

Office of the
Commissioner of State Tax,
(GST), 8th floor, GST Bhavan,
Mazgaon, Mumbai-400010.

TRADE CIRCULAR

To,

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No. JC/HQ-I/GST/Bond-LUT/4/2017-18/ADM-08 Mumbai, Date 07/12/2017

Trade Cir. No. 50 T of 2017

Subject : Submission of Bond/Letter of Undertaking by the Exporter in respect of Exports without payment of Integrated Tax under IGST Act.

Ref. : (1) Maharashtra Goods and Services Tax Act, 2017, and
(2) The Integrated Goods and Services Tax Act, 2017.
(3) The Maharashtra Goods and Services Tax Rules 2017.
(4) Circular bearing No. 4/4/2017-GST dated 7th July 2017 issued Commissioner of GST (Central Board of Excise and Customs).
(5) Finance Department Notification No. MGST-1017/C.R.-111/Taxation.-1 dated 11th July 2017.
(6) Trade Circular No. 29T of 2017 dated the 10th July 2017.
(7) Finance Department Notification No. MGST-1017/C.R.-179/Taxation.-1 dated 7th October 2017. (Notification No. 37/2017- State tax).
(8) Circular bearing No. 8/8/2017-GST dated 4th October 2017 issued Commissioner of GST (Central Board of Excise and Customs).

1. Background:

1.1. Your attention is invited towards the Trade Circular No. 29T of 2017 dated the 10th July 2017 cited at Ref. (6) above which explains the procedure to be adopted to accept and process the Bond or the Letter of Undertaking (hereinafter referred to as "LUT").

1.2. In the said Trade Circular, it was stated that,-

"it is hereby informed to the exporters in the State that the Bond or the letter of undertaking in place of Bond in all the cases (irrespective of the fact that the provisional ID for the GST is issued by the State GST Department), will be accepted by the jurisdictional Central Tax officer till the

administrative mechanism for assigning of Taxpayers to respective authority is implemented.

- 1.3. Now, the order of the distribution of cases has already been issued vide Order No. 1/2017-GST/Maharashtra dated 22nd November 2017. Accordingly, the tax payers in the Maharashtra State have been assigned to the State Tax Authority and the Central Tax Authority.
- 1.4. The list of such cases with the Nodal Officer-wise allocation under the jurisdiction of the State Tax Authority is made available at what's new section of the MGSTD web-site www.mahavat.gv.in.
- 1.5. **In view of this, the earlier instructions issued vide Trade Circular No. 29T of 2017 dated the 10th July 2017 reproduced in Para-1.2 above stands withdrawn forthwith.**

2. Option to Export Goods or Services or both under Bond/LUT without payment of Integrated tax:

- 2.1. Sub-section (1) of section 16 of the IGST Act provides that following supplies shall be "Zero-rated"-
 - 2.1.1. export of goods or services or both; or
 - 2.1.2. supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.
- 2.2. Further sub-section (3) of section 16 provides that a registered person making zero rated supply is having following options, -
 - (a) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, **on payment of integrated tax;**
 - (b) 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.**
- 2.3. It may be noted that as per the provisions of rule 96A of the Maharashtra Goods and Services Tax Rules, 2017 (hereinafter referred to as "MGST Rules"), any registered person who intends to export the goods or services or both may exercise an option to export without payment of integrated tax.
- 2.4. However, in order to exercise said option i.e. export without payment of Integrated tax, the registered taxable person, is required to furnish, prior to export, a bond or a Letter of Undertaking in FORM

GST RFD-11 to the jurisdictional Commissioner i.e. to the concerned Nodal Officer, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of

(a) fifteen days after the expiry of three months from the date of issue of the invoice for export, if the goods are not exported out of India; or

(b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

2.5. As per the provisions of sub-rule (5) of rule 96A of MGST Rules, the State Government is empowered to issue notification and provide certain conditions and safeguards under which an exporter may furnish Letter of Undertaking in place of a bond.

2.6. In view of the difficulties being faced by the exporters in submission of bonds/Letter of Undertaking for exporting goods or services or both, without payment of integrated tax, Notification No. 37/2017 – State tax dated 7th October, 2017 has been issued which extends the facility of LUT to all exporters, subject to certain conditions and safeguards. This notification has been issued in supersession of earlier Notification No. 16/2017 – state tax dated 7th July, 2017.

3. In the light of the new Notification No. 37/2017 State tax dated 7th October, 2017 and division of the tax payers between State Tax Authority and the Central Tax Authority, it has become imperative to issue guidelines for providing clarity on the procedure to be followed for export under bond/LUT. Accordingly, to ensure uniformity in the procedure in this regard, the undersigned, in exercise of its powers conferred under section 168 (1) of the Maharashtra Goods and Services Tax Act, 2017 clarifies the following issues:

3.1. **Eligibility to export under LUT:**

3.1.1. The facility of export under LUT has been now extended **to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence**

under the MGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds Rs. 2.5 Cr.

