

## 'Surrender proportionate incentives to remit export claims'



### CHATROOM

T N C RAJAGOPALAN

**We exported certain goods for which payment is fully realised. Now, the foreign buyer has raised some claims due to improper packing and late shipment. We want to remit these claims. What is the treatment of such export claims by RBI and under the GST laws?**

As per Para C.22 of RBI Master Direction no. 16/2015-16 dated January 1, 2016 (as amended), on "Export of Goods and Services", AD Category-I banks may remit export claims on application, provided the relative export proceeds have already been realised and repatriated to India, and the exporter is not on the caution list of the RBI. In all such cases of remittances, the exporter should be advised to surrender proportionate export incentives, if any, received by him, says the RBI.

Reading this provision, in harmony with Rule 96B of the CGST Rules, 2017, I am of the opinion that you must surrender proportionate refund of the IGST paid on the export goods obtained, or the proportionate refund of the unutilised input tax credit obtained, because sending back part of the export proceeds realised effectively amounts to shortfall in realisation of export proceeds.

**There are 11 trade terms in Incoterms 2020. We understand that the Bill of Entry captures only CIF, CFR and FOB. Is that so?**

In the ICEGATE, the drop-down menu gives four options of Incoterms — CIF, C&F, C&I and FOB.

**We are registered under the GST Composition Scheme. What is the due date for filing our annual return for the year 2020-21?**

You have to file the annual return for the year 2020-21 on or before April 30, 2021.

**We want to start exports. We understand that we can furnish a Letter of Undertaking (LUT) and export without GST payment. When are we required to furnish the LUT?**  
You must furnish the LUT in form RFD-11 online before carrying out exports.

**Para 2.87 of the Handbook of Procedures, Vol. 1, says that "realisation of export proceeds shall not be insisted under Foreign Trade Policy, if the Reserve Bank of India (RBI) or any 'Authorised Bank' (authorised by RBI for this purpose) writes off the requirement of realisation of export proceeds on merits and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of export proceeds from the buyer. However, this would not be applicable in self-write-off cases". What is meant by "write-off the requirement of realisation of export proceeds on merits"?**

In my opinion, it means that the bank must be satisfied about the bona fides of the case and that in spite of his best efforts, the exporter is or would be unable to realise the export proceeds. That satisfaction would depend on the facts of the case. For example, the cost of legal recourse may be disproportionate to the unrealised amount of the export bill, or where even execution of a Court decree in favour of the exporter would be difficult.