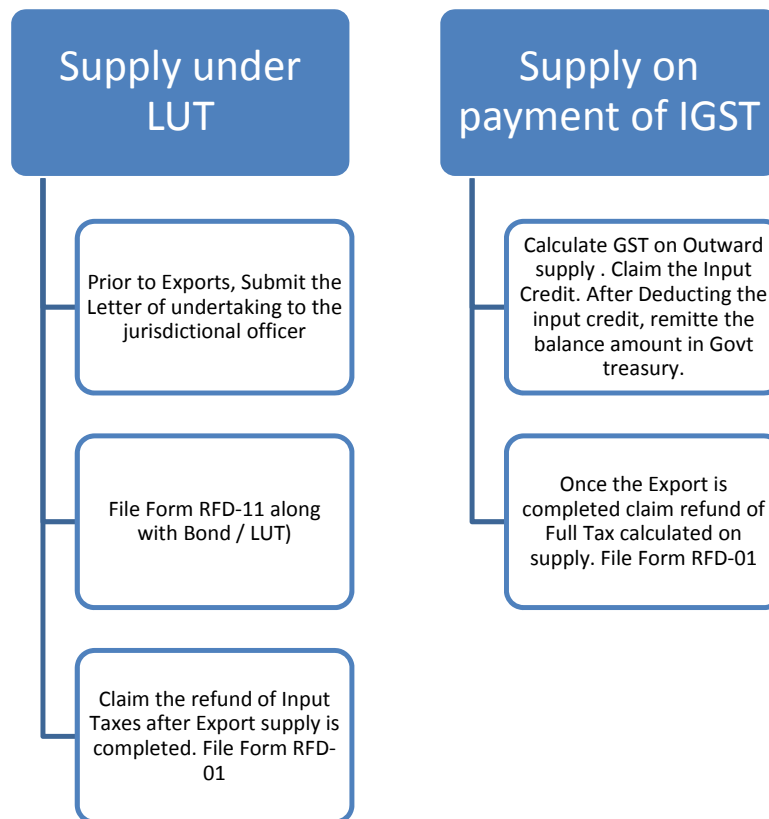


## 1. Exports – Zero Rated Supply

As per Sec Section 16(1) (b) of IGST Act 2017 Export sales are treated as Zero Rated Supply. On pursuing the IGST Law as well as Circulars / notifications / orders following options are available for the export of goods/services under GST regime.

1. Under Letter of Undertaking / Bond (without payment of tax)
2. Export with payment of IGST. (with payment of tax)

Methodologies under Both options are as follows:



The Letter of Undertaking (LUT) benefit can be extended to any person who has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws, where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

There is good amount of relaxation made in this regard as compared to the first circulars issued in this respect.

Apparently, it would be advisable to provide the LUT, as it would involve the least amount of working capital.

Procedure / list of documents for filing a LUT as prescribed under Notification issued are as under,

- a) Cover letter on the letterhead of the company, put rubber stamp and signs the same. (In Duplicate)
- b) Print Letter of Undertaking on the letterhead (RFD11) of the company put rubber stamp and signs the same. (In Duplicate)
- c) Attach self certified copy of Registration Certificate.
- d) Execution of the forms/execution of the LOU

From our experience a host of other documents & proofs are demanded by Jurisdictional office. Probably these documents which are not listed in the relevant circular would differ from officer to officer. LOU would be valid for a period of twelve months. However practically department is issuing LOU valid till 31<sup>st</sup> March-2017.

After submission of LOU the person can export goods under GST without payment of IGST.

## 2. Nature of Tax (IGST)

All the Export Supplies are treated as Interstate Supply. Accordingly, Nature of Tax would be IGST. Thus, exporter would be required to charge IGST, if he chooses option of Payment of IGST & full refund of Tax.

## 3. Exemption under Advance authorization scheme, EPCG scheme and duty credit scrips such as Merchandise Exports from India Scheme (MEIS) & Service Exports from India Scheme (SEIS)

Exemptions, Unutilised balances under these scrips / exemptions will not be eligible to be adjusted against IGST Payments. These benefits will be restricted only towards payments of BCD & similar duties.

## 4. Deemed Exports

Supply of goods,

(a) Against Advance Authorization	(b) Capital Goods against EPCGA Authorization
(c) Supply of goods to EOU	(d) Supply of gold to Bank & notified Public undertakings

have been notified to be Deemed exports under GST. Benefit of Zero Rated Supply can be claimed on such Supply as well. Additional Requirements & proofs are required for Deemed Exports, the same are explained in detail vide Notification No.49 /2017 – Central Tax.

