Training programme on GST

Topic : zero rated supply -export and import under GST , SEZ, movement of goods in DTA, drawback

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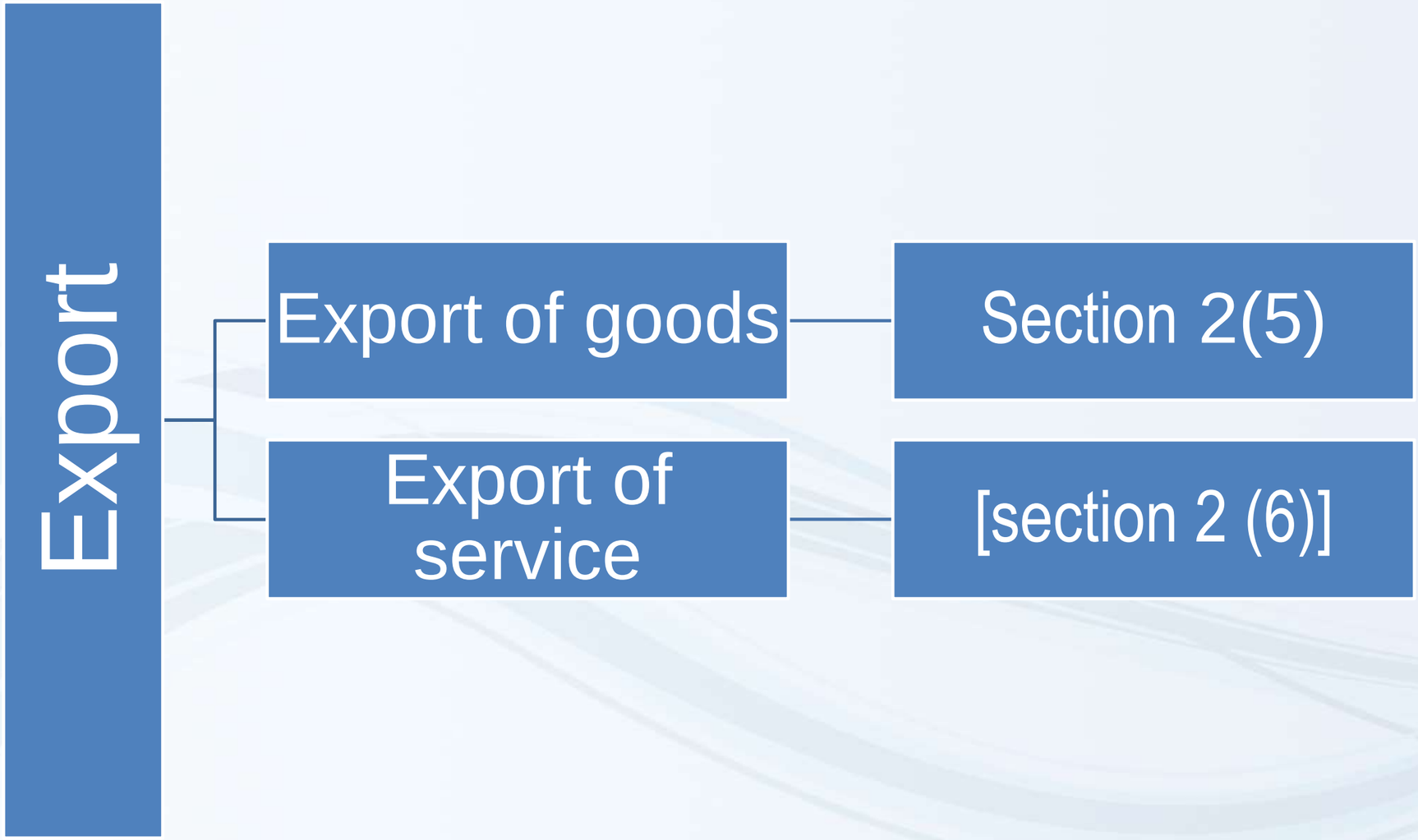
zero rated supply – export and import under GST

IGST ACT 2017

Contents of discussion


Export
Export of goods
Section 2(5)
Export of service
[section 2 (6)]

export of goods – Section 2(5)

export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

export of services [section 2 (6)]

