

GST (Goods & Services Tax)

Deemed Exports in GST

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Introduction

“Deemed Exports” refers to supplies of goods manufactured in India (and not services) which are notified as deemed exports under Section 147 of the CGST/SGST Act, 2017. The supplies do not leave India. The payment for such supplies is received either in Indian rupees or in convertible foreign exchange.

Deemed exports are not zero rated supplies by default, unlike the regular exports. Hence all supplies notified as supply for deemed export will be subject to levy of taxes i.e. such supplies can be made on payment of tax and cannot be supplied under a Bond/LUT. However, the refund of tax paid on the supply regarded as Deemed export is admissible to either the supplier or the recipient. The application for refund has to be filed by the supplier or recipient (subject to certain conditions) of deemed export supplies, as the case may be.

Categories of supply of goods notified as Deemed Exports

In exercise of powers conferred under Section 147 of the CGST Act, the Central Government has issued Notification no. 48/2017-Central Tax dated 18.10.2017 wherein the following categories of supply of goods has been declared as Deemed Exports:-

Description of Supply

01. Supply of goods by a registered person against Advance Authorisation
02. Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
03. Supply of goods by a registered person to Export Oriented Unit
04. Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the

30th June, 2017 (as amended) against Advance Authorisation

For the purposes of the above notification, –

1. “Advance Authorisation” means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports.
2. Export Promotion Capital Goods Authorisation means an authorisation issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015-20 for import of capital goods for physical exports.
3. “Export Oriented Unit” means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.

It may be noted that Notification no. 49/2017-Central tax dated 18.10.2017 also lays down the list of evidences which are required to be produced by the supplier of deemed export supplies for claiming refund.

Procedure to be followed in case of Deemed Export supplies

Rule 89 of the CGST Rules, 2017 as amended vide Notification No. 47/2017- Central Tax dated 18.10.2017 allows either the recipient or supplier of such supplies to claim refund of tax paid thereon.

As mentioned earlier, certain supplies of goods have been notified as deemed export supplies vide Notification No. 48/2017-Central Tax dated 18.10.2017. Circular no. 14/14/2017-GST dated 06.11.2017 provides for the following procedure and safeguards in respect of supplies to EOU / EHTP / STP / BTP units-

Supply



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(i) The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form-A" (appended herewith) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to –

- (a) the registered supplier;
- (b) the jurisdictional GST officer in charge of such registered supplier; and
- (c) its jurisdictional GST officer.

(ii) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.

(iii) On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –

- (a) the registered supplier;
- (b) the jurisdictional GST officer in charge of such registered supplier; and
- (c) its jurisdictional GST officer.

(iv) The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.

(v) The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B" (appended herewith). The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit.

The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required. A digital copy of Form – B containing transactions for the month, shall

be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.

3. The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015-20 and the duty exemption notification being availed by such unit.

Form – A

(Intimation for procurement of supplies from the registered person by Export Oriented Unit (EOU)/Electronic Hardware Technology Park (EHTP) Unit/ Software Technology Park (STP) unit/ Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act,2017 read with Notification No.48/2017-Central Tax dated 18.10.2017) (as per Circular ----- dated -----)

Running Sr. No. of intimation and Date _____

LOP No. ----- and valid up to -----.

GSTIN -----

We the, M/s(Name of EOU/EHTP/STP/BTP unit and address) wish to procure the Goods namely(Tariff description, Quantity and value) -----, as allowed under Foreign Trade Policy and Handbook of Procedures 2015-2020, and approved by Development Commissioner from M/s ----- (Name of supplier, address and Goods & Services Tax Identification Number(GSTIN)). Such supplies on receipt would be used in manufacturing of goods or rendering services by us. We would also abide by procedure set out in Circular no. ----- dated ----.

Signatures of the owner of EOU/EHTP/STP/BTP unit or His Authorised officer

To:

1. The GST officer having Jurisdiction over the EOU/EHTP/STP/BTP unit.
2. The GST officer having Jurisdiction over the registered person intending to supply the goods.
3. The registered person intending to supply goods to EOU/

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EHTP/STP/BTP unit.

FORM - B

Form to be maintained by EOU/EHTP/STP/BTP unit for the receipt, use and removal of goods received under deemed export benefit under section 147 of CGST Act, 2017 read with Notification No. 48/2017-Central Tax dated 18.10.2017

Name of EOU/EHTP/STP/BTP unit and address

GSTIN No.

Address of Jurisdiction GST Officer

Who can file refund application in case of Deemed Exports supplies

As per 3rd proviso to Rule 89(1) of CGST Rules, 2017, application for refund in case of deemed exports can either be filed by the recipient of deemed export supplies. Alternatively, the supplier of such deemed exports supplies can also file the refund application, in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

It may be noted that rule 89(4A) of the CGST Rules, 2017 as amended vide Notification no. 75/2017-Central Tax dated 29.12.2017 (w.e.f 23.10.2017), the recipient of deemed export supplies can claim refund of input tax credit availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, in case of deemed export supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18.10.2017.

Further Rule 96(9) of the CGST Rules, 2017 as amended vide Notification no. 75/2017-Central Tax dated 29.12.2017 (w.e.f 23.10.2017) also provides that the recipient of deemed export supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18.10.2017 cannot export on payment of integrated tax.

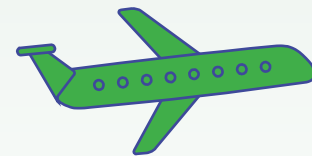
Time Limit for filing refund claim

For obtaining refund the recipient or supplier of deemed export supplies has to file an application in FORM GST RFD-01 through the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner before the expiry of two years from, the date on which the return relating to such deemed export supplies is to be furnished electronically. The

application has to be accompanied by a statement containing the number and date of invoices along with such other evidences as may be notified in this behalf.

Manual filing and processing of refund claims on account of deemed export supplies

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, that the applications/documents/forms pertaining to refund claims on account of deemed export supplies shall be filed and processed manually till further orders. Circular No. 17/17/2017-GST dated 15.11.2017 and Circular no. 24/24/2017-GST dated 21.12.2017 prescribing the detailed procedure have been issued in this regard.



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