

MONTHLY NEWSLETTER

GST TRACKER

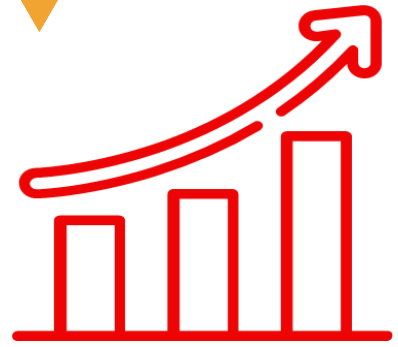
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DATA



Business



INSIGHTS

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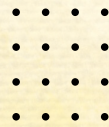


APRIL MEETING TOPIC



ASSESSMENT UNDER GST

23rd April 2022 Sat



11 am - 12 pm Online

COVERAGE

- Self assessment
- Provisional Assessment
- Scrutiny of returns
- Assessment of non filers of return
- Assessment of Unregistered Person
- Summary assessment
- Audit by Tax Authority
- Special Audit



CA TARUN ARORA

Speaker

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EDITOR'S NOTE

Beginning of the April get us enter into new Financial Year. With the blessings of Lord Ganesha, let's start this financial year and pray healthy and prosperous life for all.

Goods and service tax (GST) collections touched an all-time high of over ₹1.42 lakh crore in March 2022. Hoping GST collect to touch astonishing heights in the new Financial year



(Founder Pakkabil)

"Treatment of Transactions relating to SPECIAL ECONOMIC ZONE" under GST Scenario.

Mr. Seethapathi Rao Bharatam is a B.Com, B.L. graduate from Andhra University and practicing in the area of VAT (Indirect Taxes) in Kakinada since 1985. He owns a proprietary firm BSR Associates providing the consultancy services on monthly retainer-ship basis in the area of Indirect Taxes like VAT, Professional Tax, Luxury Tax, Entry Tax and Service Tax to the Oil & Gas multinational companies in Kakinada. Email: sitapathirao@yahoo.co.in



B.S. SEETHAPATHI RAO

What is a Special Economic Zone?

Special Economic Zone means an area in the country that is subject to different economic regulations than other regions within the same Country. The Special Economic Zone economic regulations influence to be conducive to and attract FDI (Foreign Direct Investment). Foreign Direct Investment (FDI) refers to any investment made by a firm or company or Individual in one Country into business interests located in another Country. When a Country or Individual or Company conducts business in a Special Economic Zone (SEZ) , there are typically additional economic advantages for them, including tax incentives and the opportunity to pay lower taxes.

Further Special Economic Zones (SEZs) are typically created in order to facilitate fast economic growth by exploiting tax incentives to attract Foreign Investment and Spark Technological advancement.

Special Economic Zones may also increase export levels for the implementing Country and other Countries that supply it with intermediate products. Nevertheless, there is a risk that countries may harass the system and use it to retain Nationalist barricade (in the form of taxes and fees). Special Economic Zones can also create a high level of administration due to their regulatory requirements. This can have the effect of direct money away from the system, making it less efficient.

Definition of Special Economic Zone under SEZ Act:

Section 2 (za) of SEZ Act,2005----"Special Economic Zone " means each Special Economic Zone " notified under the proviso to sub-section(4) of Section 3 and sub-section (1) of Section 4 (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zones.

*Note: We have to refer important definitions of certain terms appearing in the SEZ Act,2005 in the GST Scenario.

Definition of Special Economic Zone under GST Law:

Section 2(19) of IGST Act--- Special Economic Zone shall have same meaning as assigned to it in clause (za) of Section 2 of the Special Economic Zones Act,2005.

It is pertinent to refer clause (i) of Section 2 which defines that “Domestic Tariff Area” means the whole of India but does not include the areas of the Special Economic Zones.

Supplies to special economic zones are “ZERO” rated as per the IGST Act 2017. Zero rating means that the entire supply chain of a particular “ZERO –RATED supply” is free of GST. Nevertheless, in the case of exempted supplies, output alone is exempted and GST is applicable on the input side.

The main objective of the Special Economic Zone Scheme is generation of additional economic activity, promotion of exports of goods and services, promotion of investment from domestic and foreign sources, creation of employment opportunities along with the development of infrastructure facilities.