"export of services" means the supply of any service when,—

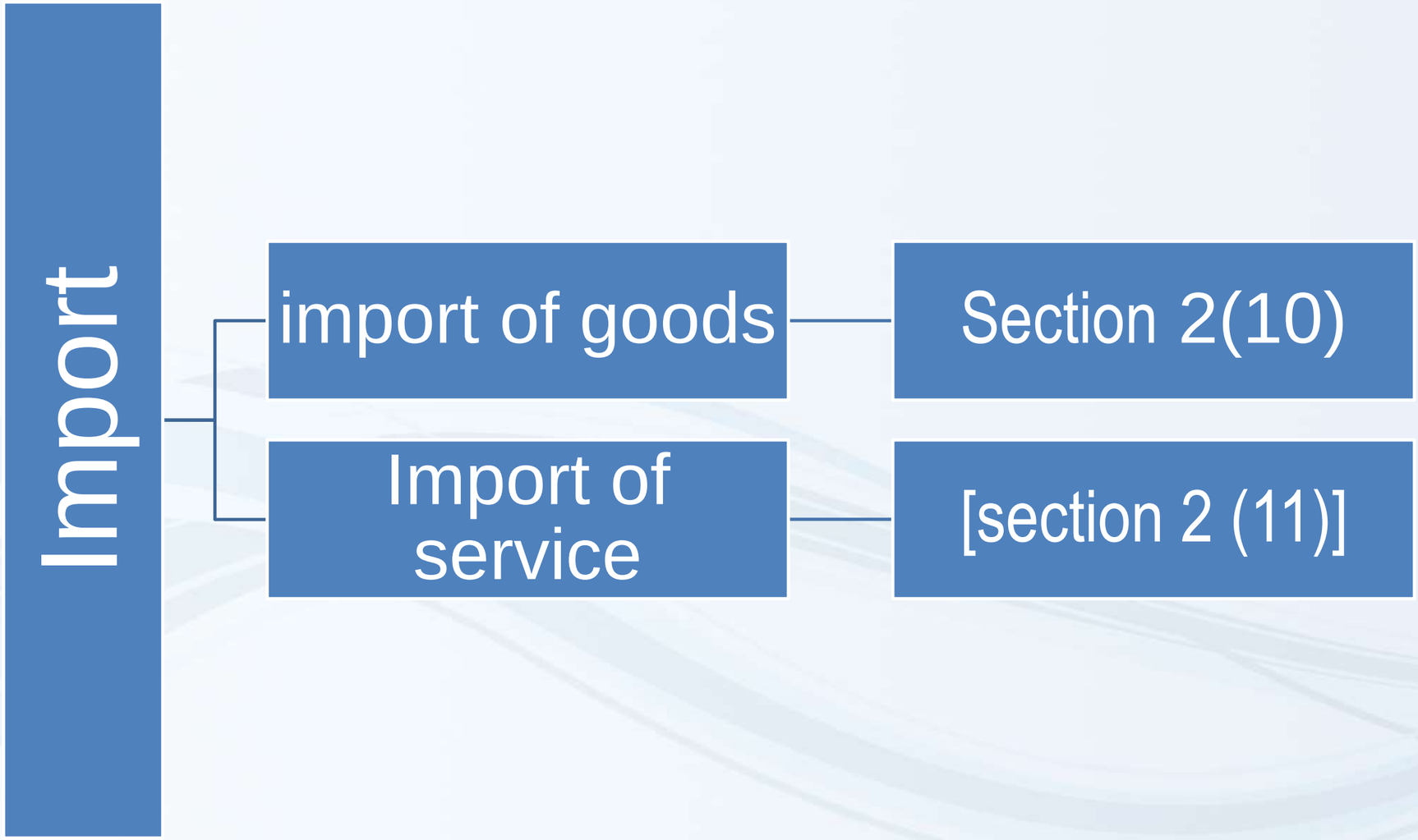
(i) the supplier of service is located in India;

(ii) the recipient of service is located outside India;

(iii) the place of supply of service is outside India;

(iv) the payment for such service has been received by the supplier of service in **convertible foreign exchange** or in **Indian rupees wherever permitted by the Reserve Bank of India**; and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;


Import
import of goods
Section 2(10)
Import of service
[section 2 (11)]

import of goods section 2(10)

"import of goods" with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

import of services
section 2(11)

“import of services" means the supply of any service, where—

(i) the supplier of service is located outside India;

(ii) the recipient of service is located in India; and

(iii) the place of supply of service is in India;

Place of supply of goods imported into, or exported from India. [section 11]

Place of supply of goods imported into, or exported from India.

The place of supply of goods,—

(a) imported into India shall be the location of the importer;

(b) exported from India shall be the location outside India.

