



Import & Export under GST

Customs area: Area of a **customs station/warehouse** & includes any area in which imported goods/export goods are ordinarily kept before clearance by Customs Authorities.

Customs station: Any customs **port**, customs **airport**, **international courier terminal**, **foreign post office** or **land customs station**.

Non-taxable online recipient [NTOR]: Any **unregd. person** (includes a person registered solely for TDS u/s 51), **receiving OIDAR services**, located in taxable territory.

OIDAR services: Services whose delivery is mediated by IT over internet/electronic network & nature of which renders their supply impossible in absence of IT & includes electronic services such as:

- i) advertising on internet;
- ii) providing cloud services;
- iii) provision of e-books/movie/music/software/other intangibles through telecommunication networks/internet;
- iv) providing data/info., retrievable or otherwise, to any person in electronic form through a computer network;
- v) online supplies of digital content (movies, television shows, music and the like);
- vi) digital data storage; and
- vii) online gaming

Imports under GST: Deemed as inter-State trade or commerce, making it subject to IGST.

- Import of Goods= Bringing goods **into India from outside India**
- IGST on imported goods is levied & collected under Customs Tariff Act, 1975. So, though goods imported into India are leviable to IGST under IGST Act, machinery of customs law is used to levy & collect same.
- **For intangible goods that do not physically cross customs frontiers, IGST is collected directly under Section 5(1). Online money gaming imports are notified for IGST levy without customs duty.**
- POS for imported goods is **location of the importer** as per Sec. 11.
- **GST Compensation Cess** may also apply to import of certain luxury or demerit goods.
- Imported goods are subject to IGST at the **same rate** as applicable to similar goods supplied in India.
- IGST is levied on imported goods **in addition to customs duty** under Customs Act. Also, IGST is levied & collected when customs duties are levied, i.e., when importation is complete. This occurs when goods cross customs barrier & BoE for home consumption is filed, marking the taxable event.
- Taxable value for IGST/ GST Compensation Cess Levy= **Value determined u/s 14 of Customs Act + Basic customs duty** + Any **other** sum chargeable as customs duties (Exclude IGST & GST Compensation Cess)
- Applicability of IGST on warehoused goods:
 - IGST is not levied on sale of goods deposited in a customs bonded warehouse **until they are cleared for home consumption** via an ex-bond bill of entry.
 - Taxable value for IGST on warehoused goods is the **HIGHER of:**
 - (a) **Transaction** value (sale value), or
 - (b) Value determined at time of **filing into-bond** Bill of Entry plus applicable customs duties
 - For goods sold >1 time while being in warehouse, **last transaction value** is used to calculate IGST.
 - Proportionate value applies for partial sales of warehoused goods.
- High Sea Sales:
 - Sale of goods before customs clearance by endorsement of documents is not treated as supply under Sch. III of CGST Act.
 - GST is **not applicable** on high sea sales; IGST is levied only when goods are cleared for HC.

- Assessable value for customs duty & IGST is based on **last buyer's transaction price**.
- Third Country Shipments:
 - Goods shipped from 1 non-taxable territory to another without entering India are **not supply** (Sch. III).
 - **No GST liability**; value not included in exempt supplies for ITC reversal.
- Goods Imported by SEZ are **fully exempt from IGST** when used for authorized operations.
- Goods Imported by EOU are **exempt from customs duty, IGST, and Cess**, subject to specific conditions.
- Import as Baggage is **exempt from IGST and GST Compensation Cess**.

Taxability of Supply of **OMG** by a person located outside taxable territory to a person in India:

- **A supplier of OMG outside taxable territory must pay IGST on such supplies made to persons in taxable territory.**
- **Such suppliers must register under Simplified Registration Scheme.**
- **Return must be filed in Form GSTR-5A by 20th of month succeeding calendar month/ part thereof.**
- **If supplier has representative in India, representative must register & pay IGST on supplier's behalf. If there is no physical presence/representative in India, supplier can appoint a person in India to pay IGST.**
- **Non-compliance may result in blocking access to information related to supply of OMG u/s 69A of IT Act, 2000.**

Import of Services:

- Import of Services= Supply of services where:
 - Supplier is located outside India.
 - Recipient is located in India.
 - POS is in India
- Import of service is taxable as a "supply" u/s 7 of CGST Act and Para 4 of Schedule I.

Nature of Service to be treated as Supply	Consideration	Business Test
Import of services	Necessarily Required	Not required
Import of services by a person from a related person or from his establishment outside India	Not required	Necessarily Required

- Services imported into India are considered **inter-State supplies** & are subject to IGST.
- POS determined as per **Sec. 13** of IGST Act.
- Recipient of imported services is liable to pay tax under **RCM**.
- IGST on transportation of goods by a foreign shipping line to a customs station in India is payable by importer in India on composite supply. *SC in UOI vs. Mohit Minerals Pvt. Ltd.* ruled that **IGST cannot be separately levied on ocean freight component in a CIF contract**, as it would amount to double taxation.
- For notified services through ECO, ECO is liable to pay tax.

