##### Deemed Exports in GST

##### Introduction

“Deemed Exports” refers to supplies of goods manufactured in India (and not services) which are notified as deemed exports under Section 147 of the CGST/SGST Act, 2017. The supplies do not leave India. The payment for such supplies is received either in Indian rupees or in convertible foreign exchange.

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Deemed exports are not zero rated supplies by default, unlike the regular exports. Hence all supplies notified as supply for deemed export will be subject to levy of taxes i.e. such supplies can be made on payment of tax and cannot be supplied under a Bond/LUT. However, the refund of tax paid on the supply regarded as Deemed export is admissible to either the supplier or the recipient. The application for refund has to be filed by the supplier or recipient (subject to certain conditions) of deemed export supplies, as the case may be.

##### Categories of supply of goods notified as Deemed Exports

In exercise of powers conferred under Section 147 of the CGST Act, the Central Government has issued Notification no. 48/2017-Central Tax dated 18.10.2017 wherein the following categories of supply of goods has been declared as Deemed Exports: -

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| **Sr.No** | **Description of Supply** |
| 1 | Supply of goods by a registered person against Advance Authorisation |
| 2 | Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation |
| 3. | Supply of goods by a registered person to Export Oriented Unit |
| 4. | Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation |

For the purposes of the above notification, –

1. “Advance Authorisation” means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 201520 for import or domestic procurement of inputs on pre-import basis for physical exports.
2. Export Promotion Capital Goods Authorisation means an authorisation issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015-20 for import of capital goods for physical exports.
3. “Export Oriented Unit” means an Export Oriented Unit or Electronic Hardware Technology Park

Unit or Software Technology Park Unit or BioTechnology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.

It may be noted that Notification no. 49/2017-Central tax dated 18.10.2017 also lays down the list of evidences which are required to be produced by the supplier of deemed export supplies for claiming refund.

##### Procedure to be followed in case of Deemed Export supplies

Rule 89 of the CGST Rules, 2017 as amended vide Notification No. 47/2017- Central Tax dated 18.10.2017 allows either the recipient or supplier of such supplies to claim refund of tax paid thereon.

As mentioned earlier, certain supplies of goods have been notified as deemed export supplies vide Notification No. 48/2017-Central Tax dated 18.10.2017. Circular no. 14/14/2017-GST dated 06.11.2017 provides for the following procedure and safeguards in respect of supplies to

EOU / EHTP / STP / BTP units-

i. The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed

proforma in “Form–A” (appended herewith) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to – a) the registered supplier;

1. the jurisdictional GST officer in charge of such registered supplier; and
2. its jurisdictional GST officer.
3. The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
4. On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –
5. the registered supplier;
6. the jurisdictional GST officer in charge of such registered supplier; and
7. its jurisdictional GST officer. iv. The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.

v. The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in “Form-B” (appended herewith). The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any addi-

tional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required. A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.

3. The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015-20 and the duty exemption notification being availed by such unit.

**Form – A**

(Intimation for procurement of supplies from the registered person by Export Oriented Unit (EOU)/Electronic Hardware Technology Park (EHTP) Unit/ Software Technology Park (STP) unit/ Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of

CGST Act,2017 read with Notification No.48/2017-

Central Tax dated 18.10.2017)

(as per Circular ------- dated ----------)

Running Sr. No. of intimation and Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LOP No. ---------- and valid up to ------.

GSTIN ----------------------

We the, M/s …………….(Name of EOU/EHTP/

STP/BTP unit and address) wish to procure the Goods namely(Tariff description, Quantity and value) ------------------------, as allowed under Foreign Trade Policy and Handbook of Procedures 2015-2020, and approved by Development Commissioner from M/s --------------------- (Name of supplier, address and Goods & Services Tax Identification Number(GSTIN)). Such supplies on receipt would be used in manufacturing of goods or rendering services by us. We would also abide by procedure set out in Circular no. ------ dated ----.

