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**F. No. S/20-07/AG/GST/17-18**

**Dated: 20/07/2017**

**PUBLIC NOTICE No.38 /2017**

**Subject: Export procedure and sealing of containerized cargo-regarding.**

Attention of all Exporters, Customs Brokers, Members of the Trade Industry and others is invited towards Board's Circular No. 26/2017-Customs dated 01.07.2017. Goods and Service Tax has become operational from 01-07-2017. In the (1ST regime, the governing provisions related to exports are contained in section 16 of the Integrated Goods and Service Tax Act, 2017 (1GST Act). Supplies of goods and services for exports have been categorized as 'Zero Rated Supply' implying that goods could be exported under bond or Letter of Undertaking without payment of integrated tax followed by claim of refund of unutilized input tax credit or on payment of integrated tax with provision for refund of the tax paid.

2. With the onset of GST, extant procedures relating to export of goods viz. claim of rebate/refund, stuffing of containers at the factory, warehouse or any other place from where the goods are intended to be exported etc. would require review of the existing procedures. In this regard, attention is drawn to notification No's 42/2001-CE (N.T.) to 45/2001-CE (N.T.) both dated 26.6.2001 detailing the procedure to be followed for the export of goods on payment of terminal excise duty and 19/2004-CE (N.T.) and 20/2004-CE (N.T.), both dated 06.09.04, without payment thereof.

**A. Procedure of Export**

3. Any person making zero rated supply (i.e. any exporter) shall be eligible to claim refund under either of the following options, namely; -

(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit; or

(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 (Refunds) of the Central Goods and Services Tax Act or the rules made there under (i.e. the Central Goods and Service Tax Rules, 2017).

4. For the option (a) above, procedure to file refund has been outlined in the Central Goods and Service Tax Rules, 2017. The exporter claiming refund of unutilized input tax credit will file an application electronically through the Common Portal, either directly or through a Facilitation Centre notified by the GST Commissioner. The application shall be accompanied by documents as prescribed in the said rules. Application for refund shall be filed only after the export manifest or an export report, as the case may be, is delivered under section 41 of the Customs Act, 1962 in respect of such goods. The formats

for furnishing bond or LUT for export of goods have been separately notified under CGST Rules, 2017. The said formats are attached herewith for easy reference.

5. For the option (b), broadly the procedure is that a registered person shall not be required to file any application for refund of integrated goods and services tax paid on supply of goods for exports. The shipping bill, having inter- alia GST invoice details, filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export and the applicant has furnished a valid return in FORM GSTR-3. The details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the Customs system and the said system shall in turn electronically transmit back to the common portal a confirmation that the goods covered by the said invoices have been exported out of India. Upon receipt of information regarding furnishing of valid return in FORM GSTR-3 from the common portal, the Customs system shall process the claim for refund and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars. Government has allowed a grace period to the registrants to file returns under the new GST Law. Therefore, this refund procedure shall as a consequence come into operation only when the registrants file the above mentioned returns. Further, the exporters are free to avail option (a) or option (b). The refund shall be governed by the provisions of the section 16 of the IGST Act.

6. In order to ensure smooth transition from the earlier export procedure to the procedure being laid down for export of goods under the GST regime, the existing Shipping Bill formats (both manual/ electronic) have been modified to make them compliant with the IGST law. New formats of the Shipping Bill have been made applicable already. ARE-1 procedure which was being followed is dispensed with except in respect of commodities to which provisions of Central Excise Act would continue to be applicable.

## **B. Sealing of Containers**

7. Board has in the past issued various circulars both on the Excise and Customs side on the issue of sealing of containers. A gist of these Circulars and the subject matter dealt in them is given in the annexure to this circular. At present, there are three categories of containers which arrive at the port/ICD:

- a. Containers stuffed at factory premises or warehouse under self-sealing procedure,
- b. Containers stuffed / sealed at factory premises or warehouse under supervision of central excise officer.
- c. Containers stuffed and sealed at Container Freight Stations/Inland Container Depot.

8. For the sake of uniformity and ease of doing business, Board has decided to simplify the procedure relating to factory stuffing hitherto carried out under the supervision of the Central Excise officers. It is the endeavor of the Board to create a trust based environment, where compliance in accordance with the extant laws is ensured by strengthening Risk Management System and Intelligence setup of the department. Accordingly, Board has decided to lay down a simplified procedure for stuffing and sealing of export goods in containers.

