



18

Export of Goods, Services and Export Incentives

18.1 Introduction

The export of goods and services always receive special treatment in any taxation. It is the endeavour of the Government to ensure that the exports are made duty/tax free. The Government therefore provides different types of incentives and lays down the procedures for refunding back the duty which have been levied on the input, input services used in manufacture of goods or providing output service or rebate of duty paid on goods or services. The permission to procure the inputs without payment of duty under Notification No. 43/2001-CE, permitting rebate of duty paid on the goods, permitting rebate of duty paid on the inputs, etc. under the Central Excise Act, 1944 are part of the incentives to achieve the objective of making the export duty free. Similarly, under service tax, refund of Cenvat Credit on input service is granted. Similarly, under the Customs Act, 1962, the Government grants duty drawback on export of goods. The Export and Import policy also makes provision for permitting import of goods without payment of duty for use in export product.

The definition of 'export of goods' and services are discussed in this Chapter. The procedure currently being followed for export of goods and claiming of incentives under the Central Excise Act, 1944 and Chapter V of the Finance Act, 1994 are also described in this Chapter for information.

The definition of export of goods and export of services, procedure for export of goods, claiming of rebate for export of goods and services, refund of accumulated credit, manner of declaration in the return, utilization of script granted under export/import policy and other related issues are discussed in this Chapter.

18.2 Contents of the Chapter

(a) Statutory Provisions (refer para 18.3)

- (b) Zero rated supply (**refer para 18.4**)
- (c) Analysis of export of goods (**refer para 18.5**)
- (d) Analysis of export of services (**refer para 18.6**)
- (e) Inter-State Supply (**refer para 18.7**)
- (f) Procedure for export of goods and services (**refer para 18.8**)
- (g) Refund of accumulated credit (**refer para 18.9**)
- (h) Export Rebate/Refund (**refer para 18.10**)
- (i) Expediting refund (**refer para 18.10A**)
- (j) Export by Merchant Exporter (**refer para 18.10B**)
- (k) Processing input under Deemed Export (**refer para 18.10C**)
- (l) Export under Export Promotion Scheme (**refer para 18.10D**)
- (m) Declaration in return (**refer para 18.11**)
- (n) Beneficial Interpretation of export provision (**refer para 18.12**)
- (o) Export Incentives (**refer para 18.13**)

18.3 Statutory Provisions

The sub-sections (5) & (6) of section 2 of IGST Act defines 'export of goods' and 'export of services' respectively. The provisions are reproduced below:

- (5) "export of goods" with its grammatical variations and cognate expressions, means taking out of India to a place outside India;
- (6) "export of service" means supply of any service when—
 - (i) the supplier of service is located in India [Refer **para 18.6-1**]
 - (ii) the recipient of service is located outside India [Refer **para 18.6-2**]
 - (iii) the place of supply of service is outside India [Refer **para 18.6-3**]
 - (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange, and [Refer **para 18.6-4**]
 - (v) the supplier of service and recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8 [Refer **para 18.6-5**]

18.4 Zero-rated supply

The zero-rated supply has been defined in Section 2(23) of the IGST Act, which is reproduced below:

- (23) "zero-rated supply" shall have the meaning assigned to it in section 16;

Therefore, meaning as given in Section 16 of IGST Act is relevant. Sub-section 16(1) defines zero-rated supply as follows:

“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 Zones (SEZ) developer or an SEZ unit.

Thus, export of goods/services and supplies to SEZ developer or an SEZ unit are considered as zero-rated supply. The meaning of export of goods and export of services are discussed in **paras 18.5** and **18.6** respectively.

18.4-1 Input tax credit allowed

Sub-section 16(2) of IGST Act provides that credit of input tax shall be allowed even when no tax is paid at the time of clearance for export of goods or services and supply of goods or services to SEZ. Thus, even if goods are exported/substantiate under bond, the input tax credit on input/input services shall be allowed.

18.4-1a CREDIT PERMITTED EVEN IF EXEMPT SUPPLY - Sub-section 16(2) of the IGST Act further provides that the credit of input tax shall also be allowed even if such supply exempt supply. Exempt supply is defined in section 2(47) of GST Act.

(47) “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

It thus includes the supply of following type of goods and services:

- (a) Non-taxable supply;
- (b) Supply attracting nil rate of tax;
- (c) Supplies exempt under Section 11 of the GST Act excluding IGST and under Section 6 of the IGST Act.

As per section 16(2) the input tax credit will be permitted for export of such goods/services or supplies to SEZ.

18.4-1b PROVISION UNDER CENVAT CREDIT RULES, 2004 - The similar provisions of permitting the credit even if the goods are cleared for export without payment of tax or under exemption is provided in rule 6(6) of Cenvat Credit Rules, 2004. The same are discussed below:

The Rule 6(1) of the Cenvat Credit Rules, 2004 provides that the manufacturer or the provider of output service will not be entitled to claim the credit of inputs or input services which are used for the

manufacture of exempted goods or providing of exempted services. However, rule 6(6) itself allows the credit to the extent attributable to use of inputs and input services in specified exempted goods or for providing exempted services. The Rule 6(6) of the Cenvat Credit Rules, 2004 provides that the provisions of rule 6(1) to 6(4) will not be applicable for the following supplies made:

- “(i) Cleared to a unit in a special economic zone or to a developer of a special economic zone for their authorized operations; or
- (ii) Cleared to a hundred per cent export oriented undertaking; or
- (iii) Cleared to a unit in an Electronic Hardware Technology Park or Software Technology Park; or
- (iv) Supplied to the United Nations or an international organization for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 108/95-CE, dated 28/08/1995, number G.S.R. 602(E), dated 28/08/1995; or
- (v) Supplied for the use of foreign diplomatic missions or consular missions or career consular offices or diplomatic agents in terms of the provisions of Notification No. 12/2012-CE dated 17/03/2012, number G.S.R. 163(E), dated 17/03/2012; or
- (vi) Cleared for export under bond in terms of the provisions of the Central Excise Rules, 2002; or
- (vii) Gold or silver falling under Chapter 71 of the said First Schedule, arising in the course of manufacture of copper or [zinc by smelting; or]
- (viii) All goods which are exempt from the duties of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty leviable under sub-section (1) of section 3 of the said Customs Tariff Act when imported into India and are supplied:—
 - (a) Against International Competitive Bidding; or
 - (b) To a power project from which power supply has been tied up through tariff based competitive bidding; or
 - (c) To a power project awarded to a developer through tariff based competitive bidding;

In terms of Notification No. 12/2012-CE, dated 17/03/2012.

- (ix) Supplies made for setting up of a solar power generation projects or facilities;
- (x) Ethanol produced from molasses generated from cane crushed in the sugar season 2015-16 *i.e.* 1/10/2015 onwards, for supply to the