

Supplies from DTA Unit to an EOU Unit has been covered under Deemed Export category as per notification no. 49/2017-Central Tax dated 18th Oct 17.

Govt. has provided an option for application of refund both to the Supplier (DTA Unit) and the recipient (EOU Unit) on account of deemed export supplies. Related procedure for claiming refund whether by the supplier or by the recipient has been stated in notification no. 47/2017-Central Tax dated 18th Oct 17 & 49/2017-Central Tax dated 18th Oct 17.

Eyeing the above provision on filing of refund application by the supplier or the recipient of deemed export supplies, two possible scenarios can be determined:

1. The supplier of deemed export supplies would need to pay IGST on such supplies and shall claim refund only when such IGST amount has not been collected from the recipient of such deemed export supplies (i.e. EOU Unit)
2. On the other hand, the recipient (i.e. EOU Unit) of deemed export supplies will be eligible to claim ITC and shall file refund application if IGST is paid to the supplier of deemed export supplies while obtaining such goods.

It is important to note that both the supplier and recipient of deemed export supplies of goods cannot claim refund at the same time in respect of the same transaction.

Hence, in the scenario queried in the trail email, where the Tax Invoice has been issued by the DTA Unit levying tax, EOU Unit has an option to either pay the tax component to the supplier and claim ITC at his end or to provide confirmation by way of endorsement of the tax invoice to the supplier and the supplier shall apply for refund by paying the tax at his end based on the endorsed invoice declaration received from the EOU Unit.

Please find below the attached knowledge sharing document from KARVY GST Team explaining the concept of Deemed Export under GST regime.

From	Karvy Data Management Services Ltd.
Date	November 08, 2017
Subject	Deemed Export under GST
Category	Notification & Circular
Reference	Notification No. 47/2017-Central Tax; 48/2017-Central Tax & 49/2017-Central Tax dated 18 <sup>th</sup> Oct 17 Circular No. 14/14/2017-GST dated 6 <sup>th</sup> Nov 2017
Series	Karvy/GST/21

With major announcement made by the GST Council on 06<sup>th</sup> October 2017 extending relief and incentive package to the export community in preventing cash blockage on account exports, CBEC notified supply of list of goods to fall under the category of Deemed Exports under GST regime. Procedure to claim refund on account of deemed exports and procedure of such deemed export supplies were also notified / circulated by CBEC.

**All such notifications and circular were issued by the CBEC on dated 18<sup>th</sup> October 2017 and 6<sup>th</sup> November 2017 respectively detailing the Deemed Export procedure:**

**Definition of Deemed Export:**

Deemed Export means certain supplies of goods which may be notified by the Government of India:

- where such goods do not leave India and
- payment of such supplies is received either in Indian rupees or in convertible foreign exchange,
- if such goods are manufactured in India.

– Sec. 2(39) of CGST Act 2017 read with Sec. 147 of CGST Act 2017.

**List of supplies of goods to be treated as Deemed Export under GST regime:**

Notified by the Govt. of India vide Notification No. & Date	Sl. No.	Description of Supply of goods treated as deemed export
48/2017-Central Tax dated 18th Oct 2017	1	Supply of goods by a registered person against Advance Authorisation (AA)
	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 Export Oriented Unit (EOU)
	4	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30 <sup>th</sup> June 2017 (as amended) against Advance Authorisation

**Definition of important terms used in the above table:**

**Advance Authorization** – It means authorization issued by the DGFT under chapter 4 of Foreign Trade Policy (FTP) 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports.

**Export Promotion Capital Goods (EPCG) Authorization** – It means an authorization issued by the DGFT under Chapter 5 of the Foreign Trade Policy (FTP) 2015- 20 for import of capital goods for physical exports.

**Export Oriented Unit (EOU)** – Means an Export Oriented Unit or Electronic Hardware Technology Park Unit (EHTPI) or Software Technology Park Unit (STPI) or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy (FTP) 2015-20.

