

**GOVERNMENT OF WEST BENGAL  
DIRECTORATE OF COMMERCIAL TAXES  
14, BELIAGHATA ROAD, KOLKATA-700015**

TRADE CIRCULAR NO. 07/2017

DATED: 19.07.2017

**Subject:** Clarification/Guidelines regarding submission of Bond/Letter of Undertaking (LUT) by the Exporters in respect of Exports without payment of Integrated Tax under WBGST/ CGST Rule 96A.

**Ref: Relevant Ordinance/Act/Notification/Circular in this regard-**

- (a) West Bengal Goods and Services Tax Ordinance, 2017;
- (b) The Integrated Goods and Services Tax Act, 2017;
- (c) West Bengal Goods and Services Tax Rules, 2017;
- (d) Notification No. 16/2017 dated 07.07.2017 of Department of Revenue (Central Board of Excise & Customs), Ministry of Finance, Government of India;
- (e) Circular No.4/4/2017-GST of Commissioner of GST (Central Board of Excise & Customs)

A number of queries have been received from the Trade Associations and Exporters regarding procedure to be followed for export of goods and services under the GST regime. This issue is examined in detail.

- (1) Section 16(3) of the IGST Act, 2017 provides that a registered person making 'Zero Rated' supply is eligible to claim refund of unutilised input tax credit in case he supplies goods or services or both under bond or Letter of Undertaking (herein after referred to as "LUT"), subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax. Alternatively, he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the West Bengal Goods and Services Tax Ordinance 2017 and the rules made there under
- (2) In accordance with the provisions of rule 96A of West Bengal Goods and Services Tax (Third Amendment) Rules, 2017 a registered person availing of the option of supplying goods or service for export without payment of Integrated Tax is required to furnish, prior to export, a Bond or a LUT in Form GST RFD-11 to the jurisdictional Commissioner binding himself to pay the tax due along with interest in terms of sub-section (1) of section 50 within a period of –
  - (a) Fifteen (15) days after the expiry of three months from the date of issue of Invoice for export, if the goods are not exported out of India; or
  - (b) Fifteen (15) days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of Invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

- (3) In terms of provision of sub-rule (5) of the aforesaid rule 96A, the State Government is empowered to issue Notification and specify certain conditions and safe-guards under which an exporter may furnish LUT in place of Bond.
- (4) In view of this, attention of Trade Associations, exporters is invited to the following procedure [*cited as Ref. (d) & (e) on Page 1*] that is required to be followed while furnishing of Bond or LUT:
- (a) **the following registered persons shall be eligible for submission of LUT in Form GST RFD-11 in place of Bond:**
- [i] A status holder as specified in the Foreign Trade Policy 2015-20 (relevant portion is annexed herewith); or
  - [ii] Who has received the due Foreign Inward Remittances amounting to a minimum of 10% of the Export Turnover, which should not be less than 1 crore rupees the in preceding financial year, and he has not been prosecuted for any offence under the West Bengal Goods and Services Tax Ordinance, 2017 or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.
- (b) The LUT 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 West Bengal Goods and Services Tax (Third Amendment) 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.
- (c) **All exporters, not covered under Para 4 (a) of this Circular, would have to submit Bond.**
- (d) A running Bond is required to be furnished in Form GST RFD-11 under rule 96A of the West Bengal Goods and Services Tax Rules, 2017. 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.
- (e) Further, FORM RFD-11 under rule 96A of the West Bengal Goods and Services Tax (Third Amendment) Rules, 2017 requires furnishing a bank guarantee with bond. It is pointed out here that the Commissioner may decide on the amount of Bank Guarantee not exceeding 15% of the Bond amount, depending upon the track record of the exporter. However, if the Commissioner is satisfied with the track record of an exporter, he may dispense with this requirement of furnishing of bank guarantee with bond.
- (f) As regards LUT, it is also clarified that the LUT shall be valid for a period of twelve months. If the exporter fails to comply with the conditions of the LUT he may be asked to furnish a bond.
- (g) Further, in exercise of the powers conferred by section 168 of the West Bengal Goods and Services Tax Ordinance, 2017, for the purpose of uniformity in the

implementation of the said Ordinance, the Bond or the LUT required to be furnished under rule 96A of the West Bengal Goods and Services Tax (Third Amendment) Rules, 2017 may be furnished manually in non-judicial stamp paper to the jurisdictional Senior Joint Commissioner or Joint Commissioner, as the case may be, in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal and furnish the duly filled form to the jurisdictional Senior Joint Commissioner or Joint Commissioner, as the case may be. Moreover, 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 taxpayers to respective authority is implemented,

(h) It is also clarified in this respect that, the Bond or the LUT, as the case may be, will be accepted by the officer not below the rank of State Tax Officer, having jurisdiction over the principal place of business of the exporter.

The Bond amount, corresponding Bank Guarantee, if any, shall be reviewed continuously and matched with the returns filed by the exporters. Instruction to the exporters shall be issued immediately in case of the Bond becomes insufficient to cover the estimated tax liability for future exports.

[5] This Circular shall apply to exports on or after 1<sup>st</sup> July, 2017.

[6] This Circular is clarificatory in nature and not meant for interpretation of provisions of relevant act and rules.

Sd/- 19/07/2017  
(Smaraki Mahapatra)  
Commissioner,  
State Tax, West Bengal

Memo. No. 677CT/PRO  
3C/PRO/2015

Date: 19.07.2017

Copy forwarded to the Senior Joint Commissioner, Commercial Taxes/ ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/- 19/07/2017  
(Adesh Kumar)  
Addl.CCT & PRO

**:ANNEXURE:**

**3.20 Status Holder:**

- (a) Status Holders are business leaders who have excelled in international trade and have successfully contributed to country's foreign trade. Status Holders are expected to not only contribute towards India's exports but also provide guidance and handholding to new entrepreneurs.
- (b) All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition depends upon export performance. An applicant shall be categorized as status holder upon achieving export performance during current and previous two financial years, as indicated in paragraph 3.21 of Foreign Trade Policy. The export performance will be counted on the basis of FOB value of export earnings in free foreign exchange.
- (c) For deemed export, FOR value of exports in Indian Rupees shall be converted in US\$ at the exchange rate notified by CBEC, as applicable on 1st April of each Financial Year.
- (d) For granting status, export performance is necessary in at least two out of three years.

**3.21 Status Category:**

Status Category	Export Performance FOB / FOR (as converted) Value (in US \$ million)
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2000

[Extract from FOREIGN TRADE POLICY (1st April, 2015 – 31st March, 2020, Department of Commerce, Ministry of Commerce and Industry, Government of India]

**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: Letter of Undertaking:

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.

Date:  
Place:

Signature of Authorized Signatory

Name.....

Designation/ Status.....

**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).

Date: Signature(s) of obligor(s)

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 and Services Tax Identification Number ..... 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 (9) of rule 96 ;
- (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