Circular No. 26/2017-Customs

F. No. 450/08/2015-Cus.IV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise and Customs)
*****

New Delhi dated the 1st July, 2017

To

All Principal Chief Commissioner/Chief Commissioner of Customs & Central Excise
All Principal Commissioner/Commissioner of Customs & Central Excise
All Principal Chief Commissioner/Chief Commissioner of Customs/Customs (Preventive)
All Principal Commissioner/Commissioner of Customs / Customs (Preventive)

Sir/ Madam,

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

Goods and Service Tax has become operational from 01-07-2017. In the GST regime, the governing provisions related to exports are contained in section 16 of the Integrated Goods and Service Tax Act, 2017 (IGST 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: –

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(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.

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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 GSTR1 and GSTR2. 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 sealing 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. Suitable public Notices may be issued in this regard. Difficulty faced, if any, may be brought to the notice of the Board.

12. Hindi version will follow.

Yours faithfully,

Zubair Riaz

(Zubair Riaz)
Director (Customs)

Annexure

Sr. No	Reference Number	Date	Subject
1	952/1 3/2011 -CX.	08-09-11	Stuffing of export containers - Procedure
2	892/1 2/2009-CX	23-07-09	Exports - Self-sealing/certification facility extended for export of non-excisable agricultural products
3	860/1 8/20,07-CX	22-11-07	Exports under Free Shipping Bills - Mandatory self-sealing of containers
4	741/57/2003-CX.	02-09-03	Exports to Nepal and Bhutan - Self-sealing and self-certification facility not applicable
5	736/52/2003-CX.	11-08-03	Exports - Self-certification and self-sealing facility extended to all categories of Manufacturer-Exporters-Extension of facility of self-sealing to all categories of manufacturer exporters.
6	481/47/99-CX	23-08-99	Containers Sealing of packages/Containers procedure Relaxed-modifies 426/59/98-CX in so far as furnishing tentative date and time of export plan by manufacturer exporter is concerned.
7	445/11/99-CX	17-03-99	Exports Special facility of self-certification and self-sealing to large manufacturer Exporter Further instructions. Para 7 (duty of customs officers at the place of export) of 426/59/98-CX is deleted in view of Circular 6/2002-Cus. [90/98-cus. was rescinded vide 31/2002-cus].
8	426/59/98-CX	12-10-98	Introduction of facility of self-sealing to manufacturers who have paid Central Excise duty exceeding Rs. 10 crores in the preceding financial year in cash or by debit in current account or manufacturer-exporters who have been accorded the status of Super Star Trading House, Star Trading House, Trading House or Export House under the provisions of the Export - Import Policy announced by the Government from time to time.
9	6/2002-Cus	23.1.2002	Export- procedure, as also norms for examination of self-sealed containers at the port of export.
10	83/99-Cus	14-12-99	Export Simplification in procedure for movement of export goods on the basis of. Self-certification and reduced percentage of physical examination-Dispensing off with routine examination at gateway ports.

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FORM GST RFD-11

Furnishing of bond or Letter of Undertaking for export of goods or services

1. GSTIN				
2. Name				
3. Indicate the type of document furnished	Bond: ☐ Letter of Undertaking ☐			
4. Details of bond furnished				
Sr. No.	Reference no. of the bank guarantee	Date	Amount	Name of bank and branch
1	2	3	4	5

Note – Hard copy of the bank guarantee and bond shall be furnished to the jurisdictional officer.

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5. Declaration -

(i) The above-mentioned bank guarantee is submitted to secure the integrated tax payable on export of goods or services.

(ii) I undertake to renew the bank guarantee well before its expiry. In case I/We fail to do so the department will be at liberty to get the payment from the bank against the bank guarantee.

(iii) The department will be at liberty to invoke the bank guarantee provided by us to cover the amount of integrated tax payable in respect of export of goods or services.

Signature of Authorized Signatory

Name
Designation / Status -------
Date ----------

Bond for export of goods or services without payment of integrated tax

(See rule 96)

I/We.....of.....,hereinafter called "obligor(s)", am/are held and firmly bound to the President of India (hereinafter called "the President") in the sum of.....rupees to be paid to the President for which payment will and truly to be made.

I/We jointly and severally bind myself/ourselves and my/our respective heirs/ executors/ administrators/ legal representatives/successors and assigns by these presents; Dated this.....day of.....;

WHEREAS the above bounden obligor has been permitted from time to time to supply goods or services for export out of India without payment of integrated tax;
and whereas the obligor desires to export goods or services in accordance with the provisions of clause (a) of sub-section (3) of section 16;

AND WHEREAS the Commissioner has required the obligor to furnish bank guarantee for an amount of..... rupees endorsed in favour of the President and whereas the obligor has furnished such guarantee by depositing with the Commissioner the bank guarantee as afore mentioned;
The condition of this bond is that the obligor and his representative observe all the provisions of the Act in respect of export of goods or services, and rules made thereunder;

AND if the relevant and specific goods or services are duly exported;
AND if all dues of Integrated tax and all other lawful charges, are duly paid to the Government along with interest, if any, within fifteen days of the date of demand thereof being made in writing by the said officer, this obligation shall be void;

OTHERWISE and on breach or failure in the performance of any part of this condition, the same shall be in full force and virtue:

AND the President shall, at his option, be competent to make good all the loss and damages, from the amount of bank guarantee or by endorsing his rights under the above-written bond or both;

I/We further declare that this bond is given under the orders of the Government for the performance of an act in which the public are interested;

IN THE WITNESS THEREOF these presents have been signed the day hereinbefore written by the obligor(s).

Signature(s) of obligor(s).
Date :
Place :

Witnesses
(1) Name and Address Occupation
(2) Name and Address Occupation

Accepted by me this.....day of ..... (month).....…….. (year)

……..of ……..
(Designation)
for and on behalf of the President of India.".

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Letter of Undertaking for export of goods or services without payment of integrated tax

(See rule 96)

To

The President of India (hereinafter called the "President"), acting through the proper officer

I/We ..... of..... (address of the registered person) having Goods & Services Tax Identification Number No..... , hereinafter called "the undertaker(s) including my/our respective heirs, executors/ administrators, legal representatives/successors and assigns by these presents, hereby jointly and severally undertake on this ..... day of ..... to the President

(a) to export the goods or services supplied without payment of integrated tax within time specified in sub-rule (9) of rule 96 ;

(b) to observes all the provisions of the Goods and Services Tax Act and rules made thereunder, in respect of export of goods or services;

(c) pay the integrated tax, thereon in the event of failure to export the goods or services, along with an amount equal to eighteen percent interest per annum on the amount of tax not paid, from the date of invoice till the date of payment.

I/We declare that this undertaking is given under the orders of the proper officer for the performance of enacts in which the public are interested.

IN THE WITNESS THEREOF these presents have been signed the day hereinbefore written by the undertaker(s)

Signature(s) of undertaker(s).

Date :
Place :

Witnesses
(1) Name and Address — Occupation
(2) Name and Address — Occupation
Date
Place

Accepted by me this.....day of ..... (month)..... (year)

.....of
..... (Designation)
for and on behalf of the President of India

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