

Concept of Zero-rated supplies:

Section 16 of IGST Act, 2017 states that supply of goods/ services to SEZ Developer/ units are “zero rated supplies” and has provided the following options for the suppliers:

1. Supply of goods/ services without payment of integrated tax (IGST) under bond or Letter of Undertaking and claim refund of unutilized input tax credit.
2. Supply goods/ services on payment of integrated tax (IGST) and claim refund of IGST paid. However, it has to be noted that input tax credit on inward supplies is available even though the supplies made to SEZ units are exempted from payment of GST.

Procedure for making Zero-rated supplies without payment of tax:

Execution of LUT:

Rule 96A of CGST Rules, 2017 prescribes the procedure to be followed for zero rated supplies under bond or letter of undertaking which requires the supplier to furnish a bond or Letter of Undertaking (LUT) before making such supply binding himself to pay tax dues along with interest within a period of

1. 15 days after expiry of 3 months or further period extended by Commissioner from the date of invoice for export, if goods are not supplied;
2. 15 days after expiry of 1 year or further period extended by Commissioner from the date of invoice for export, if payment of such service is not received by the supplier in foreign exchange or Indian rupees wherever permitted by RBI.

LUT shall be applied electronically in Form RFD-11 and the same would be valid for the remaining part of the year and a fresh application shall be filed every year.

However, any person who has been prosecuted for an amount of Rs.2.5 Crores or above is not eligible to furnish LUT.

Invoicing:

Rule 46 of CGST Rules, 2017 requires every registered person making supplies to SEZ units/developers to raise invoice with the following endorsements

1. Supplies under Bond/LUT:

SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORIZED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX (IGST)

2. Supplies with payment of IGST:

“SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORIZED OPERATIONS ON PAYMENT OF INTEGRATED TAX (IGST) In addition to above, in case of supply under Bond/LUT the supplier shall indicate the Bond/LUT number on the invoice.

Endorsement:

SEZ Amendment Rules, 2018 requires every registered person supplying goods/services to SEZ units or Developers to get the endorsement on the invoice prescribed under CGST Rules, 2017 or Bill of Export as the case may be by the Authorized Officer. In case of supply of goods, the authorized officer would endorse the invoice copies showing the receipt of goods and in case of services, the SEZ Unit/Developer would endorse the invoice copies showing the receipt of services.

Such endorsed invoice or Bill of Export shall be treated as proof of export and a copy of such endorsement shall be forwarded by the SEZ unit or Developer to the jurisdictional GST officer having jurisdiction over the supplier within 45 days. If SEZ

unit/Developer fails to forward such endorsement then the jurisdictional officer can raise demand on the Supplier.

Documents to be submitted for endorsement:

The supplier of goods or services shall submit the following documents for endorsement by the Authorized Officer

1. A statement containing the number and date of invoices;
2. In case of supply without payment of IGST, copies of invoices as prescribed under GST Act and Rules from the registered supplier clearly mentioning the details of Bond/LUT;
3. In case of supply with payment of IGST, copies of invoices as prescribed under GST Act and Rules from the registered supplier clearly mentioning the IGST paid amount.

Caution:

Not every supply made to a Special Economic Zone can be treated as zero-rated supply. Only the supplies which are used for authorized operations shall be treated as Zero-Rated Supply. Though Section 16 do not explicitly use the term 'authorized operations', the department is of the view that only the supplies used for authorized operations shall be treated as 'Zero-rated Supplies'.

Reverse Charge Mechanism:

There is a lot of confusion with respect to applicability of reverse charge mechanism if the supplier does not execute LUT/Bond.

One view is that Reverse Charge Mechanism liability will attract and the SEZ Supplier shall pay GST and avail ITC of GST paid.

The other view is that irrespective of execution of Bond/LUT by the supplier, the supplies amount to 'Zero-rated supplies' once it is supplied to 'SEZ Unit/developer' and there is no liability to discharge GST.