3.1.2. The conditions mentioned in the Finance Department Notification No. MGST-1017/C.R.-111/Taxation.-1 dated 11th July 2017 (Notification No. 16/2017 State tax) which extended the facility of export under LUT to a status holder as specified in paragraph 3.20 and 3.21 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore. These conditions are now relaxed vide notification No. 37/2017 State tax dated the 4th October 2017.

3.2. Submission of LUT/Bond:

3.2.1. The exporter shall submit the LUT or, as the case may be, Bond to the concerned Nodal Officer to whom the said tax payer is assigned.

3.2.2. The list of Nodal Officer-wise allocation of cases is made available at the www.mahavat.gov.in >what's new>. The tax payer who desires to submit the LUT or the Bond is requested to ascertain the allocation of the cases.

3.3. Validity of LUT:

3.3.1. The LUT shall be valid for the **whole financial year** in which it is submitted to the Nodal Officer.

3.3.2. The exporter is required to export the goods or services or both within the time limit specified in the sub-rule (1) of rule 96A of the MGST Rules.

3.3.3. For better understanding the sub-rule (1) of rule 96A of MGST Rules is re-produced below:

“96A. Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking.- (1) Any registered person availing the option to supply goods or services for export without

payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of-

- (a) fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner] from the date of issue of the invoice for export, if the goods are not exported out of India; or
- (b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

3.3.4. If the registered person fails to export the goods within the time limit given in clause (a) or clause (b) shall as per provisions of sub-rule (3) liable to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn on till such payment is made.

3.3.5. However, if the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.

3.4. Form for bond/LUT:

3.4.1. Till the time **FORM-GST-RFD-11** is made available on the common portal, the registered person (exporters) may use the **FORM-GST-RFD-11** annexed to this Trade Circular as **ANNEXURE-A**, or may be downloaded from the website of

the MGSTD i.e. www.mahavat.gov.in>Act and Rule>
Notification>Mah. GST Act.-2017> Notification>2017 i.e.
Notification No. 15/2017 State tax dated 4th July 2017.

3.4.2. The FORM-GST-RFD-011 duly filled and appropriately signed shall be submitted to the Nodal Officer having jurisdiction over principal place of business of the said tax payer.

3.4.3. The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value of Rs. 100.

3.5. Documents for LUT:

3.5.1. Self-declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise.

3.5.2. That is, self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of Notification No. 37/2017- State Tax dated 4th October, 2017. Verification, if required, may be done after the issuance of LUT.

3.6. Time for acceptance of LUT/Bond:

3.6.1. As LUT/Bond is a *pre-requisite* for export without payment of IGST, including exports to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority.

3.6.2. **It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration as stated in para 3.5.2 above by the exporter. If the LUT / bond is not accepted within a**

period of three working days from the date of submission, it shall deemed to be accepted.

3.7. Bank guarantee:

3.7.1. Since the facility of export under LUT has been extended to all registered persons, **bond will be required to be furnished only by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs.**

3.7.2. A bond, in all cases, shall be accompanied by a **bank guarantee of 15% of the bond amount i.e. the self-assessed estimated tax liability mentioned in the said Bond.**

3.8. Clarification regarding running bond:

3.8.1. The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export.

3.8.2. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in case of exports that are yet to be completed, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the State tax officer as and when required.

3.9. Realization of export proceeds in Indian Rupee:

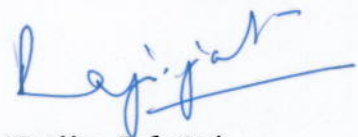
3.9.1. Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that *“there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all*

export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan”.

3.9.2. Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

4. This circular is clarificatory in nature and cannot be made use of for interpretation of provisions of law. If any member of trade has any doubt, he may refer the matter to this office for further clarification.

Yours faithfully,



(Rajiv Jalota)

Commissioner of State Tax (GST)
Maharashtra State, Mazgaon,
Mumbai.

ANNEXURE-A

FORM GST RFD-11 [See rule 96A]

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

1. GSTIN				
2. Name				
State the type of document furnished		Bond:	Letter of Undertaking	
Details of bond furnished				
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,

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 96A)

I/Weof....., hereinafter called "obligor(s)", am/are held and firmly bound to the resident of India (hereinafter called "the President") in the sum of..... rupees to be paid to the resident 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

(2) Name and Address

Occupation

Occupation

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

.....of (Designation)

for and on behalf of the President of India."

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

(See rule 96A)

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 (1) of rule 96A ;

(b) to observe 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

No. JC/HQ-I/GST/Bond-LUT/4/2017-18/ADM-08 Mumbai, Date **07/12/2017**

Trade Cir. No. 50 T of 2017

Copy forwarded for information to,

- (1) The Joint Commissioner of State Tax, (MAHAVIKAS) with a request to upload this Trade circular on MGSTD web-site.
- (2) Deputy Secretary, Finance Department, Mantralaya, Mumbai.
- (3) Under Secretary, Finance Department, Mantralaya, Mumbai.
- (4) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.


(Dhananjay Akhade)

Joint Commissioner of State Tax
(GST Cell), HQ-5, Maharashtra State
Mazgaon, Mumbai