### Filing of refund application on account of Deemed Export supplies:

Below mentioned table narrates the earlier and amended provision under GST regime on who should file refund application on account of deemed exports:

Earlier Provision as per Rule 89 of CGST Rules 2017	Amended Provision as per notification no. 47/2017-Central Tax dated 18 <sup>th</sup> Oct 17
In respect of supplies regarded as deemed exports, the application shall be filed by the <b>recipient of deemed export supplies</b> .	In respect of supplies regarded as deemed exports, the application shall be filed by:
	<b>(a) the recipient of deemed export supplies; or</b>
	<b>(b) the supplier of deemed export supplies 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</b>

### Evidences required to be produced by the supplier of deemed export supplies for claiming refund:

Below mentioned table represents the documents which would be required to be produced by the supplier of deemed export supplies for claiming refund:

Sl. No.	List of evidences required as per notification no. 49/2017-Central Tax dated 18 <sup>th</sup> Oct 17
1	<b>Acknowledgment by the jurisdictional Tax officer of:</b>
	(a) the Advance Authorisation (AA) holder, or
	(b) Export Promotion Capital Goods (EPCG) Authorisation holder,
	as the case may be, that the said deemed export supplies have been received by the said <b>AA or EPCG</b> Authorisation holder, or
	a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit (EOU) that said deemed export supplies have been received by it.
2	An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
3	An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

### Eyeing the above provision on filing of refund application by the supplier or the recipient of deemed export supplies, two possible scenarios can be determined:

- The supplier of deemed export supplies would need to pay IGST on such supplies and shall claim refund only when such IGST amount has not been collected from the recipient of such deemed export supplies (i.e. the AA, EPCG Authorization Holder and EOU)
- On the other hand, the recipient (i.e. the AA, EPCG Authorization Holder, and EOU) of deemed export supplies will be eligible to claim ITC and shall file refund application if IGST is paid to the supplier of deemed export supplies while obtaining such goods.

**It is important to note that both the supplier and recipient of deemed export supplies of goods cannot claim refund at the same time in respect of the same transaction.**

**Procedure for procurement of goods from DTA supplier by EOU / EHTP Unit / STPI unit / BTP Unit / under deemed export benefits:**

**Below mentioned table narrates the procedure for supplies by DTA Unit to EOU/EHTP/STPI/BTP Unit:**

Sl. No.	Procedure as per circular no. 14/14/2017-GST dated 6 <sup>th</sup> Nov 2017 issued by the Commissioner of GST, Govt. of India
1	The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form-A" (link to view "Form-A" - <a href="http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-14-gst.pdf">http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-14-gst.pdf</a> 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 above mentioned intimation shall be given by the recipient to:
	(a) the registered supplier
	(b) the jurisdictional GST officer in charge of such registered supplier; and (c) its jurisdictional GST officer.
2	The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
3	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:
	(a) the registered supplier
	(b) the jurisdictional GST officer in charge of such registered supplier; and (c) its jurisdictional GST officer.
4	The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit
5	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" (link to view "Form-B" - <a href="http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-14-gst.pdf">http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-14-gst.pdf</a>
	Key features of maintaining data in "Form-B" by the recipient are as follow:
	<ul style="list-style-type: none"> <li>• The software for maintenance of digital records shall incorporate the feature of audit trail.</li> </ul>
	<ul style="list-style-type: none"> <li>• While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements</li> </ul>
	<ul style="list-style-type: none"> <li>• 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</li> </ul>
	<ul style="list-style-type: none"> <li>• 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</li> </ul>
	<ul style="list-style-type: none"> <li>• 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.</li> </ul>

The above procedures 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.

We have attached copy of **Notification No. 47/2017-Central Tax; 48/2017-Central Tax & 49/2017-Central Tax dated 18<sup>th</sup> Oct 2017 and Circular No. 14/14/2017-GST dated 6<sup>th</sup> Nov 2017** along with this knowledge sharing article for your reference.

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## About KARVY DATA MANAGEMENT SERVICES LTD.

Karvy Data Management Services Limited (KDMSL), a GST Suvidha Provider which has developed ASP Solution for easing GST compliance for tax payers. Easy to use interfaces are made available at the disposal of the tax payers to simplify their compliances in terms of dashboards, MIS, returns, payments, refunds and other compliance process. So, 'HELP US HELP YOU' we offer following services for GST - GSP & ASP Services (on cloud or on premises) with ERP Integration and Vendor Management Solution. We also offer managed services for Outsourced GST Compliance which will take care of end to end compliances.

In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi and Kolkata. For more information about KDMSL service offerings, visit [www.karvygst.com](http://www.karvygst.com)

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