Signatures of the owner of

EOU/EHTP/STP/BTP unit or

His Authorised officer

To:

1. The GST officer having Jurisdiction over the EOU/ EHTP/STP/BTP unit.
2. The GST officer having Jurisdiction over the registered person intending to supply the goods.
3. The registered person intending to supply goods to EOU/EHTP/STP/BTP unit.

**FORM - B**

**Form to be maintained by EOU/EHTP/STP/BTP unit for the receipt, use and removal of goods re-**

**ceived under deemed export benefit under section 147 of CGST Act, 2017 read with Notification No.**

**48/2017-Central Tax dated 18.10.2017 Name of EOU/EHTP/STP/BTP unit and address**

**GSTIN No.**

**Address of Jurisdiction GST Officer**

##### Who can file refund application in case of Deemed Exports supplies

As per 3rd proviso to Rule 89(1) of CGST Rules, 2017, application for refund in case of deemed exports can either be filed by the recipient of deemed export supplies. Alternatively, the supplier of such deemed exports supplies can also file the refund application, in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

It may be noted that rule 89(4A) of the CGST Rules, 2017 as amended vide Notification no. 75/2017-Central Tax dated 29.12.2017 (w.e.f 23.10.2017), the recipient of deemed export supplies can claim refund of input tax credit availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, in case of deemed export supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18.10.2017.

Further Rule 96(9) of the CGST Rules, 2017 as amended vide Notification no. 75/2017-Central Tax dated 29.12.2017 (w.e.f 23.10.2017) also provides that the recipient of deemed export supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18.10.2017 cannot export on payment of integrated tax.

##### Time Limit for filing refund claim

For obtaining refund the recipient or supplier of deemed export supplies has to file an application in FORM GST RFD-01 through the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner before the expiry of two years from, the date on which the return relating to such deemed export supplies is to be furnished electronically. The application has to be accompanied by a statement containing the number and date of invoices along with such other evidences as may be notified in this behalf.

##### Manual filing and processing of refund claims on account of deemed export supplies

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, that the applications/documents/forms pertaining to refund claims on account of deemed export supplies shall be filed and processed manually till further orders. Circular No. 17/17/2017-GST dated 15.11.2017 and Circular no. 24/24/2017-GST dated 21.12.2017 prescribing the detailed procedure have been issued in this regard.

# **Deemed Exports under GST – A Professional Overview**

## **Introduction**

Under Section 147 of the CGST/SGST Act, 2017, the concept of Deemed Exports refers exclusively to certain notified supplies of **goods** (not services) manufactured in India, which, although do not leave the country, are treated as exports due to their unique nature and end-use.

The payment for such supplies may be received either in **Indian Rupees** or in **convertible foreign exchange**. However, unlike physical exports, deemed exports are **not zero-rated by default** under GST. These supplies are **subject to tax** and must be supplied **with payment of GST**, i.e., they cannot be supplied under a Bond or Letter of Undertaking (LUT). Nevertheless, a **refund of the tax paid** is available to either the **supplier or the recipient**, subject to specific conditions.

## **Categories of Notified Deemed Export Supplies**

The Central Government, exercising powers under Section 147 of the CGST Act, has notified specific categories of deemed exports vide **Notification No. 48/2017 – Central Tax dated 18.10.2017**:

| **Sr. No.** | **Description of Supply** |
| --- | --- |
| 1 | Supply of goods by a registered person against Advance Authorisation |
| 2 | Supply of capital goods by a registered person against Export Promotion Capital Goods (EPCG) Authorisation |
| 3 | Supply of goods by a registered person to an Export Oriented Unit (EOU) |
| 4 | Supply of gold by a bank or a Public Sector Undertaking, as specified under Notification No. 50/2017-Customs, dated 30.06.2017, against Advance Authorisation |

### **Definitions Relevant to the Above Notification**

* **Advance Authorisation**: Issued by the DGFT under Chapter 4 of the FTP 2015-20, permitting import/domestic procurement of inputs for physical exports.
* **EPCG Authorisation**: Issued under Chapter 5 of the FTP 2015-20 for import of capital goods to aid physical exports.
* **Export Oriented Unit (EOU)**: Includes EOU, Electronic Hardware Technology Park (EHTP), Software Technology Park (STP), and Bio-Technology Park (BTP) units as defined under Chapter 6 of the FTP 2015-20.