9. It has been decided to do away with the sealing of containers with export goods by CBEC officials. Instead, self-sealing procedure shall be followed subject to the following:

i. The exporter shall be under an obligation to inform the details of the premises whether a factory or warehouse or any other place where container stuffing is to be carried out, to the jurisdictional customs officer.

ii. The exporter should be registered under the GST and should be filing GSTR-1 and GSTR-2. Where exporter is not a GST registrant, he shall bring the export goods to a Container Freight Station/Inland Container Depot for stuffing and sealing of container. However, in certain situations, an exporter may follow the self-sealing procedure even if he is not required to be registered under GST Laws. Such an exception is available to the Status Holders recognized by DGFT under a valid status holder certificate issued in this regard.

iii. Any exporter desirous of availing this procedure shall inform the jurisdictional Custom Officer of the rank of Superintendent or Appraiser of Customs, at least 15 days before the first planned movement of a consignment from his/her factory/ premises, about the intention to follow self- sealing procedure to export goods from the factory premises or warehouse. The jurisdictional Superintendent or an Appraiser or an Inspector of Customs shall visit the premises from where the export goods will be stuffed & sealed for export. The jurisdictional Superintendent or Inspector of Customs shall inspect the premises with regard to viability of stuffing of container in the premises and submit a report to the jurisdictional Deputy Commissioner of Customs or as the case may be, the Assistant Commissioner of Customs within 48 hours. The jurisdictional Deputy Commissioner of Customs or as the case may be the Assistant Commissioner of Customs shall forward the proposal, in this regard to the Principal Commissioner/Commissioner of Customs who would grant permission for self-sealing at the approved premises. Once the permission is granted, the exporter shall furnish only intimation to the jurisdictional Superintendent or Customs each time self-sealing is carried out at approved premises. The intimation, in this regard shall clearly mention the place and address of the approved premises, description of export goods and whether or not any incentive is being claimed.

iv. Where the visit report of the Superintendent or an Appraiser or an Inspector of Customs regarding viability of the stuffing at the factory/ premises is not favorable, the exporter shall bring the goods to the Container Freight Station /Inland Container Depot/Port for sealing purposes.

v. Self-Sealing permission once given by a Principal Commissioner/Commissioner of Customs shall be valid for export at all the customs stations. The customs formation granting the self-sealing permission shall circulate the permission along with GSTIN of the exporter to all Custom houses/Station concerned.

vi. Transport document for movement of self-sealed container by an exporter from factory or warehouse shall be same as the transport document prescribed under the GST Laws. In the case of an exporter who is not a GST registrant, way bill or transport challan or lorry receipt shall be the transport document.

vii. The exporter shall seal the container with the tamper proof electronic-seal of standard specification. The electronic seal should have a unique number which should be declared in the Shipping Bill. Before sealing the container, the exporter shall feed the data such as name of the exporter, IEC code, GSTIN number, description of the goods, tax invoice number, name of the authorized signatory (for affixing the e-seal) and Shipping Bill number in the electronic seal, Thereafter, container shall be sealed with the same electronic seal before leaving the premises.

viii. The exporter intending to clear export goods on self-clearance (without employing a Customs Broker) shall file the Shipping Bill under digital signature.

ix. All consignments in self-sealed containers shall be subject to risk based criteria and intelligence, if any, for examination / inspection at the port of export. At the port/ICD as the case may be, the customs officer would verify the integrity of the electronic seals to check for tampering if any enroute. The Risk Management System (RMS) is being suitably revamped to improvise the interdiction/ examination norms. However, random or intelligence based selection of such containers for examination/scanning would continue.

10. Board has decided that the above revised procedure regarding scaling of containers shall be effective From 01.09.2017. A future date has been prescribed since the returns under GST have been permitted to be filed by 10.09.17 and also with the purpose to give enough time to the stakeholders to adapt to the new procedures. Therefore, as a measure of facilitation, the existing practice of sealing the container with a bottle seal under Central Excise supervision or otherwise would continue. The extant circulars shall stand modified on 01.09.2017 to the extent the earlier procedure is contrary to the revised instructions given in this circular.

11. Difficulties faced if any, may be brought to the notice of the undersigned.

(P. V. R. Reddy)

Principle Commissioner,

Custom House, Kandla