

Export under GST regime - An Overview

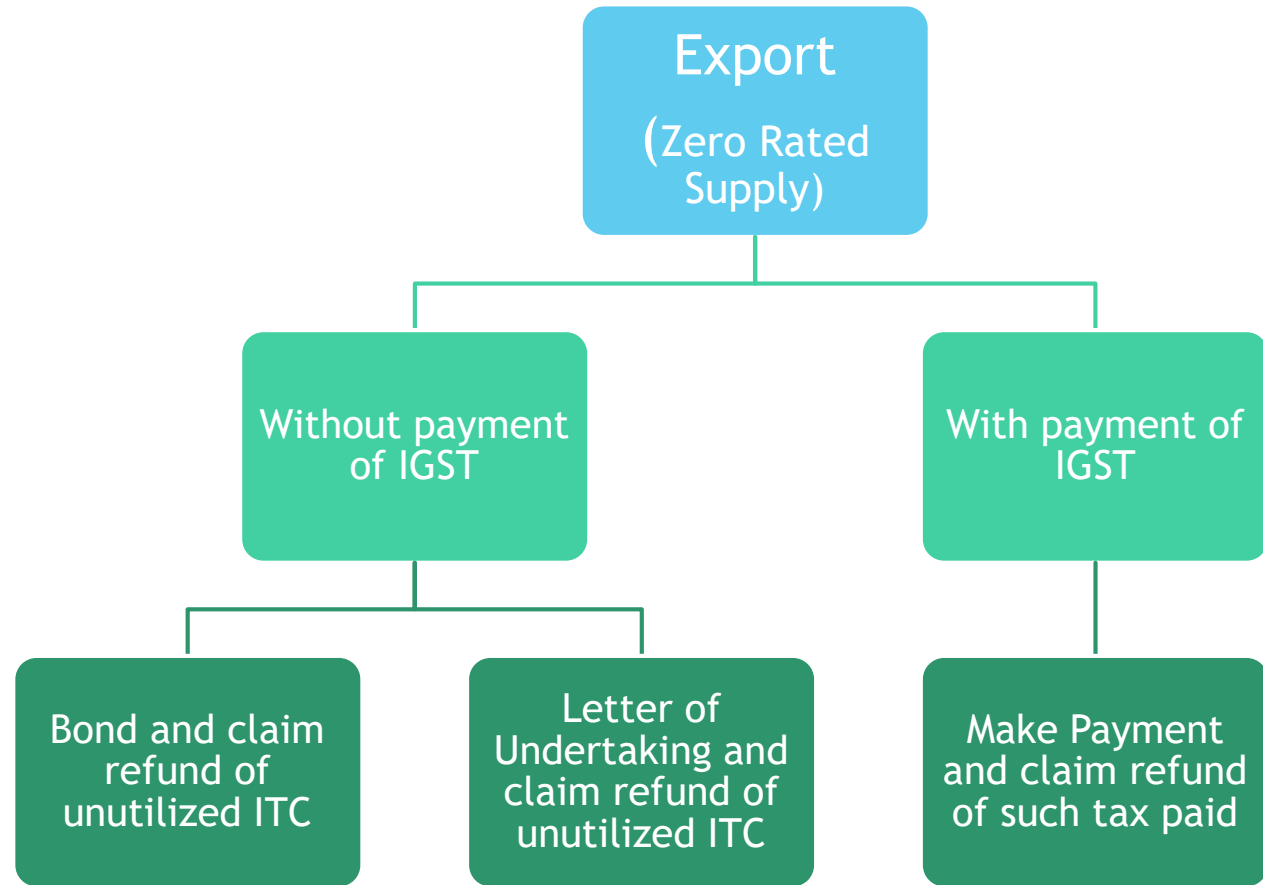


Compiled by:-
CA Narottam Rawat
CA Nitesh Jain

Legal Provisions related to Export

Section/Rule/Not./Circ.	Description
Section 16 of IGST Act, 2017	Zero Rated Supply
Rule 96A of CGST Rules, 2017	Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking.
Notification No. 16/2017-Central Tax, dated 7 th July 2017	Conditions and safeguards for furnishing a Letter of Undertaking in place of a bond for export without payment of integrated tax.
Circular No. 2/2/2017-GST, dated 4 th July 2017	Issues related to furnishing of Bond/ Letter of Undertaking for Exports.
Circular No. 4/4/2017-GST, dated 7 th July 2017	Regarding issues related to Bond/Letter of Undertaking for exports without payment of integrated tax.
Circular No. 26/2017-Custom, dated 1 st July 2017	Clarified that the procedure as prescribed under rule 96A of the said rules requires to be followed for the export of goods from 1st July, 2017.
Form GST RFD - 11	Furnishing of bond or Letter of Undertaking for export of goods or services.