As per Section 2(m) of SEZ act,2005 “EXPORT” means :-

Taking goods, or providing services, out of India, from a Special Economic Zone by land, sea or air or by any other mode, whether physical or otherwise, or,

Supplying goods, or providing services from the Domestic Tariff Area to a Unit or Developer, or,

Supplying goods, or providing services from one Unit to another Unit or Developer, in the same or different Special Economic Zone.

Definition of Authorised Operations under SEZ Act:

As per Sec.2(c) of the SEZ Act,2005, ---operations which may be authorised under Section 4 Sub-section(2) of SEZ Act,2005” After the appointed day, the Board may, authorise the Developer to undertake in Special Economic Zone, such operations which the Central Government may authorise. and sub-section (9) of Section 15, and Section 15 sub-section (9) of SEZ Act, 2005,” The Development Commissioner may, after approval of the proposal referred to in sub-section(3) , grant a letter of approval to the person concerned to set up a Unit and undertake such operations which the Development Commissioner may authorise and every such operation so authorised shall be mentioned in the letter of approval.

Definition of Developer under SEZ Act 2005:

As per Section 2(g) of SEZ Act,2005---- a person who or a State Government which, has been granted by the Central Government a letter of approval under sub-section(10) of Section 3 and includes an Authority and a Co-Developer.

As per Section 3 sub-section (10) of SEZ Act2005, the Central Government shall, on receipt of communication under clause (a) or clause (b) of sub-section (9) , grant within such time as may be prescribed, a letter of approval on such terms and conditions and obligations and entitlements as may be approved by the Board, to the Developer , being the person or the State Government concerned;

Provided that the Central Government may, on the basis of approval of the Board, approve more than one Developer in a Special Economic Zone in cases where one Developer does not have in his possession the minimum area of contiguous land, as may be prescribed, for setting up a Special Economic Zone and in such cases, each Developer shall be considered as a Developer in respect of the land in his possession.

What is the minimum area requirement for the company to get approval for Special Economic Zone?

The Minimum land requirement for multi-products Special Economic Zones may be brought down to 250 hectares from 1000 hectares, now, while the maximum area would remain capped at 5000 hectares.

Who is specified officer in Special Economic Zone?

As per Section 2(zd) of SEZ Act,2005, Special Officer “in relation to a Special Economic Zone means Joint or Deputy or Assistant Commissioner of Customs for the time being posted in the Special Economic Zone’

As per Sec.2 (ze) of SEZ Act,2005 “Status holder “ means an exporter recognized under the Foreign Trade Policy.

Can entrepreneurs purchase land in Special Economic Zone?

No, Special Economic Zone cannot sell land to the entrepreneurs, therefore the need to allot pieces of land, with or without building thereupon, on lease basis only. As per the Special Economic Zone Act,2005, Special economic Zone can be set up either jointly or severally by the Central Government, State Government or any person (including a private limited Company , Partnership or Proprietorship) for the purpose of Manufacturing of goods or Services to be rendered.

What are the facilities given in Special Economic Zone?

The incentives and facilities offered to the units in Special Economic Zones for attracting investments into the SEZs, including foreign investments include, Duty Free Import/ Domestic procurement of goods for development, operation and maintenance of Special Economic Zone units.

What are the compliances to be followed by SEZs?

Special Economic Zones are duty –free spaces where enterprises which get recognition as SEZ units operate business in a more liberal environment Entities within SEZs are offered assistance through foreign contributions without much government interference.

What is DTA under SEZ Act?

As per Section 2(i) of SEZ Act,2005, “Domestic Tariff Area” (DTA) means the whole of India (including the territorial water and continental shelf) but does not include the areas of the Special Economic Zones.

What is a Domestic Tariff Area (DTA) sale in SEZ?

Domestic Tariff Area sales in SEZ means “ A unit may sell goods and services in the Domestic Tariff Area (DTA) on payment of Customs Duties. The DTA buyer shall file “Bill of Entry” for home consumption along with the required documents with the Authorised officers of the Special Economic Zone.

What is Domestic Tariff Area (DTA) Transaction?

Domestic Tariff Area means the area which is not under Customs bonded. The term DTA is used by the trade in exported goods, imported goods or locally procuring or manufacturing goods where in any kind of duty is involved.