OIDAR Services:

- Provided **via internet & require IT for delivery**. E.g.: downloading e-books or using online databases.
- When an OIDAR service is imported by a business entity (excluding govt. bodies), POS is India, & **business entity** must pay IGST under RCM.
- For NTOR (individuals) in India receiving OIDAR services from overseas, POS is India & IGST is payable by **overseas supplier**, as it's impractical for individuals to register under GST.
- If an intermediary facilitates OIDAR services to a NTOR in India, **intermediary** must register in India & pay IGST. **However**, if intermediary has nothing to do with:
 - payment or
 - authorising delivery of service or
 - setting of T&C of supply,
 & if his invoice clearly identifies service & its supplier, regn. responsibility remains with **supplier**.

- Overseas suppliers of OIDAR services can register under Simplified Registration Scheme. If supplier has no physical presence in India, they can **appoint a representative** to handle IGST payment.
- To determine if a service is OIDAR, **2 main conditions** must be met:
(A) service must be **provided online AND** (B) it must **require IT for delivery**.

Service	Whether condition 'A' is fulfilled?	Whether condition 'B' is fulfilled?	Whether it is OIDAR service or not?
PDF document automatically emailed by provider's system	YES	YES	YES
PDF document automatically downloaded from site	YES	YES	YES
Stock photographs available for automatic download	YES	YES	YES
Online course with pre-recorded videos & downloadable PDFs	YES	YES	YES

- Other E.g.:
 - **Website Hosting & Maintenance:** Includes website hosting, webpage hosting, & online maintenance of programs & equipment.
 - **Software Supply & Updates:** Covers downloading & accessing software, including updates, antivirus programs, & system drivers.
 - **Image, Text, & Database Supply:** Includes accessing/downloading digital content such as books, photos, news, & databases.
 - **Music, Films, & Games Supply:** Involves accessing or downloading music, films, games, and other entertainment content via internet.
- Regn. Requirements:
 - **Regn for Importers of Goods:** Importers of goods are not required to register under GST specifically unless they are already regd. under GST. They quote GSTIN on BoE for paying IGST & claiming ITC.
 - **Regn. for Exempted Goods:** Importers of exempted goods or goods not liable to tax under GST are not required to register, with PAN serving as authorization.
 - **Regn. for Importers of Services:** Importers of services who are required to pay tax under RCM must register under GST to be able to pay IGST on imported services.
- Regd. persons can claim ITC on IGST paid on imported goods/services, subject to conditions, & use it to pay outward tax. GST Compensation Cess can also be claimed as ITC, but only for payment of cess.

Exports of Goods:

- Taking goods **out of India** to a **place outside India (Zero-Rated & Inter-State supply)**

Zero Rated Supply:

- Zero rating ensures that entire value chain is tax-free. It allows tax-free outward supplies & enables claiming ITC on inputs for such supplies. Exports & supplies to SEZ units/developers are zero-rated.
- Unlike exempt supplies, zero-rated supplies allow ITC on inputs used, avoiding tax cascading. Exempt supplies do not permit ITC, making input taxes a cost for suppliers.
- Outward zero-rated supplies can be made:
 - **without IGST payment** under bond/Letter of Undertaking (LUT), with a **refund of unutilized ITC; OR**
 - with IGST paid on outward supplies, & a **refund of such total tax** paid.
- Refund provisions also apply to GST Compensation Cess on ZRS.
- **Difference Between ZRS and Exempt Supplies:**

Aspect	Exempted Supplies	Zero-Rated Supplies
Definition	Supply of goods/services attracting nil rate of tax, wholly exempt from tax, or non-taxable supply.	(i) Export of goods/services or (ii) supply of goods/services for authorized operations to SEZ unit/developer .

Tax on Outward Supply	No tax on outward exempt supplies; input supplies used are taxed .	No tax on outward supplies; input supplies are also tax-free (by way of refund of ITC).
ITC	ITC must be reversed if taken; no ITC is allowed for exempt supplies.	ITC is allowed and can be availed for ZRS, even if supply is otherwise exempt.
Value for ITC Apportionment	Exempt supplies include RCM Outward supplies , securities transactions, L&B sale.	ZRS is added along with taxable supplies for ITC apportionment.
Registration Requirement	A person supplying wholly exempt goods/services is not required to register under CGST/IGST Act.	A person making zero-rated supplies must register to claim refunds of unutilized ITC or IGST paid.
Invoice Type	Bill of supply is issued for exempt supplies.	Normal tax invoice is issued for ZRS.

