicable on 1st April of each Financial Year.

(d) For granting status, export performance is necessary in at least two out of three years.

3.21 Status Category

Status Category	Export Performance FOB / FOR (as converted) Value(in US \$ million)
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2000

The Letter Of undertaking shall be furnished in duplicate for a financial year in the annexure to FORM GST RFD-11 referred to in sub-rule (1) of rule 96A of the Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorized by such working partner or Board of Directors of such company or proprietor on the letter head of the registered person. Letter of Undertaking (LUT) shall be valid for a period of 12 months. If an exporter fails to comply with the conditions of LUT, he may be asked to furnish a bond.

Bond :

An exporter who opts to make supplies without payment of integrated tax and is not covered in the above mentioned categories shall have to furnish bond instead Of letter of undertaking (LUT). The bond shall be furnished on non judicial stamp paper of the value as is applicable in the state.

The bond shall be in FORM GST RFD-11. The exporter shall furnish a running bond.

The bond would cover the amount of tax involved ensuring that outstanding tax liability on export is within the bond amount. It is clarified that separate bond for each consignment of export is not required. The bond would cover the amount of tax involved in the export on his (exporter's) self assessed assessment of tax liability. In case the bond amount is insufficient to cover the tax liability, the exporter shall furnish a fresh bond to cover such liability.

The supplies of export are governed by the provisions of Integrated GST Tax Law which is an Act of Parliament. The provisions of section 4 of IGST Law empowered officers appointed under State Goods and Services Tax Act to exercise the powers under the IGST Act. Therefore, an exporter is at liability to furnish a Bond/LUT before Centre Tax Authority or State Tax Authority. The bond/LUT may be accepted by any Of the departments till the task or assigning tax payers to the respective authorities is completed. The powers of Commissioner having been delegated, the Bond/LUT may be accepted by jurisdiction Deputy Excise and Taxation Commissioner having jurisdiction over the principal place of business of exporter.

It is further intimated that Government of India, Ministry of Finance Department of Revenue has issued a circular permitting furnishing of bond/LUT in the format specified in FORM RFD-11 manually to the competent authority till the module for furnishing FORM RFD-11 is made available on the common portal. The exporter may download the FORM GST RFD-11 from the website www.harvana.gov.in of the department and furnish the duly filled form to the Deputy Excise and Taxation Commissioner concerned.

Jt. Excise & Taxation Commissioner (T)

for Excise & Taxation Commissioner, Haryana.

Endst. No. 1537/ST-2, Panchkula, dated the 20-07-2017