Place of supply of service – export or import of service section 13

- **Applicable** if location of the supplier of services or the location of the recipient of services is outside India.
- **Default rule** of determining place of supply(POS): location of the recipient of services Section -13(2)
- **performance based service-** POS shall be location where the services are actually performed-Section 13(3)
- services **directly in relation to an immovable property-** POS- location of immovable property-Section 13(4)
- **Events related service** - POS- place where the event is actually held. Section 13(5)
- **banking company, or a financial institution, or a non-banking** financial company, to account holders/ **intermediary services**/ services consisting of **hiring of means of transport**, including yachts but excluding aircrafts and vessels, **up to a period of one month-POS-** location of the supplier of services [Section 13(8)]
- services of **transportation of goods**, other than by way of mail or courier- POS- place of destination of such goods [Section 13(9)]
- **passenger transportation services –** POS- passenger embarks on the conveyance for a continuous journey. [Section 13(10)]
- **services provided on board a conveyance-** POS- **first scheduled point of departure** of that conveyance for the journey. [Section 13(11)]
- online information and database access or retrieval services-POS- location of the recipient of services[section 13(12)]

zero rated supply

Section 2(23) read with section16

"zero-rated supply" shall have the meaning assigned to it in section 16;

Meaning of zero rated supply: as per section 16(1)
Zero rated supply" means any of the following supplies of goods or services or both, namely:—

(a) export of goods or services or both; or

(b) supply of goods or services or both for authorised operation to a Special Economic Zone developer or a Special Economic Zone unit.

NOTE: supply to SEZ unit or SEZ developers not for authorised operation is not covered in the zero rated supply . In other words such shall be subject to tax and SEZ have to pay tax thereon.

Eligibility of ITC in case of zero rated supply [section 16(2)]

Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

generally ITC is not available in respect of exempt supply but in respect of zero rated supply ITC is available .

Block credit u/s 17(5) not available

eligibility of Refund in case of zero rated supply – section 16(3)

A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—

(a) he may supply goods or services or both under bond or **Letter of Undertaking**, subject to such conditions, safeguards and procedure as may be prescribed, **without payment of integrated tax** and claim **refund of unutilised input tax credit**; or

(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, **on payment of integrated tax** and claim **refund of such tax paid** on goods or services or both supplied,

in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

Changes by Finance ACT 2021

zero rate the supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit **only when the said supply is for authorised operations**;

restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services;

link the **foreign exchange remittance in case of export of goods for claim of refund**. Earlier it was only for export of service , rather in certain cases payment in Indian currency allowed if authorised by RBI.

SECTION 16(3)(a) SUBSTITUTED BY F A 2021

" **NEW section 16(3) for section 16(3)(a):** A registered person making **zero rated supply** shall be eligible to claim **refund of unutilised input tax credit** on supply of goods or services or both, **without payment of integrated tax,** under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, **subject to such conditions, safeguards and procedure as may be prescribed:**

Non realisation of sale proceeds for zero rated supply of goods within time limit as per FEMA provisions: refund claimed to be return to government with interest.

Provided that the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within 30 days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

SECTION 16(3)(b) SUBSTITUTED BY F A 2021

(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify—

(i) a **class of persons** who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;

(ii) a **class of goods or services** which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.”.

Comparison of old section 16(3) and 16(3)&(4) new

Old section 16(3)	New section 16(3)&(4)
Every registered person was having option to zero rated supply on payment of IGST and claim refund of IGST Refund of IGST paid means claim of ITC of input, input service and capital goods all the 3 against output tax liability of IGST and claim refund of all the 3, so higher amount of refund under old scheme to all the tax payer. In case of zero rated supply on LUT without payment of tax and claim of refund means refund of ITC of input and input service only . No refund of ITC of capital goods .	Zero rated supply on payment of IGST and claim of refund of IGST to (a) Certain class of **of persons** **(b) Certain class of goods or services** which may be exported In other word only limited no of person shall be entitled to get refund of ITC of input, input service and capital goods by way of claiming refund of IGST paid at the time export and that too only in respect of export and not for supply to SEZ unit or developers.

SEZ- SPECIAL ECONOMIC ZONE

definitions

"Special Economic Zone" shall have the same meaning as assigned to it in clause (*za*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005); [section2(19)]

Section 2 (za) of the SEZ Act, 2005 – “Special Economic Zone” means each Special Economic Zone notified under the proviso to section 3(4) of and section 4(1) (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone.

