

'Replacement part can be imported under EPCG scheme for spares'



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We are merchant exporters. We procured goods from a manufacturer on payment of 0.1 per cent IGST under notification no.41/2017-IT(Rate) dated October 23, 2017. Before export, the export order got cancelled and we have to return the goods to the manufacturer. He has agreed to take them back. Can we raise a debit note and return the goods to the manufacturer?

No. Failure to export is a violation of the conditions of the said exemption notification no.41/2017-IT(Rate) and so the full tax becomes payable straightaway. So, you can first ask the manufacturer to issue a debit note for the differential tax amount and regularise the matter. Thereafter, you can make out an invoice at full IGST rate and return the goods as a fresh supply.

We had imported a machine under the EPCG scheme. It did not function properly, as one of its components (parts), was defective. We sent that component for repairs by the overseas supplier. The supplier prefers to give a replacement for the component rather than repair it. Can we import it under our EPCG authorisation that allows import of spares?

Yes. As per Para 9.54 of the FTP, "spare" means a part, or a sub-assembly or assembly for substitution, that is ready to replace an identical or similar part or sub-assembly or

assembly. Spares include a component or an accessory. Therefore, you can clear the component under an EPCG authorisation for spares.

Our supplier mistakenly shipped a wrong model of a machine, which we found out after customs clearance and when the goods had reached our factory. We took up the matter with the supplier who immediately shipped a free replacement to us on DDP basis. Now, we have to send back the wrong model but our bank is refusing to give a GR waiver, saying the free replacement has come in before we re-exported the wrong model. Please guide.

There is no stipulation that a free replacement must come only after re-export of the wrong shipment. Full payment has been made against the first consignment, and the second consignment is received free of charge. So, now you have two consignments whereas you have made payment against only one. So, one of the consignments has to go back, and no payment will come against it. Whether it goes back before getting the free replacement or after is not relevant. I don't understand why the bank should say "no". Try to explain the matter to them again, and escalate the matter to a higher officer in the bank if the problem persists.

A foreign party wants our goods on a lease basis. Can we export on a lease basis?

You need RBI approval for export of machinery or equipment, on lease or hire basis under agreement with an overseas lessee against collection of lease rentals/hire charges and ultimate re-import. You can apply for necessary permission to the RBI through your bank, giving full particulars of the goods to be exported.