Domestic Tariff Area units who are under Composition scheme are not able to supply to SEZ units due to such transactions are treated as inter-State supply.

Supplies from DTA to SEZs or SEZs to DTA under GST Law:

As per Section 7(5) (b) of the IGST Act, 2017, “Supply of goods or services or both made to or by a Special Economic Zone Developer or a Special Economic Zone unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce”.

How to raise Invoice for supplies made to SEZ units under GST?

Any supplying of goods or services to Special Economic Zone can be done also by paying IGST. In this case a supplier's invoice must have a clear statement that says" SUPPLY MEANT FOR SEZ WITH PAYMENT OF IGST". Suppliers who cannot use LUT for any reason can OPT for charging IGST, as stated under Sec.16 (3) of the IGST Act,2017.

Is SEZ exempt from GST under GST Law?

Under GST, supply of goods and services or both to a Special Economic Zone developer/ unit from a domestic tariff area can be made at Zero-Rated supply. That means these supplies attract Zero tax rate under GST Law. In other words supplies into SEZ are exempt from GST and are considered as exports.

Is RCM applicable to SEZ units under GST Law?

Reverse Charge Mechanism (RCM) under Section 9(3) and 9(4) of the CGST Act,2017, applies to SEZ units or developer. They should recognise this as a liability and discharge the same by cash payment. Tax burden suffered can be availed as Input Tax Credit (ITC) and should be refunded under Rule 89(2)(a) & Rule 9(b) .

Bill to SEZ units,Ship to DTA Units Concept:

The taxpayer supplying the goods to Domestic Tariff Area unit on the instructions of SEZ Unit (Bill to SEZ unit), the transaction is eligible to be treated as ZERO-RATED supply and the Recipient is eligible to claim refund in either of two ways specified under Sec.16(3) of IGST Act,2017. However, SEZ officers are not issuing endorsement form on the reason that goods are not admitted in to SEZ unit. Due to lack of endorsement certificates, Recipient refund applications being rejected. As the goods are not getting admitted to the SEZ and it is suggested that IGST can be charged on sale of goods instead of considering the same as ZERO rated supply.

Requirement of E-Way Bill for transport of goods for SEZ

As per GST Law, Transporters should carry an E-Way Bill when moving of goods from one place to another place, if the value of these goods is more than Rs.50,000/-. Goods supplied to SEZ are treated as inter-State Supplies. In the case of goods supplied from SEZ to a DTA or any other place, the registered person who facilitates the movement of goods shall be responsible for the generation of E-Way Bills.

Where to show supplies made to SEZ in Form GSTR-1 ?

The supply of goods (without Bill of Entry) and supply of services received by DTA unit from SEZ unit/ developer are to be reported by the SEZ in Form GSTR-1. The SEZ unit developer has to report the same in Table-4A of Form GSTR-1 (Outward supplies other than RCM supplies and supplies through ECO).

As per Section 7(5),(b) of IGST Act, 2017, the supplies of Goods or Services or both to or by a developer or Unit Holder of Special Economic Zone (SEZ) will be designated as the supplies within the State and IGST would be chargeable with further refund mechanism.

The GST law is quite clear that supplies made in reference to a bond or a letter of undertaking to SEZ areas will be taxed free and other supplies to this area will attract the IGST, which will be claimed further for refunds.

Section 54 of CGST Act 2017, the three options are mentioned to supply to Special Economic Zones.

1. The Supplies made with Payment of IGST.
2. The Supplies made Under A Bond,
3. The Supplies made under A Letter of Undertaking.

(1). Supplies made with payment of IGST:

As per GST Law, the supplies made with the payment of IGST to a SEZ Developer or SEZ Unit holder is liable for the payment of IGST at applicable rates. The Export invoice will be generated in Indian Currency with a proclamation that "SUPPLY MEANT FOR SEZ DEVELOPER/UNIT WITH PAYMENT OF INTEGRATED TAX". The declaration made with the mentioned option will make the refund procedure quickly. The IGST mentioned in the Invoice is not charged from the customer, it is just for the acknowledgment purposes.

(2). Supplies made under A Bond:

As per Section 16(3)(b) of CGST Act, 2017, there will not be any such payment of tax liability for the supply made to Special Economic Zone (SEZ) and the declaration will be clear in invoice such as ' SUPPLY MEANT FOR SEZ/ SEZ DEVELOPER UNDER BOND WITHOUT PAYMENT OF INTEGRATED TAX" The option is very relevant as the supplier will be able to use ITC for any other domestic supply.