"Special Economic Zone developer" shall have the same meaning as assigned to it in clause (*g*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) and includes an Authority as defined in clause (*d*) and a Co-Developer as defined in clause (*f*) of section 2 of the said Act; [section2(20)]

“Developer” means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section (10) of section 3 and includes an Authority and a Co-Developer;[Section 2 (g) of the SEZ Act, 2005]

Benefit of supply from DTA to SEZ unit/developer

- Supply qualify to be a zero rated supply if supply for authorised operation
- Refund of GST – Accumulated ITC

Separate registration requirement under GST of SEZ unit

if a person has unit located in SEZ and also in DTA has to obtain two separate registration for each :

section 25. (1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed10:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business:

"*Provided further* *that a person having a unit, as defined in the Special Economic Zones Act, 2005 (28 of 2005), in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory". Note: 2nd proviso inserted* by the Central Goods and Services Tax (Amendment) Act, 2018, w. e. f. **1-2-2019**.

Classification of supply from DTA unit to SEZ or SEZ to DTA - **inter state supply only** even if both the units are in the same state

Section 7(5) Supply of goods or services or both,—

(a) when the supplier is located in India and the place of supply is outside India;

(b) **to or by a Special Economic Zone developer or a Special Economic Zone unit; or**

(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,

shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

circular no. 48/22/2018-GST dated 14-06-2018,

Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an inter State supply (under section 7(5)(b) of the IGST Act, 2017) or an intra-State supply (under section 12(3)(c) of the IGST Act, 2017)?

1.1 As per section 7(5) (b) of the Integrated Goods and Services Tax Act, 2017 (IGST Act in short), the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/Union territory, it would be treated as an intra-State supply.

1.2 It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision.

1.3 In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies.

1.4 It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.

Import of service by SEZ unit *or developer for authorized operations* – exempt from GST

NOTIFICATION NO. 18/2017-INTEGRATED TAX (RATE), DATED 5-7-2017

In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do and on the recommendations of the Council, hereby **exempts services imported by a unit or a developer in the Special Economic Zone for authorised operations,** from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017).

Exemption to goods imported by SEZ and SEZ developer

NOTIFICATION NO.64/2017-CUSTOMS, DATED 5-7-2017

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby **exempts all goods imported** by a unit or a developer in the Special Economic Zone **for authorised operations,** from the whole of the integrated tax leviable thereon under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) read with section 5 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017).

REFUND APPLICATION IN THE CASE OF SUPPLY OF GOODS TO SEZ unit or DEVELOPER

Refund application in case of supply of goods to SEZ - In respect of supplies of goods to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorized operations, as endorsed by the specified officer of the Zone - third *proviso* (a) to Rule 89(1) of CGST and SGST Rules, 2017.

Refund application in case of supply of services to SEZ - In respect of supplies of services to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the supplier of services along with such evidence regarding receipt of services for authorized operations as endorsed by the specified officer of the Zone - third *proviso* (b) to Rule 89(1) of CGST and SGST Rules, 2017.

NOTE: refund application cannot be made by SEZ unit or developer

E-way Bill when supply of goods from DTA unit to SEZ in same State

Supply of goods from DTA unit to SEZ is defined as 'inter-State supply'. However, if such supply is in same State, e-way bill is not required if such movement has been exempted from provisions of e-way bill by concerned State Government under rule 138(14)(*d*) of CGST Rules - CBI&C circular No. 47/21/2018-GST dated 8-6-2018.if no such exemption E-way bill is must

Supply of service by hotel within SEZ for authorised operation

Supplies made from hotel within SEZ are zero rated , ***if for authorised operations***- Supplies of hotel services (hospitality services like accommodation and food) made by Special Economic Zone (SEZ) co-developer from non-processing zone to its clients located in SEZ for authorized operations will be treated as zero rated supplies, However, it is liable to pay GST on supplies made to clients located outside territory of SEZ - *Sapthagiri Hospitality (P.) Ltd., In re* [2018] 98 taxmann.com 126 (AAR-Gujarat) - view confirmed in *Sapthagiri Hospitality (P.) Ltd., In re* [2019] 73 GST 446 = 103 taxmann.com 317 (AAAR-Gujarat) [contention of appellant was that SEZ Act has overriding provisions and GST Act is not applicable in SEZ at all].

Supply of goods from SEZ to DTA units- taxability

Taxation in the hands of SEZ unit:

As per section 2(m) of SEZ Act, supplying goods to DTA is 'export'. As per section 51 of SEZ Act overrides other laws . Hence, in my view, SEZ unit is not liable to pay any tax, applying rule of harmonious construction.

