

No. K-43022/7/2020-SEZ (3145523)
Government of India
Ministry of Commerce & Industry
Department of Commerce
(SEZ Section)

Udyog Bhawan, New Delhi
Dated the 15th May, 2020

To,
All Development Commissioners
Special Economic Zones.

Subject : Important operational issues pertaining to Special Economic Zones (SEZs) / Export Oriented Units (EOUs) during the prevailing lockdown for COVID-19 -reg.

Sir,

I am directed to refer to the VCs held with the stakeholders across SEZs/EoUs during the month of April, 2020 and to say that Department of Commerce had taken up certain issues with the Directorate General of Export Promotion, Department of Revenue. The details of issues and inputs received from DGEP vide their OM dated 06.05.2020 (copy enclosed) are as follows:

Sl. No.	Details of issues raised by stakeholders and referred to DGEP	Reply from DGEP
Issues requiring immediate action		
a	Immediate refund of input GST to the DTA suppliers of SEZ units. Presently, in some of the cases, the refunds are pending for more than six months thereby, blocking their working capital.	No specific instances of such non-sanctioning of ITC refunds have been provided against supplies made to SEZ developers and units. DGEP has requested to provide a list of such ITC refunds not sanctioned beyond 6 months of filing them with details like name of DTA supplier, GSTIN, invoice details etc. so that concerned field formations can be flagged for necessary actions. However, CBIC has been issuing clarificatory circulars on refund related issues from time to time with circular no. 135/05/2020-GST dated 31.03.2020 being the latest one. CBIC recently has begun a country wide special drive to expedite Customs and GST refunds pending as of 7th April, 2020. These measures taken by CBIC may be informed to officers for further dissemination to various stakeholders in this regard.
b	Extension of timelines fixed for e-way bills in view of the extra time being taken for obtaining permission from designated nodal authorities and in view of the restrictions imposed on movement of goods due to lockdown.	The request to extend timelines fixed for e-way bills has already been taken care of by CBIC with the issuance of notification no. 35/2020-Central Tax dated 03.04.2020, where in if the validity of an e-way bill generated under Rule 138 of the CGST Rules expires during the period 20.03.2020 to 15.04.2020, the validity period of such e-way

		bill has been extended till the 30.04.2020.
c	Release of exports/imports shipments from ports, which are held up due to lockdown.	CBIC has taken various measures like 24x7 Customs functioning, single window helpdesk on the CBIC website, Customs Zones/formations wise appointment of nodal officers with name, designation, office and e-mail address and contact details for facilitating Customs clearance amidst the COVID-19 crisis, waiver of late fee for delays in filing Bills of Entry [notification no. 27/2017-Customs (N.T.) dated 31.03.2017 read with second proviso to section 46(3) of the Customs Act], temporarily dispensing with submission of bonds, wherever required [circular no. 17/2020-Customs dated 03.04.2020, etc. Zonal Customs formations are also issuing Public Notices from time to time in order to address various import/export related issues relating to COVID- 19 lockdown problems. These measures have been specially undertaken to facilitate Customs clearance/release of exports/imports shipments from ports, which are held up due to COVID- 19 lockdown. Specific instances of such export / import shipment issues not yet resolved, may be informed to the nodal officer of that Customs Zone/Formation for its redressal.

General Policy Issues

a	GST is currently being imposed on foreign currency conversion charges. In order to promote exports and to avoid cash flow issues for exporters, GST on foreign currency conversion charges may be reduced / eliminated.	Proposal for reducing/ eliminating GST imposed on foreign currency conversion charges has been flagged to JS (TRU-I) for examination.
b	As an export promotion measure, EOUs may also be granted ab-initio exemption from payment of GST.	GST law has been premised on the principle of paying first and then claiming refund for the simple reason as to maintain the GST credit chain with its verifiable audit trail and to avoid any fraudulent claims. However, for EOUs, a number of measures has already been taken to simplify the processes. The imports by EOUs have been exempted from payment of IGST till 31.03 .2021 vide notification no. 16/2020-Customs dated 24.03.2020. For domestic procurements, such supplies have been declared as deemed export supplies under section 147 of CGST Act and either supplier or receiver can claim the refund of GST paid, vide notifications no. 47 & 48/2017-Central Tax, both dated 18.10.2017. The claim of refund of accumulated ITC (Input Tax Credit) has been made