Additionally, **Notification No. 49/2017 – Central Tax dated 18.10.2017** specifies documentary evidence required for claiming refunds related to deemed exports.

## **Procedure for Deemed Export Supplies**

In line with **Rule 89** of the CGST Rules, 2017 (amended via Notification No. 47/2017 – Central Tax), and clarified by **Circular No. 14/14/2017-GST dated 06.11.2017**, the following steps are required for supplies made to EOU/EHTP/STP/BTP units:

### **Step-wise Compliance:**

1. **Prior Intimation via Form–A**:
   * The recipient unit must furnish a prior intimation in Form-A, containing details of goods to be procured, pre-approved by the Development Commissioner.
   * The intimation must be sent to:
     + The registered supplier,
     + The jurisdictional GST officer of the supplier, and
     + The jurisdictional GST officer of the recipient.
2. **Tax Invoice Issuance**:
   * The registered supplier issues a **tax invoice** to the recipient.
3. **Endorsement of Invoice**:
   * Upon receipt of goods, the recipient unit **endorses the tax invoice** and forwards copies to:
     + The supplier,
     + The supplier’s jurisdictional GST officer, and
     + Its own jurisdictional GST officer.
4. **Proof of Deemed Export**:
   * The endorsed invoice serves as evidence of deemed export for refund purposes.
5. **Maintenance of Digital Records (Form-B)**:
   * Recipient units must maintain digital records per Form-B, capturing receipt, usage, and removal of goods.
   * Records must include an **audit trail** and be submitted to the jurisdictional officer by the **10th of each month** via digital media (e.g., CD or Pen Drive).

Note: These procedures are in addition to those prescribed under the Foreign Trade Policy 2015-20 and other relevant duty exemption notifications.

## **Forms Prescribed**

### **Form – A**

Intimation format to be submitted before procurement, including GSTIN, LOP details, approved goods, and supplier details.

### **Form – B**

Digital register to be maintained for inward, usage, and removal of goods under deemed export.

## **Refund Provisions under Deemed Exports**

### **Eligibility to File Refund Claim**

* As per **third proviso to Rule 89(1)** of CGST Rules:
  + Either **recipient** or **supplier** may file the refund claim.
  + If the supplier is filing the refund, the recipient must **not avail ITC** on the said supply and must furnish a written undertaking.

### **Other Refund-Related Provisions**

* **Rule 89(4A)** (vide Notification No. 75/2017-Central Tax dated 29.12.2017, w.e.f. 23.10.2017):  
  Allows recipients to claim **refund of ITC on inputs/services** used in making **zero-rated supplies**, even if the supplier has availed deemed export benefit under Notification No. 48/2017.
* **Rule 96(9)** (amended via same notification):  
  Prohibits **payment of IGST on export of goods** by recipient of deemed export supplies if the supplier has availed deemed export benefit.

## **Time Limit for Filing Refund**

* Refund application (Form **GST RFD-01**) must be submitted within **2 years** from the **due date of furnishing the return** related to the relevant deemed export transaction.
* Application must be filed via the **Common Portal**, either directly or through a GST Facilitation Centre.

## **Manual Filing of Refunds**

Due to initial limitations in the GST portal, the CBIC has mandated **manual filing and processing** of refund claims relating to deemed exports. The following circulars govern the manual process:

* **Circular No. 17/17/2017-GST dated 15.11.2017**
* **Circular No. 24/24/2017-GST dated 21.12.2017**

These lay out comprehensive procedures for documentation, verification, and disbursement of refunds on deemed export transactions.

## **Conclusion**

Deemed exports are a unique category under the GST framework, aimed at supporting domestic manufacturers supplying to export-linked entities. Although such transactions are **not zero-rated**, the availability of **refund mechanisms** ensures that the tax burden does not fall on either the supplier or the recipient, thereby preserving the principle of tax neutrality in exports.