The option gives relief to the suppliers as they make a supply containing a Bond and not required paying IGST and claiming the refund. An indemnity bond in the format of GST RFD-11 on non-judicial stamp paper will work between the supplier of Special Economic Zone (SEZ) and the Government in reference to the President of India. A supplier is not required to furnish such a Bond (Name Running Bond) for each supply made to Special Economic Zone (SEZ), hereinbefore the bond will be valid for 12 months.

A Bond will be carried along with a Bank Guarantee as a security and Jurisdictional officer will be responsible for the amount to be kept as bank security with respect to the track record of the supplier. The Bank Guarantee amount does not exceed 15% of the Bond amount, in any case. The Bond will be acceptable by Assistant Commissioner or Judicial Deputy Commissioner and this will make the easy flow and more compliance regarding the supply. A Bank guarantee becomes feasible to recover the damage to revenue in case breach or failure of the Bank Guarantee. The FORM GST RFD-11 will be furnished by the Jurisdictional officer or Assistant Commissioner manually.

(3). The Supplies made under A Letter of Undertaking:

A Letter of Undertaking (LUT) is also acceptable by Assistant Commissioner or Judicial Deputy. The validity period for such a Letter of Undertaking (LUT) will be 12 months and it can be duplicated for each year. In case of any breach of the Letter of Undertaking (LUT) , there can be a need to furnish Bank Guarantee. Else a supplier can carry Letter of Undertaking (LUT) for complication supplies.

As per Notification No.16/2017 – Central Tax, dated. 07th July'2017, the conditions are specified for intended person to release Letter of Undertaking (LUT). In the following conditions are specified for intended person to release Letter of Undertaking (LUT) can be furnished in place of a Bond.

- As per the paragraph 5 of the Foreign Trade Policy 2015-2020 , a person status holder can avail a Letter of Undertaking (LUT),
- The taxpayer who has got the foreign inward remittances which is at least 10% of the export turnover (which is not less than Rs.1 Cr.) in the previous financial year and the should not prosecuted as per CGST Act,2017 or any laws claiming tax evasion of Rs.2.5 Cr.,

The exporters and suppliers who make supplies to Special Economic Zone(SEZ), apart from the mentioned notification are only to issue a Bond , not a Letter of Undertaking (LUT).

GSTN Updates March 2022

Date of Issue	Subject
03/03/2022	Auto-population of e-invoice details into GSTR-1
10/03/2022	Enhanced Registration application user interface (UI)

Source: www.gst.gov.in

Notifications/Circulars/Orders issued in the month of March 2022

Central Tax Notifications March 2022

Notification Nos.	Date of Issue	Subject
2/2022	11/03/2022	Appointment of Common Adjudicating authority for adjudicating the show cause notices issued by DGGI under GST.
3/2022	31/03/2022	Seeks to amend notification no. 10/2019-Central Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC
4/2022	31/03/2022	Seeks to amend notification no. 14/2019-Central Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC

Central Tax (Rate) Notification March 2022

Notification Nos.	Date of Issue	Subject
01/2022	31/03/2022	Seeks to amend notification No. 1/2017-Central Tax (Rate)
02/2022	31/03/2022	Seeks to provide for a concessional rate on intra state supply of bricks conditional to not availing the ITC , as recommended by 45 GSTC

Integrated Tax Notification March 2022

No Integrated Tax Notification was issued in the month of March 2022

Integrated Tax (Rate) Notification March 2022

Notification Nos.	Date of Issue	Subject
01/2022	31/03/2022	Seeks to amend notification No. 1/2017-Integrated Tax (Rate)
02/2022	31/03/2022	Seeks to provide for a concessional rate on inter state supply of bricks conditional to not availing the ITC , as recommended by 45 GSTC

Circular issued in the month of March 2022

Notification Nos.	Date of Issue	Subject
169/01/2022	24.02.2022	Amendment to Circular No. 31/05/2018-GST, dated 9th February, 2018 on 'Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017

Orders

No order was issued in the month of March 2022

Removal of Difficulty Orders March 2022

No order was issued in the month of March 2022

Source: www.cbic.gov.in

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