Physical Exports [Sec. 2(5)]:

- Export of goods involves **taking goods from India to a place outside India**. India extends to 200 nautical miles from coastal baseline. So, goods must travel beyond this 200-mile limit to qualify as exported.
- Sending/taking goods out of India for **exhibition or on a consignment basis** for export promotion does **not constitute a supply unless** the activity meets the criteria in Schedule I of CGST Act. Such activities lack consideration at the time of dispatch & thus fall outside scope of "supply" & also "ZRS". So, execution of a bond or LUT is not required for such activities.

Deemed Exports:

- Deemed exports refer to supplies of goods (**not services**) manufactured in India, notified u/s 147 of CGST Act. Such supplies do not leave India, and payments can be received in INR/convertible forex.
- As per Notification No. 48/2017 CT dated 18.10.2017, following are deemed exports:
 - Supply of goods against Advance Authorisation (**AA**): Goods supplied must be used for manufacturing taxable goods (other than nil-rated/fully exempt goods). CA's certificate confirming compliance must be submitted **within 6 months of supply**.
 - Supply of capital goods against Export Promotion Capital Goods Authorisation (**EPCG**).
 - Supply of goods to Export Oriented Units (**EOU**): Includes Electronic Hardware Technology Parks (**EHTP**), Software Technology Parks (**STP**), and Bio-Technology Parks (**BTP**).
 - Supply of **gold by banks/PSUs** against **AA**.
- (AA= Importing/domestic procurement of **inputs** for physical exports.
EPCG= Importing **capital goods** for physical exports.)
- Deemed exports are **not ZRS by default**. Such supplies must be made on tax payment & **cannot be supplied under bond/LUT**. Refund of tax paid is admissible to supplier/recipient, based on specific conditions.

Merchant Exports:

- There is no specific GST provision for merchant exports; however, a **concessional GST rate of 0.1%** (0.05% CGST + 0.05% SGST or 0.1% IGST) is available under exemption notifications.
- **Exporters** procuring goods at 0.1% GST can **claim credit for tax paid**, while **suppliers** are eligible for a **refund of ITC** due to an inverted duty structure (**IDS**).
- Exports under this scheme **must be done under LUT/bond**, & IGST payment is not permitted.
- CT-1 Form used for tax-free purchases by merchant exporters, is not applicable under GST. Manufacturer-to-merchant supplies are considered taxable transactions.
- Manufacturer exporter = A person exporting self-manufactured goods, while a merchant exporter trades & exports goods (as per FTP 2023).
- Regd. suppliers can supply goods at 0.1% GST to merchant exporters if specific conditions are fulfilled:
 - issuing a tax invoice, **exporting goods within 90 days**, linking supplier GSTIN and tax invoice in the shipping bill, and registration with an Export Promotion Council.

- Merchant exporters must place an order on supplier, share it with supplier's jurisdictional tax officer, and ensure goods move directly to port or a registered warehouse before export.
- For aggregation from multiple suppliers, goods must 1st move to a regd. warehouse, with endorsements on invoices & acknowledgments from warehouse operators shared with suppliers & jurisdictional tax officers.
- Post-export, merchant exporters must provide copies of shipping bills/bill of export, export general manifests/export reports to suppliers & suppliers' jurisdictional tax officers while **excluding commercially sensitive information**.

Export of Services:

- Export of Services= Supply of services where:
 - Supplier is in India;
 - Recipient is outside India;
 - POS is outside India;
 - Payment is recd. in convertible forex/INR as permitted by RBI
 - Supplier & recipient are not merely establishments of distinct person.
- Sub-contracting: If an exporter outsources part of services to a foreign supplier, **2 supplies** occur:
 - **Export** of entire value of services by Indian exporter; &
 - **Import** of **sub-contracted** services by Indian exporter.

Exporter is liable to pay IGST on **RCM for imported services** & can claim ITC. And entire contract value of **1st supply is considered as export** if RBI allows part of consideration to remain outside India.
- Transactions between a **HO & its branch** (establishments of distinct person of same entity) are **not treated as exports**, as they are not considered separate legal entities but part of same taxable person. However, **subsidiary & holding companies** are **separate** legal entities under GST law & Companies Act; so, transaction b/w them can qualify as **export of services**.
- Clarification on Export Remittances Received in Special Rupee Vostro Accounts:
 - **For services to qualify as "export of services" under the IGST Act, payment must be received in convertible foreign exchange or in INR, if permitted by RBI.**
 - **Indian exporters can receive payment in INR through Special Rupee Vostro Accounts of correspondent banks in partner countries, as per FTP, 2023, and RBI circulars.**

Common Provisions for Export of Goods & Services:

- Zero-Rated Supplies to SEZ Units/Developers
 - Supply to SEZs units/developers are zero-rated only if it's for "authorized operations" as certified by the specified SEZ officer.
 - Treatment of **event mgt., short-term accommodation, conferencing, banqueting, consumables etc.** services provided to SEZ Developer/Unit:
 - Supply to SEZ developer/unit is treated as **inter-State supply** as per Sec. 7(5)(b) of IGST Act.
 - POS for accommodation, conferencing, banqueting etc. services is **where immovable property is located** as per Sec. 12(3)(c) of IGST Act. Thus, in such cases, if location of supplier & POS is in same State/UT, it would **be treated as an intra-State supply**.
 - Here appears a conflict, but as per principle of interpretation of statutes, specific provisions shall prevail general provisions.
 - So, in this case, Sec. 7(5)(b) is a specific provision, confirming that such services to SEZ developer/unit are **inter-State supplies**.
- Transactions with EOUs
 - Supplies to EOUs are taxable, **not zero-rated**, but considered as **deemed exports**.
 - Refunds of tax paid on deemed exports are available either to supplier/recipient.
- Export Procedures Under Bond/LUT
 - Exporters must execute a bond or LUT for ZRS without IGST payment.

- As per rule 96A(1), a regd person opting to export/ZRS without payment of IGST must furnish a bond/LUT prior to export, committing to pay tax due with interest u/s 50 of CGST Act:

Case	Arise of Liability to Pay Tax / Int.
Supply of Goods: If goods are not exported out of India	Within 15 days after expiry of 3 months (or such further pd. as may be allowed by Commissioner).
Supply of Services: If payment of services is not received in convertible forex or INR as permitted by RBI	- within 15 days after 1 year or - period allowed under FEMA , whichever is later, from date of issuance of export invoice

- Export invoices' details must be reported in **GSTR-1**, which are electronically transmitted to **Customs system**. From said system, a confirmation that said invoices are exported are sent to **common portal**.
- LUT is **valid for whole FY** in which it is tendered.
- All regd. persons can furnish LUT instead of bond, except those prosecuted for cases of **>₹250 lakhs**.
- **Failure** to export goods & pay tax+int. within specified pd. leads to **withdrawal** of export facility without IGST payment, with recovery u/s 79 of CGST Act. Facility can be **restored upon payment** of said amt.
- Exports during LUT withdrawal pd. must be made on **IGST payment or under bond with a bank guarantee**.
- **Bank guarantees of 15%** of bond amount are required for bonds.
- Regd. exporter must fill relevant form for bond/LUT on common portal.
- LUT is deemed accepted once an acknowledgment with Application Reference No. (**ARN**) is generated online. No physical documents are req. to be submitted to jurisdictional office for LUT acceptance.
- If an ineligible exporter furnishes an LUT, it will be liable for rejection and **deemed rejected ab initio**.
- Exporters must furnish a **running bond** covering self-assessed estimated tax liability on exports.
- Exporter must ensure **o/s IGST liab.** on exports is **within bond amt.** If bond amt. is insufficient for pending exports, a fresh bond must be furnished.
- Exporter must maintain IGST **debit/credit entries** in running bond & provide records to Central tax officer upon request.
- Till mandatory self-sealing is operationalized, sealing of container must be done under supervision of jurisdictional central excise officer, with a copy of sealing report sent to **DC/AC of PPoB**.
- **Jurisdictional DC/AC of PPoB** shall accept LUT/Bond. Exporters can submit LUT/Bond to either Central/State Tax Authority until administrative mechanism for taxpayer assignment is implemented.
- **Realization of Export Proceeds**
 - As per RBI/FEMA & FTP, 2023, **export contracts & invoices** can be in **either convertible forex/INR**, but export **proceeds** must be realized in freely **convertible currency**.
 - Export proceeds may be realized in INR if received through a **freely convertible Vostro A/c**, excluding Asian Clearing Union member countries, Nepal, or Bhutan.
 - Export proceeds can be realized in **INR if allowed by RBI** guidelines.
 - Thus, acceptance of LUT for exports to foreign countries or SEZs is allowed regardless of payment in INR or forex, provided RBI guidelines are followed.

Export to Nepal and Bhutan:

- **Export of Goods:** Export of goods to Nepal/Bhutan (location outside India) fall within definition of "export of goods" & thus ZRS. As per RBI regulations, payment for such exports **can be received in INR**. Receipt of export proceeds for goods in convertible forex is not mandatory under GST. But, **failure** to realize export proceeds within FEMA timeline **may result in recovery of refunds** already paid to taxpayer.
 - **Export of Services:** RBI regulations permit payments for exports to Nepal and Bhutan in INR.
- Both goods and services exported to these countries are treated as normal exports under GST. Such exports can be made under a LUT, ensuring compliance with zero-rated supply provisions.

Amendment from Nov'25: Refund of tax paid on ZRS & export of goods & services can be claimed u/s 54 of CGST Act.