		completely online w.e.f. 26.09.2019 and such refunds under all tax heads (whether CGST, SGST, IGST or Compensation Cess) have been enabled to be sanctioned and disbursed by a common single authority (either Centre or State) as clarified vide circular no. I25/44/2019 dated 18.11.2019. As the process of refund is quite hassle free, online and quick, hence there appears no requirement of granting ab-initio exemption from payment of GST on domestic procurement by EOUs.
c	As an alternate to the refunds of GST, Income Tax etc. pending disbursement from Government, commercial banks may be directed to advance loans with interest being paid by Government for such refunds of GST, taxes, etc pending.	No basis/framework has been provided for this proposal of Government paying the interest against loan advanced by Banks in lieu of refunds of GST, Income Tax etc. A concept paper may be provided in this regard for examination by CBIC.
d	There is a need for elimination of physical submission of documents for custom clearances.	There seems to be no requirement for submitting physical documents to concerned Customs officer at the port of import/ export by units/ developers in SEZ or their representatives at the time of import/ export of goods due to integration of Customs EDI (ICES) with SEZ Online system. The hitherto manual procedure of endorsing/ validation of actions by officers both at the end of SEZ and Customs port in work flow involving of import/ export has been automated by this integration thereby dispensing with the requirement of submitting various documents at the port of import/ export. Customs formations have issued Public Notices in this regard. Specific instances may be provided so that concerned field formations can be flagged this issue.
e	Eliminate requirement of obtaining transshipment permission for movement of import cargo from port area of SEZ units in case of port based SEZs like Mundra.	Transshipment procedure for movement of goods from gateway port to SEZ is provided under SEZ Rules. As per this, fifth copy of the registered or assessed Bill of Entry filed by an importer in SEZ will be submitted to Customs officer at the port of import, and is itself treated as permission for transfer of goods to SEZ. No separate documents or transshipment bond is required to be filed, and the transshipment permission is stamped on the fifth copy of the Bill of Entry. Therefore, the transshipment procedure for movement of cargo meant for SEZs is already much simplified under SEZ law. Hence, there seems to be no requirement of doing away with transshipment permission for movement of import cargo from port area of SEZ units in case of port based SEZs like Mundra for its

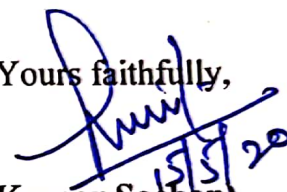
		uniformity across all SEZs.
f	Non disbursement of Duty Drawback to goods supplied from DTA to FTWZ: As per Rule 24(2) of SEZ Rules, 2006, a DTA supplier who supplies goods to FTWZ is eligible for claiming Duty Drawback from their jurisdictional GST Commissioner or Central Excise Commissioners. However, Rule 24(3) states that Duty Drawback shall be admissible subject to the payments for the supply are made from the Foreign Currency Account of the Unit. As per Rule 18(5) a transaction between DTA Supplier and the Foreign Supplier is permitted, however, in this export transaction the payment is not routed through the Unit's account. Hence, there is a lack of provision/clarity for grant of Duty Drawback in such export transaction.	In the context of FTWZ, the requirement of making payment from forex account of the unit in FTWZ to the DTA supplier seems to be not feasible as unlike in SEZ, goods in FTWZ are held on behalf of the foreign supplier and therefore, payment for such goods are made directly in forex to the DTA entity by such foreign supplier and not by the FTWZ unit. A separate proposal in this regard may be sent for examination by CBIC.
g	Permission to File a consolidated Bill of Entry in case of E-Commerce from FTWZ.	The proposal to permit filing consolidated Bill of Entry by a unit in FTWZ against goods imported by domestic consumers through E-Commerce platform is under examination. Further inputs in this regard have been received from stakeholders which are under active examination.
h	Request for exemption of GST on Services rendered and consumed within FTWZ: Units in FTWZ are allowed to hold goods on account / behalf of foreign entities in accordance to Special Economic Zones Act, Rules & Instructions. Such foreign entities do not have presence in India. Indian FTWZs are competing with the Global Free Zones located at Singapore, Dubai and China, etc. As per international practices, taxes are not levied on services rendered to such foreign entities in those zones, thereby maintaining the spirit of avoiding export of taxes from such countries. Whereas in India, GST @18% is levied on services rendered and	FTWZ units primarily provide warehousing services and other allied services like labelling, packing, repacking etc. to their foreign supplier in FTWZ. Here, the goods are owned by the foreign supplier and the unit in FTWZ only holds such good on behalf of such foreign supplier. As the recipient of service i.e. the foreign supplier is not registered in India, as per IGST Act, the place of supply of services in this case shall be the place where these services are performed, i.e. the FTWZ itself. Therefore, even if the recipient of services is the foreign supplier located abroad, such services are not considered as export of services under the GST law, and therefore, are rightly taxable @18% GST. However, it was being informed by your office that as per international practices, taxes are not levied on such services rendered to foreign clients in FIWZ located in Dubai, Singapore, China etc. If that be the case, further inputs be provided

	consumed inside FTWZ, thereby exporting taxes.	on this as far as international practices are concerned so that it can be further examined by CBIC.
i	Due to loss of business, diamonds purchased from DTA from Jan 2020 may be permitted to be returned to DTA without duty as there is no revenue loss in such transactions.	Section 30 of the SEZ Act provides for charging of duties of customs on supply of any goods from SEZ to DTA. Therefore, diamonds purchased from DTA by units in SEZ, if supplied as such back to the DTA supplier, customs duty shall be chargeable as if such goods are imported in to India. SEZ law does not extend any exclusion from payment of customs duty on as such clearance from SEZ to DTA. Therefore, the request can't be considered under the provisions of the extant SEZ law.

2. This issues with the approval of the Competent Authority for kind information and necessary action by all the Development Commissioners.

Enclos: As above

Yours faithfully,



(Sumit Kumar Sachan)

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