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**EXPORT UNDER
BOND/LUT
WITHOUT PAYING IGST**

Exports are always encouraged by India being a developing country for its faster growth. Under GST also, the government has taken adequate steps to boost and encourage more and more exports. As per Sec.16 of the IGST Act, 2017, export of goods and services is treated as Zero Rated supply. This means that the GST would not be applicable to export of any kind of goods or services.

There are two options available for a registered person making Exports

REGISTERED PERSON

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graph TD; A[REGISTERED PERSON] --> B[a. Export under Bond/Letter of Undertaking (LUT) without payment of IGST in which case the exporter can claim refund of unutilized ITC.]; A --> C[b. Export along with the payment of IGST in which case the exporter claims refund of IGST paid on such export.];
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a. Export under Bond/Letter of Undertaking (LUT) without payment of IGST in which case the exporter can claim refund of unutilized ITC.

b. Export along with the payment of IGST in which case the exporter claims refund of IGST paid on such export.

In this article we are discussing about export under Letter of Undertaking without payment of IGST

WHAT IS LUT IN GST?

In terms of export and import, a Letter of Undertaking is basically a guarantee that a bank provides to its customer (exporter in this case). Through this document of guarantee, the bank allows the customer to raise short – term credit from a foreign branch of any other Indian Bank. That is, the bank undertakes to repay such credit in foreign currency, in case its customer (or the exporter) fails to do so.

Under the GST regime, exporters fulfilling the requisite criteria need to file Letter of Undertaking for making exports without payment of IGST. As per Rule 96(A) of the CGST Rules, 2017, registered persons exporting goods and services without the payment of IGST must file Bond or LUT in Form GST RFD-11 prior to such exports.

Furthermore, exporters who do not meet the eligibility criteria for filing LUT are required to submit a Bond in place of an LUT for undertaking exports without the payment of IGST.

In addition to this, if such an exporter exporting goods or services without the payment of IGST fails to:

a) export goods within a prescribed time period or

a) receive remittance in convertible foreign exchange for export of goods or services within the prescribed time period,

such an exporter is liable to pay IGST along with interest.

Example of transactions for which LUT/Bonds can be used:

- Zero-rated supply to SEZ without payment of IGST**
- Export of goods to a country outside India without payment of IGST**
- Providing services to a client in a country outside India without payment of IGST**

WHO CAN FILE LUT IN GST?

The Government vide Notification No. 37/2017- Central Tax dated 04.10.2017 has extended facility of Letter of Undertaking to all registered taxpayers.

However, the following persons shall not be eligible to furnish Letter of Undertaking:

- a) A registered person prosecuted for any offense under GST or any existing laws in force with tax evaded exceeding Rs.2.5 Crores.
- b) A registered person who fails to pay the tax due along with interest within;
 - 15 days after the expiry of 3 months from the date of issue of the invoice for export, if the goods are not exported out of India or
 - 15 days after the expiry of 1 year, or such further period as may be allowed by Commissioner, from the date of issue of invoice for export, if the payment of services is not received by the exporter in convertible foreign exchange.

However, the disqualification in point(b) above will cease on payment of tax along with interest.

A self -declaration by the exporter that he has not been prosecuted is sufficient for the purpose of Notification no. 37/2017-Central Tax dated 4th October 2017.

Department may verify the claim after acceptance of LUT, unless the department has any specific information otherwise, regarding the prosecution.

VALIDITY OF LUT

As per Circular No.4/2017 –GST dated 7th July, 2017, the LUT furnished for exports under GST would remain valid for a period of twelve months.

LUT TO BE SUBMITTED ON THE PORTAL

The registered person shall fill and submit FORM GST RFD-11 on the common portal. A LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish a LUT as per notification no.37/2017- Central Tax, then the exporters LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio. No document needs to be physically submitted to the jurisdictional officer for acceptance of LUT.

JURISDICTIONAL OFFICER FOR ACCEPTANCE OF LETTER OF UNDERTAKING

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 state tax authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

CONDITIONS OF LETTER OF UNDERTAKING

- **The registered person shall bind himself to pay the tax due along with interest specified under sec50(1) within a period of;**
 - 1. 15 days after the expiry of 3 months from the date of issue of the invoice for export, if the goods are not exported out of India or**
 - 2. 15 days after the expiry of 1 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**
- **In the event, the goods are not exported within the time specified and the registered person fails to pay the IGST amount, the export as allowed under bond or LUT shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with provisions of section 79.**
- **The export as allowed under bond or letter of undertaking withdrawn shall be restored immediately when the registered person pays the amount due.**

LETTER OF UNDERTAKING /BOND NOT REQUIRED FOR EXEMPT SUPPLIES

In terms of circular No.45/19/2018 dated 30.05.2018, it has been clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax, LUT/bond is not required. A registered person exporting non-GST goods shall comply with the requirements prescribed under the existing law or under the Customs Act,1962 if any. Further the exporter would be eligible for a refund of an unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.

BOND

A registered person who is not eligible to furnish a LUT for reasons discussed above, shall execute a Bond. The bond shall be accompanied by bank guarantee for 15% of the bond amount. the bond shall be furnished on a non judicial stamp paper of the value as applicable in the state in which the bond is being furnished. 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. (circular no.8/8/2017-GST dated 4.10.2017)