Taxation in the hands of DTA unit:

Goods removed from SEZ to DTA are liable to custom duty and IGST according to provisions as stated in SEZ Act and Customs Tarrif Act section 3(7) read with section 5 of IGST Act because

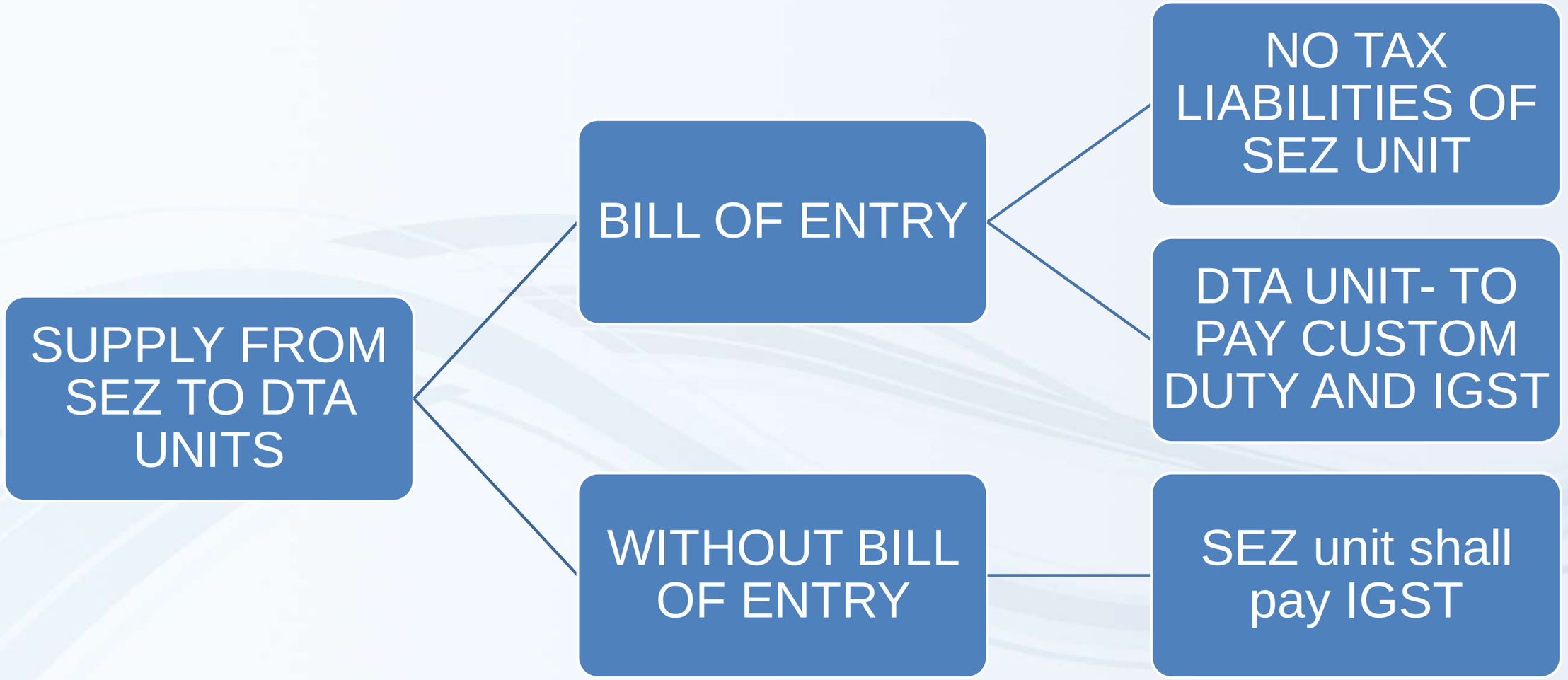
1. Section 30 of SEZs Act, 2005 says that Subject to the conditions specified in the rules made by the Central Government in this behalf:-

(a) any goods removed from a Special Economic Zone to the Domestic Tariff Area(DTA) shall be chargeable to duties of customs including anti-dumping, countervailing and safeguard duties under the Customs Tariff Act, 1975, where applicable, **as leviable on such goods when imported**; and

(b) the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.

2. The Custom Department is empowered to charge IGST section 5 of the IGST Act, 2017 read with section 3 (7) of The Customs Tariff Act : “Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent. as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8)”.

Summery – supply of goods from SEZ unit to DTA units:



Supply of service from SEZ units to DTA units

Taxable - AAAR of Gujrat

Reason : SEZ is also in india and all the provisions which are not inconsistent with provisions of SEZ act 2005 shall be applicable to SEZ unit as well. Only for authorised operation in SEZ area is treated as other territory.

