

## Northern India Textile Mills' Association

PHD House, Sector 31 A, Chandigarh-160 031

Contact Nos.: +91 172 2637 573, +91 81466 77291, +91 81464 00264



Date: 19<sup>th</sup> June, 2018

Ms. Vanaja N Sarna, IRS  
Ministry of Finance,  
Department of Revenue,  
Centre Board of Indirect Taxes & Customs,  
North Block, New Delhi – 110001

**Subject: RULE 96(10) OF CGST RULES NEEDS REVIEW.**

Respected Madam,

The Northern India Textile Mills' Association, popularly known as NITMA is an apex association of North India serving the interest of textile units. All the large textile mills in the Northern part of India are associated with NITMA and the combined turnover of its members is approx 50,000 crores (USD 8 Billion). It was formed in 1958 and represents industry for all policy matters and disseminates information apart from conducting conferences, exhibitions, seminars & workshops.

Rule 96 was amended w.e.f. 23.10.2017 vide Notification No.3/2018 – Central Tax dated 23.01.2018, whereby sub-rule (10) was inserted, so as to disallow refund of IGST paid on exports by an exporter, who has received supplies on which the supplier has availed the benefit of the following notifications:

- **Notification No.48/2017 – Central Tax**, dated 18<sup>th</sup> October 2017 –

Notifying certain supplies under EPCG / Advance Authorization License / EOU as deemed exports under Section 147 of the CGST Act.

- **Notification No.40/2017 – Central Tax (Rate)**, dated 23<sup>rd</sup> October 2017 –

Notification prescribing CGST rate of 0.05% on intra-State supply of goods by a registered supplier for export subject to specified conditions.

- **Notification No.41/2017 – Integrated Tax (Rate)**, dated 23<sup>rd</sup> October 2017 –

Notification prescribing IGST rate of 0.1% on inter-State supply of goods by a registered supplier for export subject to specified conditions.

- **Notification No.78/2017 – Customs**, dated 13<sup>th</sup> October 2017 –

Notification to amend Notification No.52/2003 – Cus dated 31.03.2003, it exempt goods imported by EOUs from customs duties and IGST and compensation cess. However, at present, exemption from payment of IGST and compensation cess is only till 30<sup>th</sup> September 2018.

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### - Notification No.79/2017 – Customs, dated 13th October 2017 –

Notification to amend various Customs exemption notifications to exempt IGST and compensation cess on import of goods under, inter alia, AA/EPCG Schemes. However, at present, exemption from payment of IGST and compensation cess is only till 30<sup>th</sup> September 2018.

A Circular No. 45/19/2018-GST had been issued on 30<sup>th</sup> May 2018 clarifying the above Rule which says that if the exporter has received supplies from the supplier availing the benefit of the above said specified Notification, the exporter is bound to make export of goods under LOU / Bond and is not entitled to claim refund of IGST paid on goods exported by utilizing the accumulated ITC of other inputs. It is the intention of the Government to give exemption on one leg of the transaction i.e. either on inputs or on outputs.

The textile industry's raw material is Cotton Fibre (GST 5%) / Acrylic / Polyester Fibre (GST 18%) / Packing Material, Dyes & Chemicals other stores and spares / various type of inward / outward services (GST rate 5-12-18%) and the textile industry is exporting a part of production of 100% Cotton Yarn (GST rate 5%) / Cotton Polyester Blended Yarn (GST rate 5/12%) Synthetic Yarn (GST Rate 12%), and a part of production of yarn is sold in the domestic market.

A very small part of Acrylic / Polyester Fibre / Machinery Spares is imported under Advance Authorization / EPCG without payment of IGST under Notification No.79/2017 dated 13.10.2017 and spare parts are procured under EPCG Scheme from domestic market under Notification No.48/2017CT dated 18.10.2017 on which the TED / GST Refund is availed in which cases of export of Synthetic / Polyester Cotton Blended / Cotton Yarn also, some part of GST paid packing material / stores / spares / inward / outward services etc. are used. The textile industry is also getting new machinery (Import / Domestic) which is procured under EPCG Scheme to avoid accumulation of ITC.

Further in some cases of imports under advance authorization, IGST is required to be paid (Basic / Anti-dumping duty exempt) in case exports take place before imports.

To utilize the otherwise Accumulated ITC Credit due to inverted duty structure / zero rated export, the industry is exporting Cotton / Synthetic Yarn on payment of IGST and its refund is claimed.

Keeping in view the provisions of Circular No.45/19/2018-GST dated 30<sup>th</sup> May 2018 (Point 7) read with Rule 96 (10) of GST Rules amended on 23.01.2018 w.e.f. 23.10.2017, please get the clarification from the Government:

- a) Rule 96 (10) talks about the supplier of goods (to the exporter) should not have availed the benefits of the specified notifications, how to ensure such thing by the exporter?

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- b) Whether one to one co-relation between inputs / capital goods and outputs is required to be maintained (not required under the Excise Law) or not? When no such provision exists in GST Law, the Rule 96 (10) / Circular is in violation of the principle of ease of doing business.
- c) Since the exports (under bond/LOU) are made under duty drawback (Central portion), whether refund of ITC will be allowed. If so, whether net ITC will also include GST/ITC paid on capital goods.
- d) It has been opined that the language of the Rule says that even if a single consignment under the notified notification is received by the exporter, he is not eligible for refund of IGST paid on exports for how much period or it should be applicable to the exports made under those advance authorization /EPCG
- e) Capital goods procured from domestic sources under EPCG scheme (full GST charged by the supplier and later got refunded from Government Authorities by the receiver as TED refund under old regime – ITC can also be availed in case of non refund and duty drawback claimed by supplier on deemed exports) r used for production of goods from inputs with inverted duty structure as well as non inverted duty structure. How to allocate such ITC availed for a machine life of 20-25 years? Similar is the situation of negligible/small portion of inputs/spare parts having inverted duty structure in the final products
- f) If the supplier after availing the benefits of specified notification charges full GST from buyer (i.e. not nil/reduced rate), whether the restriction is applicable?

An article on this Rule had been published in the Business Standard with the caption Illogical Rules 96 (10) need review (copy enclosed).

Similarly, an article by E & Y had also indicated that a clarification is required in case the direct import is made by the exporter under the advance authorization / EPCG.

You are kindly requested to take up the matter with the Central Board of Indirect Taxes & Customs, Central Government for deletion / modification of this Rule because there will be great impact on the supply of goods on deemed export basis and the receiver will also suffer on account of accumulation of GST charged by them and the above mentioned difficulties in compliance of the Rules.

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Thank You.

With kind regards



**Rajiv Garg**  
President