

From	Karvy Data Management Services Ltd.
Date	October 05, 2017
Subject	Extension of facility of Letter of Undertaking to all exporters and clarifications on issues related to furnishing of Bond/Letter of Undertaking for exports
Category	Notification & Circular

While entities involved into export oriented business were facing most of the heat post implementation of GST to comply with the stringent regulations of furnishing Bond along with Bank Guarantee in order perform their exports without payment of integrated tax. Government of India has finally extended the facility to the all exporters of furnishing Letter of Undertaking (LUT) instead of Bond in order to export without payment of integrated tax. Such facility has been extended by the Government vide notification no. 37/2017-Central tax dated 4th October 2017.

In line with the notification no. 37/2017-Central Tax dated 4th October 2017, Government of India has come up with a clarification on issues related to furnishing of Bond/LUT by the exporters and other procedural aspects under GST regime vide circular no. 8/8/2017-GST dated 4th October 2017.

Below mentioned is the gist of notification no. 37/2017-central tax dated 4th October 2017:

Sl. No.	Notification No. 37/2017-Central Tax - Header	Gist of the Notification No. 37/2017-Central Tax
1	Extension of facility of furnishing Letter of Undertaking (LUT) in place of Bond	<p>Application: Facility of furnishing LUT in place of Bind has been extended to all registered persons intending to make export of goods or services without payment of integrated tax (IGST)</p> <p>Exception: The above facility is not applicable to those persons who have been prosecuted for any offence under the CGST Act, 2017 and IGST Act, 2017 or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.</p>
2	Withdrawn & Restoration of facility of export without payment of integrated tax	<p>Withdrawn of facility: Where a registered person fails to pay tax and interest under sub-rule (1) of rule 96A of CGST Rules, 2017 within:</p> <p>(i) a period of 15 days after the expiry of 3 months from the date of export invoice, if the goods are not exported out of India; or</p> <p>(ii) a period of 15 days after the expiry of 1 year from the date of export invoice, if the payment of such services is not received by the exporter in convertible foreign exchange;</p> <p>the facility of export without payment of integrated tax will be deemed to have been withdrawn.</p> <p>Restoration of facility: Once the payment of tax and interest mentioned under sub-rule (1) of rule 96A of CGST Rules, 2017 is paid, such facility of export without payment of tax will be restored</p>
3	Application of provisions mentioned in point 1 & 2 above to SEZ Units / Developers and to Registered Persons supplying goods / services to SEZ Units / Developers	<p>The above mentioned facility of furnishing LUT in place of Bond for export without payment of integrated tax and the provision of withdrawn / restoration of facility of export without payment of tax shall also be applicable to:</p> <ul style="list-style-type: none"> • Registered persons intending to supply goods / services to SEZ Units / Developers; • SEZ Units / Developers intending to supply goods / services to another SEZ Unit / Developer or in course of direct export outside India

Below mentioned is the gist of circular no. 8/8/2017-GST dated 4th October 2017:

Sl. No.	Circular No. 08/08/2017-GST - Header	Gist of the Circular No. 08/08/2017-GST
1	Eligibility to export under LUT	<p>Earlier Provision: As per provisions mentioned in notification no. 16/2017-Central Tax dated 7th July 2017 where the facility of export under LUT was extended to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore.</p> <p>Current Provision: The facility of export under LUT has now been extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or IGST Act, 2017 and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees.</p>
2	Validity of LUT	<ul style="list-style-type: none"> • The LUT shall be valid for the whole financial year in which it is tendered. • However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules 2017 and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. • If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. • As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.
3	Form for Bond / LUT	<p>Method: The letter of undertaking (LUT) shall be furnished on the letter head of the registered person in duplicate for the financial year in the annexure to Form GST RFD – 11. It shall be executed by the working partner or director or company secretary or proprietor or by a person duly authorised by such working partner or board of directors of such company or proprietor.</p> <p>Note: The FORM GST RFD-11 is not yet available on the common portal, The government has clarified that till the time FORM GST RFD-11 is available on the common portal the registered person (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 manually the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business.</p>
4	Documents for LUT	<ul style="list-style-type: none"> • A Self-declaration to the effect that the conditions of LUT have been fulfilled shall be given along with LUT. • The self-declaration will be accepted unless there is specific information otherwise. • That is, self-declaration by the exporter to the effect that he has not been prosecuted should suffice. • Verification, if any, may be done on post-facto basis.

5	Time for acceptance of LUT / Bond	<ul style="list-style-type: none"> It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall be deemed to be accepted.
6	Bank Guarantee	Bond will be required to be furnished only by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all such cases, shall be accompanied by a bank guarantee of 15% of the bond amount.
7	Clarification regarding running Bond	<ul style="list-style-type: none"> The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.
8	Sealing by officers	<ul style="list-style-type: none"> Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report would be forwarded to the Deputy / Assistant Commissioner having jurisdiction over the principal place of business.
9	Purchases from manufacturer and Form CT-1	<ul style="list-style-type: none"> The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST. It is clarified that there is no provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime.
10	Transactions with EOUs	Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them under GST regime. Therefore, supplies to EOUs are taxable like any other taxable supplies.
11	Realization of export proceeds in Indian Rupee	<p><u>For supplies of goods</u></p> <p>It has been clarified that, the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines.</p>
		<p><u>For supplies of services</u></p> <p>It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services to Nepal or Bhutan will be deemed to be export of services only if payment for such services is received by the supplier in convertible foreign exchange.</p>
12	Jurisdictional officer	<ul style="list-style-type: none"> LUT/Bond 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 LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

We have attached notification no. 37/2017-Central Tax dated 4th October 2017 and the clarification note in Circular No. 8/8/2017-GST dated 4th October 2017 with this knowledge sharing article for your reference.

About KARVY DATA MANAGEMENT SERVICES LTD.

Karvy Data Management Services Limited (KDMSL), a GST Suvidha Provider which has developed ASP Solution for easing GST compliance for tax payers. Easy to use interfaces are made available at the disposal of the tax payers to simplify their compliances in terms of dashboards, MIS, returns, payments, refunds and other compliance process. So, 'HELP US HELP YOU' we offer following services for GST - GSP & ASP Services (on cloud or on premises) with ERP Integration and Vendor Management Solution. We also offer managed services for Outsourced GST Compliance which will take care of end to end compliances.

In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi and Kolkata. For more information about KDMSL service offerings, visit www.karvygst.com

Below are the co-ordinates of our representatives from GST Team across India:

Hyderabad: Mr. Vamsi Krishna Pothukuchi (8378976769)

Mumbai: Mr. Deep Anandani (9820313095)

Bangalore: Ms. Ankita Parakh (9206194374)

New Delhi: Ms. Priyanka Mathur (9953563996)

Kolkata: Ms. Ishika Agrawal (8820253344)

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