Section 16 of IGST



Note:

Refund of ITC is not allowed in case Export is Subject to GST



Eligibility for Submission of LOU in place of BOND:

[Notification No. 16/2017 - Central Tax]

A status holder as per para 3.20 & 3.21
of FTP 2015-2020;
or

Received the due foreign inward
remittances amounting to a minimum
of 10% of the export turnover, which
should not be less than one crore
rupees, in the preceding F.Y,

AND

Has not been prosecuted for any offence under the CGST Act, 2017 or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

Note:- All exporters not fulfilling the above condition is required to submit BOND



Important things to consider by an Exporter

- ▶ **Endorsement on Invoice is compulsory:**
 - ▶ “SUPPLY MEANT FOR EXPORT ON PAYMENT OF INTEGRATED TAX” or
 - ▶ “SUPPLY MEANT FOR EXPORT UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX”
- ▶ **Many provisions earlier were not applicable on Service Exporters are now applicable like furnishing of Bond/ LOU**
- ▶ **IE Code is replaced of By PAN based Number, currently just use PAN Number on Invoice.**

FAQs [Circular No. 2/2/2017 & 4/4/2017 - GST]

Q.1. To whom the Letter of Undertaking or BOND will be furnished?

Ans: It has to be furnished to Jurisdictional Deputy/Assistant Commissioner.

Q.2. How i will submit LOU/Bond i.e. Online or Manually?

Ans: It has to be furnished manually in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal.

Q.3. What is the last date for filling GST RFD - 11 for existing exporters?

Ans: Exports may be allowed under existing LUTs/Bonds till 31st July 2017. Exporters shall submit the LUTs/bond in the revised format latest by 31st July, 2017.

Q.4. For what period Letter of undertaking will be valid?

Ans: It shall be valid for twelve months, unless exporter fails to comply with the conditions of Letter of undertaking.

Q.5. How to decide the amount of bond to be furnished?

Ans: The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself.

Q.6. Whether bank guarantee is required to be furnished in case of Bond? If yes, what should be the amount of such bank guarantee?

Ans: Based on your track record jurisdictional commissioner may either waive off the requirement of Bank Guarantee or decide the amount of bank guarantee to be furnished which shall normally not exceed 15% of the bond amount.

Q.7. Whether bond to be furnished for exports is a running bond (with dr./cr. facility) or a one-time bond (separate bond for each consignment/export)?

Ans: In case exporter is required to furnish a bond, in Form GST RFD-11, a running bond (with debit/credit facility) will be furnished.

Q.8. What if the amount of Bond submitted is insufficient for further export?

Ans: The exporter shall be required to furnish a fresh bond to cover such liability.

Enclosures:

- ▶ We are enclosing notifications/ Circulars issued by the department for your ready reference.
- ▶ We are also enclosing soft-copies of the BOND/LOU in word format for your convenience.

Thankyou!

To give your To give your suggestions / for future updates join our
WhatsApp group on GST ping us on: +91-8287942035

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUBSECTION (i)]**

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs**

Notification No. 16/2017 – Central Tax

New Delhi, the 7th July, 2017

G.S.R... ()E.- In exercise of the powers conferred by sub-rule (5) of rule 96A of the Central Goods and Services Tax Rules, 2017, the Central Board of Excise and Customs hereby specifies the conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax, for furnishing a Letter of Undertaking in place of a Bond.

i. The following registered person shall be eligible for submission of Letter of Undertaking in place of a bond:-

- (a) a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020; or
- (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,

and he 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 in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

ii. The Letter of Undertaking shall be furnished in duplicate for a financial year in the annexure to FORM GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 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 on the letter head of the registered person.

[F. No. 349/74/2017 – GST]

(Dr. Sreeparvathy S. L.)
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs**

Corrigendum

**New Delhi, the 10th July, 2017
19 Ashadha, 1939 Saka**

G.S.R. (E):- In the notification of the Government of India, in the Ministry of Finance, Department of Revenue, No.16/2017-Central Tax , dated the 7th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 848(E), dated the 7th July, 2017,-

in line 6, *for* “paragraph 5” *read* “paragraphs 3.20 and 3.21”.

[F.No 349/74/2017-GST(Pt)]

-sd-

(Dr. Sreeparvathy S. L.)

Under Secretary to the Government of India

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 4th July, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)

Madam/Sir,

Subject: Issues related to furnishing of Bond/ Letter of Undertaking for Exports–Reg.

Various communications have been received from the field formations and exporters on the issue of difficulties being faced while supplying the goods or services for export without payment of integrated tax and filing the FORM GST RFD -11 on the common portal (www.gst.gov.in), because of which exports are being held up.