Reporting in return GSTR-3B and GSTR-1

Reporting of details of supply by DTA units to SEZ units:

GSTR 3B – Columm 3.1(b) – Outward Taxable Supplies (zero rated)

GSTR-1 – Column 6B (Supplies made to SEZ unit or SEZ Developer) specified with B2B Supply sheet. Invoice Type shall either be SEZ supplies with payment or SEZ supplies without payment.

Reporting of details of supply by SEZ units to DTA units:

Instruction no.9 appended to GSTR 1 –

Any supply made by SEZ to DTA**, without the cover of a bill of entry** is required to be reported by SEZ unit in GSTR-1.

The supplies made by SEZ **on cover of a bill of entry** shall be reported by DTA unit in its GSTR-2 as imports in GSTR-2. The liability for payment of IGST in respect of supply of services would, be created from this Table.

DRAWBACK

Introduction : Duty **Drawback** scheme was introduced by the Ministry of Finance as a rebate for duty chargeable on any imported materials or excisable materials used in manufacture or processing of goods, manufactured in India and exported. The exported products are revenue natural.

The Central Government is empowered to grant Duty Drawback under section 74 and 75 of the Customs Act, 1962.

Under section 74 of the Customs Act, 1962 duty drawback to the extent of 98 percent of the duty paid on imported goods can be claimed for re-export, provided the goods are re-exported within two years of payment of import duty.

Section 75 of the Act, empowers duty drawback on export of manufactured articles.

Customs and Central Excise Duties Drawback Rules, 2017

Definition of duty drawback –as per duty drawback rule 2017

"drawback" in relation to any goods manufactured in India and **exported**, means the rebate of duty excluding integrated tax leviable under sub-section (7) and compensation cess leviable under subsection (9) respectively of section 3 of the Customs Tariff Act, 1975 (51 of 1975) chargeable on any **imported materials** or **excisable materials** used in the manufacture of such goods; [rule 2(a)]

"excisable material" means any material produced or manufactured in India subject to a duty of excise under the Central Excise Act, 1944 (1 of 1944); [rule 2(b)]

"imported material" means any material imported into India and on which duty is chargeable under the Customs Act, 1962 (52 of 1962);[rule 2(d)]

"export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India or taking out from a place in Domestic Tariff Area (DTA) to a special economic zone and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port;[rule 2(c)]

Drawback allowable on Re-export of duty paid goods (Section 74) of Customs Act 1962

when duty paid imported goods are re-exported in used or unused condition within two years, the importer may claim **refund of import duty up to maximum 98% of the customs duty paid at the time of importation as duty drawback**. The following conditions to be satisfied in this regard:

a. The **goods are identified to the satisfaction** of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported and

b. The **goods are entered for export within two years** from the date of payment of duty on the importation thereof.

Note: for GST refund time period is 2 years from relevant date u/s 54.

However, in any particular case, the **aforesaid period of two years may, on sufficient cause being shown, be extended by the Board** by such further period, as it may deem fit.

Time limit for claiming drawback- 2 years

Under sub-clause (b) of section 74(1), it has been provided that such imported goods should be entered for export within 2 years from the date of payment of duty on the importation.

It may be noted that the time period is related to the **date of payment of duty and not date of importation.**

However, in any particular case, the **aforesaid period of two years may, on sufficient cause being shown, be extended by the Board** by such further period, as it may deem fit.

List of goods which are not entitled to drawback at all under the Notification No. 19/65 Cus dated 6-2-1965:

As per this notification, no drawback of import duty will be allowed in respect of the following goods, **if they have been used after their importation** in India:

i. Wearing Apparel;

ii. Tea Chests;

iii. Exposed cinematograph films passes by Board of Film Censors in India

iv. Unexposed photographic films, paper and plates, and X-ray

It implies that if these goods are not used after their importation into India and subsequently re-exported in the condition they were imported, then they would be entitled to drawback.

Amount of drawback if export after use for some period-No manufacturing

S. No	Length of period between the date of clearance for home consumption and the date when the goods are placed under Customs control for export	Percentage of import duty to be paid as Drawback
1	Not more than three months	95%
2	More than three months but not more than six months	85%
3	More than six months but not more than nine months	75%
4	More than nine months but not more than twelve months	70%
5	More than twelve months but not more than fifteen months	65%
6	More than fifteen months but not more than eighteen months	60%
7	More than eighteen months	Nil

Note: above rate of drawback depends upon period of use, depreciation in value and other relevant circumstances prescribed by notification.