## 5. Transition of Export Promotion Scheme on implementation of GST

Duty Drawback scheme with certain modifications is continued under the GST regime, the changes in the said scheme are as follows:

- The Drawback is available only of Customs duties on imported inputs and Central Excise duty on items specified in the Fourth Schedule to the Central Excise Act (specified petroleum products, tobacco etc.) used as inputs or fuel for captive power generation.
- As an export facilitation measure, for the transition period of 3 months, from July to September 2017, Drawback at higher composite rates are continued subject to certain safeguards i.e. for claiming the higher rate of drawback. The exporter has to make a declarations and certifications as follows,
  - ✓ No Input Tax Credit (ITC) of CGST/IGST is claimed
  - ✓ No refund of IGST paid on exported goods is claimed and
  - ✓ No CENVAT credit is carried forward.
- In the absence of such certification, drawback will be restricted to the customs portion of drawback.

As such it would be advisable to figure out which option is beneficial for the Dealer.

## 6. Procurements by Exporters at Concessional Rates

Exporters who are registered with Export Promotion Council or a Commodity Board recognised by the Department of Commerce can procure goods meant for exports at a concessional Rates of **0.10% / (0.05%+0.05)**, instead of full Rate of GST. However, to claim such concession following conditions are required to be fulfilled,

- Procurement from Registered Supplier, having a valid GSTN
- Goods so procured must be exported within 90 days of procurement.
- The GSTN, Invoice Number and other details of Supplier must be mentioned on Invoice issued by the Exporter
- Exporter must place an order for procurement of goods, copy of such PO needs to be submitted to the Jurisdictional officer
- The Goods must move from supplier's place to any of following
  - ✓ Port, Inland Container Depot, Airport or Land Customs Station
  - ✓ Warehouse from where the said goods shall be moved for exports
  - ✓ If the exporter is aggregating goods received from different suppliers the movement of goods would be from suppliers to registered warehouse from where the exporter would move goods for export.

- The Supplier shall endorse receipt of goods, An Ackn has to be provided to supplier, receipt of goods shall be mentioned the same on invoice, this Ackn as well as invoice must be submitted to Jurisdictional officer.
- Exporter would endorse the goods received, & provide acknowledgement of the same to the supplier. This acknowledgement as well as invoice needs to be submitted to the officer having jurisdiction.
- When goods are exported the exporter must provide copy of Bill of Export / Shipping bill with proof of export manifest to supplier as well as jurisdictional officer of the supplier.

If any of above condition is not satisfied by the exporter, the supplier shall be liable for the balance amount of GST as applicable.

To claim the benefit of concessional rate, the burden of compliance put on the exporter as well the supplier is huge. If exporter fails to fulfil the conditions, the supplier will be held liable for the differential GST Amount. In this whole transaction the details of supplier / Margin earned / details of ultimate buyer will be accessible to supplier as well as the ultimate buyer.

Our practical observation is that, most of the exporters are not comfortable with this mode since it amounts to lot of paper work as well disclosure of confidential business information.

## Reference to Sections & Relevant Notifications / Orders / Circulars

<b>Sections:</b>	Section 16 of IGST, Section 147 of CGST.
<b>Notifications:</b>	Notification No 16/2017 – Central Tax, Dated 7 <sup>th</sup> Jul 17
	Notification No.37 /2017 – Central Tax, Dated 4 <sup>th</sup> Oct 17
	Notification No.48 /2017 – Central Tax, Dated 18 <sup>th</sup> Oct 17
	Notification No.49 /2017 – Central Tax. Dated 18 <sup>th</sup> Oct 17
	Notification No.40 /2017 – Central Tax(Rate) Dated 23 <sup>rd</sup> Oct 17
	Notification No.41 /2017 – Integrated Tax (Rate) Dated 23 <sup>rd</sup> Oct 17
<b>Circulars:</b>	Circular No. 2/2/2017-GST, Dated 4 <sup>th</sup> Jul 17
	Circular No. 4/4/2017 – GST, Dated 7 <sup>th</sup> Jul 17
	Circular No. 5/5/2017 – GST, Dated 11 <sup>th</sup> Aug 17
	Circular No.08/2017-CGST, Dated 4 <sup>th</sup> Oct 17
	Circular No. 14/14/2017 – GST, Dated 7 <sup>th</sup> Nov 17
	Circular No.17/2017-CGST, Dated 15 <sup>th</sup> Nov 17
	Circular No.18/2017-CGST, Dated 16 <sup>th</sup> Nov 17
<b>Sectoral Study Material</b>	Sectoral Guidance on Exports

# Note on Exports

V S PARANJAPE & ASSOCIATES LLP  
CHARTERED ACCOUNTANTS 

Updated on 23<sup>rd</sup> Nov 2017

**Disclaimer:** - Above note is prepared based on our understanding and are our views based on understanding of the law/ Notifications/ Circulars. We have made best effort to analyze the various provisions of the act but it should not be treated as professional opinion. You are advised to refer to the provisions of the act and relevant rules before structuring any transactions based on this note.

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**Mayuresh Paranjape,**

**Partner**

**V S Paranjape & Associates LLP**

**Chartered Accountants**

**A |** 1, Commerce Centre, Vishweshawar Nagar Road, Off Aarey Road, Goregaon E, Mumbai 400-063

**E |** [vsparanjape@gmail.com](mailto:vsparanjape@gmail.com)

**W |** [www.vsparanjape.com](http://www.vsparanjape.com)

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