2. Whereas, as per rule 96A of the Central Goods and Services Tax Rules, 2017, 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. This bond or Letter of Undertaking is required to be furnished in FORM GST RFD-11 on the common portal. Further, Circular No. 26/2017- Customs dated 1st July, 2017 has clarified that the procedure as prescribed under rule 96A of the said rules requires to be followed for the export of goods from 1st July, 2017.

3. Another issue being raised by various stakeholders is that the Bond/Letter of Undertaking is required to be given through the proper officer which is to be furnished to the jurisdictional Commissioner as per sub-rule (1) of rule 96A of the said rules. Taking cognizance of the fact that a large number of such Bonds/Letter of Undertakings would be required to be filed by the registered exporters who would be located at a distance from the office of the jurisdictional Commissioner, it is understood that the furnishing of such bonds/undertakings before the jurisdictional Commissioner may cause hardship to the exporters.

4. Thus, in exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, 2017, it is hereby stated that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter under rule 96A of the said rules shall be done by the jurisdictional Deputy/Assistant Commissioner.

5. Further, in exercise of the powers conferred by section 168 of the said Act, for the purpose of uniformity in the implementation of the said Act, the Bond/Letter of Undertaking required to be furnished under rule 96A of the said rules may be furnished manually to the jurisdictional Deputy/Assistant Commissioner in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal. The exporters may download the FORM GST RFD-11 from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner.

6. The above specified provisions shall be applicable to all applications which have been filed on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

7. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/-
(Upender Gupta)
Commissioner (GST)

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
(GST Policy Wing)**

New Delhi, the 7th July, 2017

To,

**The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners/
Commissioners of Central Tax (All)**

Madam/Sir,

**Subject: Issues related to Bond/Letter of Undertaking for exports without payment
of integrated tax – Reg.**

Various communications have been received from the field formations and exporters that difficulties are being faced in complying with the procedure prescribed for making exports of goods and services without payment of integrated tax with respect to furnishing of bonds/Letter of Undertaking. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, these issues are being clarified hereunder.

2. As per rule 96A of the Central Goods and Services Tax Rules, 2017 (The CGST Rules), any registered person exporting goods or services without payment of integrated tax is required to furnish a bond or a Letter of Undertaking (LUT) in FORM GST RFD-11.

3. Attention is invited to notification No. 16/2017-Central Tax dated 01-07-2017 vide which the category of exporters who are eligible to export under LUT has been specified along with the conditions and safeguards. All exporters, not covered by the said notification, would submit bond. The procedure for submission and acceptance of bond has already been prescribed vide circular No. 2/2/2017-GST dated 4th July, 2017. The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished.

4. A clarification has been sought as to whether bond to be furnished for exports is a running bond (with debit / credit facility) or a one-time bond (separate bond for each consignment / export). It is observed consignment wise bond would be a significant compliance burden on the exporters. It is directed that the exporters shall furnish a running bond, in case he is required to furnish a bond, in FORM GST RFD -11. The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself. The exporter shall ensure that the outstanding tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the tax liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability.

5. FORM RFD -11 under rule 96A of the CGST Rules requires furnishing a bank guarantee with bond. Field formations have requested for clarity on the amount of bank guarantee as a security for the bond. In this regard it is directed that the jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

6. As regards LUT, it is clarified that it shall be valid for twelve months. If the exporter fails to comply with the conditions of the LUT he may be asked to furnish a bond. Exports may be allowed under existing LUTs/Bonds till 31st July 2017. Exporters shall submit the LUTs/bond in the revised format latest by 31st July, 2017.

7. It is further stated that the Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayer to respective authority is implemented. However, if in a State, the Commissioner of State Tax so directs, by general instruction, to exporter, the Bond/LUT in all cases be accepted by Central tax officer till such time the said administrative mechanism is implemented. Central Tax officers are directed to take every step to facilitate the exporters.

8. Attention is further invited to circular No. 26/2017 – Customs dated 1st July 2017, vide which it has been clarified that the existing practice of sealing the container with a bottle seal

under Central Excise supervision or otherwise would continue till 01st September, 2017. Such sealing shall be done under the supervision of the officer having physical jurisdiction over the place of business where the sealing is being done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

9. These instructions shall apply to exports on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

-sd-
(Upender Gupta)
Commissioner (GST)

FORM GST RFD-11*[See rule 96A]***Furnishing of bond or Letter of Undertaking for export of goods or services**

1. GSTIN				
2. Name				
3. Indicate the type of document furnished			Bond: <input type="checkbox"/> Letter of Undertaking <input type="checkbox"/>	
4. Details of bond furnished				
Sr. 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/We.....of.....,hereinafter called "obligor(s)", am/are held and firmly bound to the President of India (hereinafter called "the President") in the sum of.....rupees to be paid to the President 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

Occupation

(2) Name and Address

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