Special rate of drawback in respect of motor vehicles and goods imported by the person for his personal and private use.

i. If the car or specified goods are re-exported immediately: 98% of the duty paid is refundable

ii. If the car or specified goods are re-exported after being used: Percentage of reduction of drawback is related to use of motor vehicle per quarter as under:-

S. No	**Year**	**Drawback of duty shall be calculated by reducing the import duty by**
1	1st	4% per quarter or part thereof
2	2nd	3% per quarter or part thereof
3	3rd	2.5% per quarter or part thereof
4	4th	2% per quarter or part thereof

Note: no drawback after 4 years. Drawback after 2 years allowed only if The Central Board of Indirect Taxes and Customs, on sufficient cause being shown.

Drawback on Imported Materials Used in the Manufacture of Export Goods- section 75 of custom Act

Problems in determining drawback in the case of manufacturing as under:

The goods exported are entirely different from the inputs.

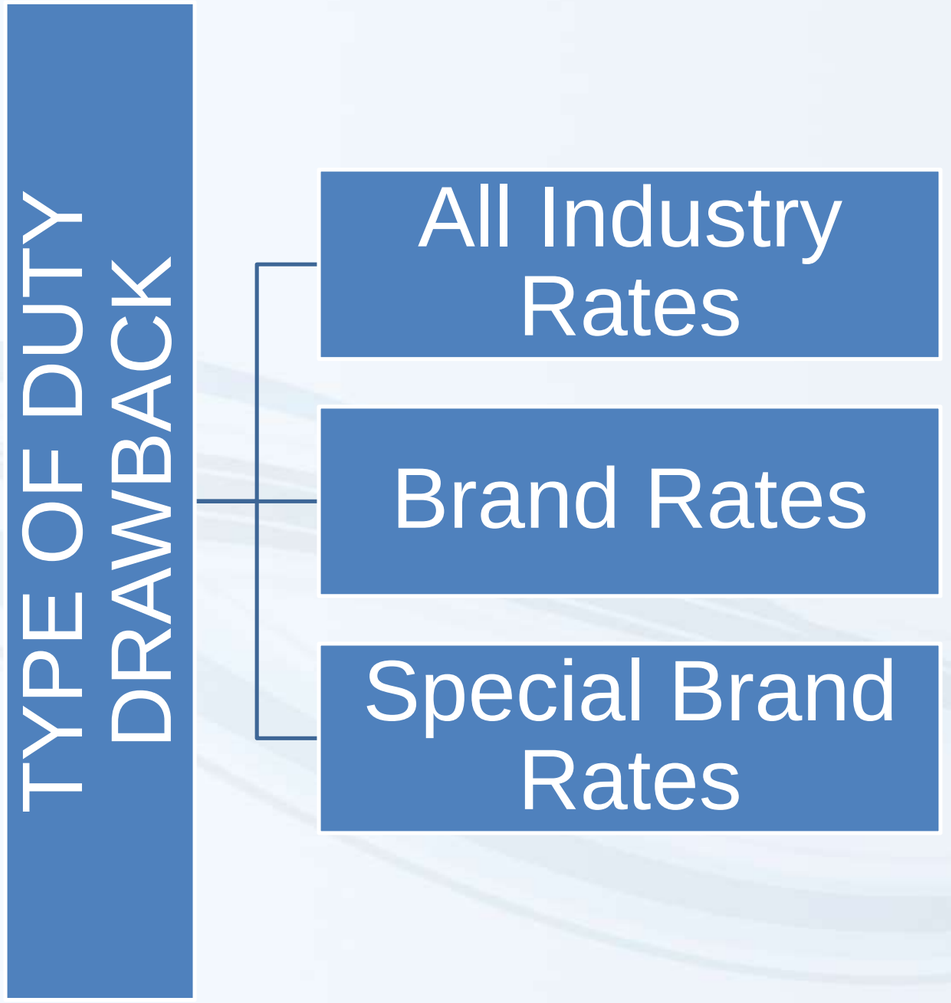
ii. The input could be either imported goods on which duty of customs has been paid or indigenous goods on which central excise duty has been paid.

iii. The existence of imported/indigenous excised duty paid goods in the final product is not capable of easy verification at the point of export.

iv. The goods, namely the inputs might have undergone changes in physical shape, property etc.

v. The quantity of inputs per piece of final product may not be uniform and may not also be verification at the time of exportation.

Duty Drawback- 3 types



All Industry Rates- Rule 3 of the drawback rules 2017

The All industry Rates (AIR) is essentially an average rate based on the average quantity and value of inputs and duties (both excise and customs) borne by them and service tax suffered by a particular export products.

