

Note on Inward Supplies to SEZ

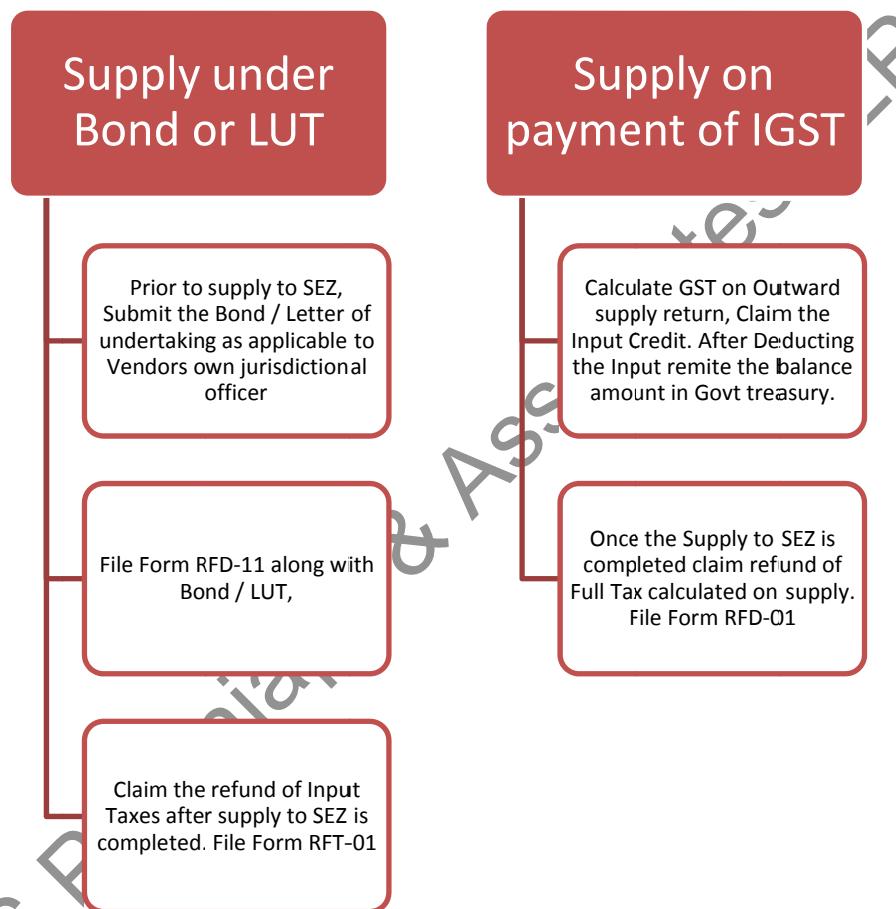
Inward Supplies Made to SEZ Units / SEZ Developers – Zero Rated Supply

Supplies made to SEZ units or Developers of SEZ are treated as zero rated supplies.

There are two options provided under the act for effecting such supplies

- (a) Supplier would make payment of IGST under claim of refund , OR
- (b) Under bond or LUT Without payment of any IGST.

Methodology to be adopted is as follows:



In both above cases option availed needs to be mentioned in the Invoice by the Vendor.

Relevant Reference to Provisions of Act

- Section 16(1) (b) of IGST Act 2017
- Refund Rule 89, 96A

Section Reads as follows

16. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:

(a) export of goods or services or both; or

(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Note on Inward Supplies to SEZ

Nature of Tax (IGST)

All the Supplies to and from SEZ Unit or SEZ Developer are treated as Interstate Supply. Accordingly Nature of Tax would be IGST. Thus vendors must charge IGST if he chooses option of Payment of IGST & full refund of Tax.

Relevant Reference to Provisions of Act

- Section 7(5)(b) of IGST Act 2017
- Section 8(1)(i) of IGST Act 2017

Section 7(5)(b) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) provides that supply of goods or services or both to or by a Special Economic Zone Developer or a Special Economic Zone unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

Proviso (i) to Sub-section (1) of Section 8 of the IGST Act aims to reiterate this Arrangement Relevant Provisions are as below:-

7. (1) Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in--

(5) Supply of goods or services or both,--

(a) when the supplier is located in India and the place of supply is outside India;

(b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or

(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,

shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

To make this point clear following illustration can be considered

A supplier in state of Maharashtra supplies goods/services to SEZ unit in state of Maharashtra.

Such supply would be treated as inter-state supply of goods/services even though the goods have not moved interstate.

Applicability of Rate of Tax

Rate of tax applicable would depend upon the nature of commodity or nature of service. However it would be IGST and rate would be sum of CGST+ SGST.

Note on Inward Supplies to SEZ

Registration by Supplier of goods/services to SEZ

Supplies to SEZ unit or SEZ developer have been accorded the status of inter-State supplies under the IGST Act. Under the GST Law, any supplier making inter-State supplies has to compulsorily get registered under GST. Thus anyone making a supply to a SEZ unit or SEZ developer has to necessarily obtain GST registration.

As such SEZ units would not be in position to receive inward supply of goods/services from the vendors' who is not registered under the GST act.

Relevant Reference to Provisions of Act

- Section 24 (1)(i) of CGST Act, 2017

Section Reads as follows:

24. Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—
(i) persons making any inter-State taxable supply;

Purchases from Unregistered Dealer

As per the provisions of the Law it is obligatory on the part of supplier to SEZ to obtain the registration. But the question may arise when such obligatory registration is not obtained by supplier. Thus in such cases Recipient of goods/services would be liable to pay such tax on reverse charge basis. Thus if a vendor does not register himself and supplies to SEZ, SEZ will have to pay GST on RCM basis.

Relevant Reference to Provisions of Act

Section 5(4) of IGST Act, 2017

Section reads as follows

Sec 5(4) The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both

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Disclaimer:-

Above note is prepared based on our understanding and are our views based on understanding of the law. 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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