

DEEMED EXPORTS UNDER GST

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Overview and basic understanding

- ▶ The objective of Deemed Exports is to provide a level playing field to domestic manufacturers in certain specified cases as announced by the Government from time to time. Deemed exports refers to transactions in which goods manufactured in India are supplied for specified projects or purposes. Under Deemed Exports, the goods do not leave the Country and payment can be received either in Indian Rupees or in convertible foreign exchange by the supplier. **Deemed exports are truly Import substitution and to the extent of their supplies in India, the corresponding import gets arrested and consequently the outflow of foreign exchange is reduced. By exports, the country earns foreign exchange and through Deemed Exports the spending of foreign exchange is reduced. Both do contribute to the welfare of the Nation.** Therefore, the major benefits of duty concessions for physical exports are also generally extended for Deemed Exports under Foreign Trade Policy as well as GST.

Deemed Exports – Chapter 7 of FTP

- ▶ (i) “Deemed Exports” for the purpose of this FTP refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as specified in Paragraph 7.02 of FTP shall be regarded as “Deemed Exports” provided goods are manufactured in India. – Covers 8 categories of supplies
- ▶ (ii) “**Deemed Exports**” for the purpose of GST would include only the supplies notified under Section 147 of the CGST/SGST Act, on the recommendations of the GST Council. The benefits of GST and conditions applicable for such benefits would be as specified by the GST Council and as per relevant rules and notification. – Covers 4 categories of Supplies

Statutory provisions – CGST Act, 2017

- ▶ Section 2(39) - “deemed exports” means such supplies of goods as may be notified under section 147
- ▶ Section 147 - The Government may, on the recommendations of the Council, **notify certain supplies of goods** as deemed exports, **where goods supplied do not leave India**, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, **if such goods are manufactured in India.**

NOTIFIED DEEMED EXPORTS : N.No. 48/2017 – CGST dt. 18/10/17

S.No.	Description of supply
1	Supply of goods by a registered person against Advance Authorisation
Analysis	<p>Under Chapter 4 of FTP, Advance Authorisation is issued to a Manufacturer Exporter to allow duty free import of inputs, which are physically incorporated in export product.</p> <p>In order to provide a level playing field to domestic manufacturers, holder of an Advance Authorisation is allowed to procure inputs from domestic manufacturer, in lieu of direct import, and same has been regarded the status of Deemed Exports under GST, to nullify tax implication.</p>

ADVANCE AUTHORISATION

- ▶ Advance Authorisation (formerly known as Advance License) is input duties neutralisation scheme to reduce working capital requirement for exporters by way of duty exemptions.
- ▶ Primarily issued to manufacturer exporters for physical exports (including SEZ supplies)
- ▶ Advance Authorisation is issued to allow **duty free import of inputs**, which are physically incorporated in the export product.
- ▶ Exemption from payment of Basic Customs Duty, Additional Customs Duty, Anti-dumping Duty, Safeguard Duty, etc. where applicable on imports subject to conditions.
- ▶ Exemption from payment of **IGST and Compensation Cess on imports** is available upto 31.03.2021.
- ▶ **Holder of an Advance Authorisation can also procure inputs from indigenous supplier and tax implication is nullified by regarding such domestic supplies as Deemed Exports.**

NOTIFIED DEEMED EXPORTS : N.No. 48/2017 – CGST dt. 18/10/17

S.No.	Description of supply
2	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization
Analysis	<p>Under Chapter 5 of FTP, Capital goods imported under EPCG Authorisation for physical exports are exempt from import duties including IGST and Compensation Cess.</p> <p>The Authorisation holder may also procure Capital Goods from indigenous sources in accordance with provisions of FTP and same is regarded the status of Deemed Exports under GST to nullify tax implication.</p>
3	Supply of goods by a registered person to Export Oriented Unit (including EHTP, STP, BTP) – Procedure prescribed vide <i>Circular No. 14/14 /2017 - GST dt. 6/11/17</i>
Analysis	<p>Units undertaking to export their entire production of goods or services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme. These units are entitled for duty free import of inputs.</p> <p>In order to provide level playing field to domestic suppliers, EOUs are allowed to procure inputs from domestic suppliers and same is regarded as Deemed Exp.</p>

NOTIFIED DEEMED EXPORTS : N.No. 48/2017 – CGST dt. 18/10/17

S.No.	Description of supply
4	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 this 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 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**.

DEEMED EXPORTS vs. PHYSICAL EXPORTS (Zero-rated supplies)

Basis of Difference	Deemed Exports	Physical Exports (Zero-rated)
Scope	Notified supplies of goods wherein Goods do not leave India	Goods physically leave India
Treatment	Not covered under zero-rated supplies First, tax is required to be paid to Exchequer and subsequently refund is claimed. (No Option of LUT)	Covered under zero-rated supplies Without payment of tax under LUT – refund of ITC, or With payment of tax (IGST) and refund thereof
Who can claim refund ?	Either supplier or recipient whosoever has borne the incidence of tax	Exporter
Sanctioning Authority	Jurisdictional GST Officer	Without payment – ITC refund by jurisdictional GST officer With payment – IGST refund by Customs
Illustration	Ram supplying Products A, B, & C which are inputs for Shyam for manufacturing product X for Export	Shyam physically exporting product X to a buyer in USA

ADVANTAGE OF INTRODUCING THE CONCEPT OF DEEMED EXPORTS UNDER GST

- ▶ Supply of goods by a registered supplier to advance authorisation holder, or EPCG authorisation holder, or EOU has been regarded the status of deemed exports under GST.
- ▶ These supplies would have otherwise attracted GST liability and the recipients would have borne the incidence of such tax and subsequently claimed refund thereof through ITC route after undertaking physical exports i.e. zero-rated supplies.
- ▶ However, by regarding the status of deemed exports, either the recipients will not bear the incidence of tax and supplier will claim the refund of tax paid out of his own pocket. Or, the recipients will bear the incidence of tax and then instantly claim refund thereof, thereby minimizing the blockage of funds in the form of taxes.

PROCEDURE OF OBTAINING REFUND OF TAX PAID ON DEEMED EXPORTS

THIRD PROVISOR TO RULE 89(1) OF CGST RULES, 2017

In respect of supplies regarded as deemed exports, the application may be filed by, -

- a) the **recipient** of deemed export supplies; or
- b) the **supplier** of deemed export supplies 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

TIME LIMIT UNDER EXPLANATION TO SECTION 54

2 years from the date on which the return relating to such deemed exports is furnished

THANKS
AND
REGARDS

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