All Industry Drawback rates are fixed under Rule 3 of Drawback Rules by considering average quantity and value of each class of inputs imported. Average amount of customs duties is considered. These rates are fixed for broad categories of products. The rates include drawback on packing materials.

Maximum upper limit of drawback: All industry duty drawback rate shall not exceed 33% of market price of export goods- rule 9 of Customs and Central Excise Duties Drawback Rules, 2017.

Brand Rate: rule 6

It is possible to fix All Industry Rate only for some standard products. It cannot be fixed for special type of products. In such cases, brand rate is fixed under rule 6 of **Customs and Central Excise Duties Drawback Rules, 2017**.

Provisional drawback can be obtained on execution of bond. Provisional rate can be fixed under rule 6(2) of Customs and Central Excise Duties Drawback Rules, 2017 by principal commissioner/commissioner of customs.

Provided further that when the amount or rate of drawback payable on such goods is finally determined, the amount provisionally paid to such exporter shall be adjusted against the drawback finally payable and if the amount so adjusted is in excess or falls short of the drawback finally payable, such exporter shall repay to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, the excess or be entitled to the deficiency, as the case may be.

note: According to Rule 9 Duty Drawback Rate shall not exceed 33% of market price of export goods.

Special Brand Rates

All industry Rates is fixed on average basis. Thus, a particular exporter may find that the actual customs duty paid on inputs is higher than all industry Rate fixed for his product. In such case, Where, in respect of any goods, the exporter finds that the amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4, for the class of goods is less than 80% of the duties paid on the materials or components used in the production or manufacture of the said goods, he can apply under Rule 7 of Customs and Central Excise Duties Drawback Rules, 2017 for fixation of Special Brand Rate, within 3 months from export.

No drawback in certain cases

As per proviso to section 75(1) of the Customs Act that no drawback of duty shall be allowed under section 75 if:

a) The export value of the finished goods or class of the goods is less than the value of the imported materials used in the manufacture or processing of such goods or carrying out any operation on such goods or class of goods; or

b) The export value is not more than such percentage of the value of the imported materials used in the manufacture or processing of such goods or carrying out any operation on such goods or class of goods as may be notified by the Central Government; or

c) Any drawback has been allowed on any goods and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under the FEMA. In such case, the drawback shall be deemed never to have been allowed and the central government, may, by rules made under sub-section (2) specify the procedure for the recovery or adjustment of the amount of such drawback.

Upper limit of drawback amount or rate: The drawback amount or rate determined shall not exceed one third of the market price of the export product.

Duty Drawback under GST era:

Under GST, the duty drawback would only be available for the customs duty paid on imported inputs or central excise paid on certain petroleum or tobacco products used as inputs or fuel for captive power generation.

Under GST regime, Drawback under **Section 75** shall be limited to Customs duties on imported inputs and Central Excise duty on items specified in Fourth Schedule to **Central Excise Act 1944** (specified petroleum products, tobacco etc.) used as inputs or fuel for captive power generation.

A transition period of 3 months is also being provided from date of implementation of GST. During this period, existing duty drawback scheme under **Section 75** shall continue. For exports during this period, exporters can claim higher rate of duty drawback (composite AIR) subject to conditions that no input tax credit of CGST/IGST is claimed, no refund of IGST paid on export goods is claimed and no CENVAT credit is carried forward.

Exporter will have to reverse the ITC if any availed and also ensure that he does not claim refund of ITC/IGST. Requisite certificate from GST officer shall also be required to this effect.

Exporters also have the option of claiming only the Customs portion of AIR and claim refund/ITC under GST laws.

Clarification regarding applicability of All Industry Rates of duty drawback while fixing Brand Rate of duty drawback in post GST era.

Circular No. 24/2019-Customs F. No. 609/39/2019-DBK Government of India Ministry of Finance, Department of Revenue Central Board of Indirect Taxes & Customs New Delhi, dated 8th August, 2019

“3. Post GST, since Central Excise duty on inputs and Service Tax on input services used in the manufacture of export goods have been subsumed in GST for which input tax credit/refund is available thereunder, the basic premise for applicability of AIRs for calculation of Brand Rate of duty drawback no longer exists for exports made in GST regime. Accordingly, it is clarified that contents of para 3(a) and 3(b) of Circular No. 83/2003 dated 18.09.2003 and Circular No. 97/2003 dated 14.11.2003 are not applicable for exports made in post GST era.

4. As regard the duties to be rebated under Duty drawback scheme in post GST era, which are not refunded or neutralized in any other manner, the same can be claimed by the exporter on actual basis in terms of Rules 6 and 7 of aforesaid Rules, 2017.”

THANK YOU

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