

Govt can support exporters by addressing existing gaps, ambiguity in GST regulations

By Garima Bora, ET Online • Last Updated: Jul 17, 2023, 03:19 PM IST

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Synopsis

Experts suggested that it is important the government bring some clarity whether exporters will have to pay GST on reverse charge mechanism with respect to bank charges which have been deducted by overseas bank, when importer remits the sales proceeds.



Tax experts suggested that the government may clarify the treatment of GST liability on shipment of sample goods to foreign parties (related or unrelated) or shipment of sample goods abroad for quality testing, R&D and other purposes.

MUMBAI: At a time when India's merchandise exports have been declining for the last five consecutive months, tax experts suggest five key changes in [GST regulations](#) to provide relief for exporters to enhance their global competitiveness.

These five changes are: 1) amendment in Rule 96B of [CGST](#) Rules, 2) clarity on recipient of remittance service in foreign trade, 3) clarity on [input tax credit](#) facility under TR-6 Challan, 4) valuation of deemed supply services and clarity on [GST](#) liability on shipment of samples.

Nirav Sanjay Karia, Partner & Advocate, Lakshmikumaran & Sridharan Attorneys, said in a statement, “Even though the current slowdown in merchandise exports is due to global demand slowdown and current on-going war between Russia and Ukraine (which has led to increase in inflation, global monetary tightening and recession), Indian government can support the exporter community by addressing existing gaps or ambiguity in the GST regulations applicable for export shipments. For instance, exporters issuing financial credit note due to say price negotiations or defect in good are facing genuine hardships from GST liability. So, the provisions of Rule 96B of the CGST Rules (which provide for surrender of refund to the extent of non-realisation of export proceeds) can be amended to provide some relief to these exporters such as giving re-credit of amount of IGST which is surrendered due to issuance of financial credit note.”

He was speaking at a webinar organised by MVIRDC World Trade Center Mumbai.

Karia further informed that the government may bring in clarity about whether Indian exporters are liable to pay GST on reverse charge mechanism with respect to bank charges deducted by overseas bank when foreign buyer remits sales proceeds to the Indian exporter.

“When the bank of the foreign buyer makes payment through the Authorised Dealer bank of the Indian exporter, the exporter is not the contractual recipient of the service of the foreign buyer’s bank. So, there is no settled legal position as there are contradictory judicial rulings on whether the service recipient is the Indian exporter or the Authorised Dealer bank or the foreign buyer. So, the Government may clarify as to who is the recipient of service under this circumstance,” he said.

Chaitanya Ramesh Bhatt, Partner & Advocate, Lakshmikumaran & Sridharan Attorneys suggested the government to issue clarification on whether exporters can claim input tax credit against payment of Integrated Goods & Services Tax (IGST) through TR-6 Challan for import of input materials. “Many Export Oriented Units (EoUs) and exporters who imported input materials under advance authorisation license have been barred from claiming refund against payment of IGST on their exports under Rule 96 (10) of CGST. Government may provide relief to these exporters,” he said in a statement.

Bhatt also raised the ambiguity faced by exporters on bifurcation of invoices under Input Service Distributor (ISD) and Cross Charge. For this, he said that the 50th GST Council in its meeting has stated that it will provide suitable clarification with respect to ISD and Cross charge.

He also said “As per Schedule I of CGST Act, exporters have to pay IGST on reverse charge mechanism even for supplies made between related persons without consideration. For instance, if an Indian subsidiary uses the brand name of its foreign parent company, it is considered as deemed supply even though there is no royalty paid by the former to the latter. Here, the challenge is how to determine the cost or value of this supply as no consideration is exchanged between the parties.”

Similarly, tax experts suggested that the government may clarify the treatment of GST liability on shipment of sample goods to foreign parties (related or unrelated) or shipment of sample goods abroad for quality testing, R&D and other purposes.

Earlier, Kalantri had pointed out, “India has made tremendous progress in streamlining the GST system within six years, while it took upto 10 years for many other countries to develop a well-functioning value added tax system. At the same time, government needs to address several unfinished reform agenda to attain the original intent of One Nation, One Tax.”

He suggested that the government may simplify the system by reducing the multiple tax slabs to two and bringing down rates wherever required. By reducing tax rate, we can improve compliance and tax collection. The number of items under 28% tax slab has been reduced from 227 in 2017 to 37 items currently. There is still scope to reduce the number of goods under this highest tax bracket; only sin goods such as tobacco should be taxed at 28% slab and rates on other goods may be reduced.”

Kalantri also recommended bringing petroleum products under the ambit of GST.

The webinar was attended by exporters from manufacturing and services sectors and they raised several queries related to GST procedural issues faced by them and their input suppliers.