

# **Handbook on Refunds under GST**

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**The Institute of Chartered Accountants of India**  
*(Set up by an Act of Parliament)*  
**New Delhi**



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on  
Refunds under GST**



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First Edition : April, 2020

Second Edition : August, 2021

Committee/Department : GST & Indirect Taxes Committee

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Website : <http://www.icai.org>; <https://idtc.icai.org>

Price : 155/-

ISBN : 978-81-8441-988-7

Published by : The Publication Department on behalf of the Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi - 110 002.

Typeset by : Elite-Art, New Delhi-110 002

Printed by : Sahitya Bhawan Publications, Hospital Road, Agra - 282 003.

# Foreword

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1<sup>st</sup> July, 2017 became a milestone in the economic history of India when Goods and Services Tax (GST) was introduced as a panacea of all ills plaguing the indirect tax landscape of the country. GST is a destination-based tax, wherein tax is paid at every stage of value addition. The tax paid at the earlier stage i.e., on inward supplies is allowed as input tax credit which can be set off against the tax payable at the later stage i.e., on the outward supplies. In case the output supplies are zero rated or are deemed export or the suppliers are not able to utilize their input tax credit due to inverted tax structure, the same is eligible for refund.

Major chunk of GST refund is on account of exports as refund of input/output taxes is a popular mechanism to boost exports and increase competitiveness of Indian products in the international market. The initial phase of GST implementation noticed delays in disbursement of refunds to exporters which was a cause of concern for taxpayers. However, the Government has been quick in responding to the various issues/demands by way of making necessary amendments and issuing appropriate clarifications. Recently, the Central Board of Indirect Taxes and Customs (CBIC) had launched a special drive to clear all pending refunds within a month.

The Institute of Chartered Accountants of India (ICAI) through its GST & Indirect Taxes Committee has rendered unflinching support to the Government in ushering in the GST regime in India and continues to provide its unabated assistance in ironing out the post-implementation issues as well. Further, the ICAI has also been playing a crucial role in GST knowledge dissemination amongst all the stakeholders through its technical publications, GST Newsletter, live webcasts, e-learning, certificate courses, conferences, and programmes.

The rules relating to refunds have seen many amendments in the past and I am happy to note that the GST & Indirect Taxes Committee of ICAI has revised its **Handbook on Refunds under GST** with the recent changes made by the Government through notifications, circulars etc. The Handbook is aimed at updating the knowledge base of members and clear all doubts related to refund as it explains the concepts / procedures relating to refund in simple language.

I congratulate CA. Rajendra Kumar P, Chairman, CA. Sushil Kumar Goyal, Vice-Chairman and other members of GST & Indirect Taxes Committee for revising this Handbook and taking active steps in providing regular guidance to the members and other stakeholders at large.

I am sure that the members will find this revised publication very useful.

Date: 27.08.2021

Place: New Delhi

**CA. Nihar N Jambusaria**

President, ICAI



# Preface

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Refunds under a tax law arise when the taxpayer pays to the Government more than what is due from him. Timely disbursement of refunds is necessary for unhindered flow of working capital which thereby ensures smooth business operations. It must be the endeavour of any tax administration to provide refunds expeditiously using simple and easy processes. The refund provisions under the GST law are accordingly aimed at streamlining and standardising the refund procedures under GST regime.

Provisions relating to refunds have been amended frequently by the Government to ensure quick and smooth disposal of refund applications. Steps like complete online processing of refund, increase in provisional refund to 90% in case of zero-rated supply of goods or services or both, exclusion of the period of issuance of deficiency memo from the total period of two years available to file a new refund application, facility to withdraw refund application, etc. are all directed towards providing relief to the taxpayers.

We stand by the Government in our role as “Partner in GST Knowledge Dissemination” and accordingly have been supporting the Government with our intellectual resources, expertise and efforts to make GST a good and simple tax. In line with this objective, the GST & Indirect Taxes Committee of ICAI had published this ‘Handbook on Refunds under GST’ in the year 2020 to facilitate the stakeholders in understanding the nitty-gritties of refund mechanism under GST. This Handbook has now been revised to incorporate the recent amendments made by the Government. The Handbook inter-alia explains the topics like various type of admissible refunds and procedures related thereto, deemed exports, application for and processing of refund in virtual environment, interest for delayed refund, consumer welfare fund etc.

We sincerely thank CA. Nihar N Jambusaria, President, ICAI and CA. (Dr.) Debashis Mitra, Vice-President, ICAI for the encouragement and support extended by them to the various initiatives of the GST & Indirect Taxes Committee. We express our gratitude for the efforts of CA. Abhishek Agarwal in revising the Handbook. We would also like to thank the members of our Committee who have always been part of all our endeavors. Last, but not the least, I commend the efforts made by the Secretariat of the Committee in providing the requisite technical and administrative assistance.

Though all efforts have been taken to provide correct information in this Handbook, there can be different views/opinions on the various issues addressed to in this Handbook. We request the readers to bring to our notice any inadvertent error or mistake that may have crept in during the development of this Handbook. We will be glad to receive your valuable feedback

at [gst@icai.in](mailto:gst@icai.in). We request you to visit our website <https://idtc.icai.org> and share your suggestions and inputs, if any, on indirect taxes including GST.

**CA. Rajendra Kumar P**

Chairman

GST & Indirect Taxes Committee

**CA. Sushil Kumar Goyal**

Vice- Chairman

GST & Indirect Taxes Committee

Date: 27.08.2021

Place: New Delhi

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# Chapter 1

## Introduction

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Increasing exports ranks among the highest priorities of any government wishing to stimulate economic growth. To achieve this, governments invest their available resources in creating a conducive environment for investment and develop modern and efficient infrastructure. Besides, with the “Make in India” initiatives, the Government of India has aimed at increasing the output and the quality of exports from India to rest of the world. However, the most important factor in business is the demand for goods or services with a competitive price tag. This is possible when the local taxes are not appended to the cost of such goods or services and incentivise export transactions by announcing drawbacks and tax claims.

An exporter has to ensure that he is aware of all rules and regulations related to exports, including registration procedures and other compliances in terms of the current taxation policy of the Government for availing the benefits via schemes and refunds of taxes paid, if any. If such norms are not adhered to, it may lead to difficulty in executing the exports or denial of export incentive. Foremost, as per the current export-import policy in India, no export or import shall be made by any person without an Importer Exporter Code (“**IEC**”) number, unless specifically exempted. IEC number is a 10-digit code number given to an exporter or importer by the regional office of the Director General of Foreign Trade (“**DGFT**”), Department of Commerce, Government of India. This number is to be filled in the shipping bill made for exports. The exporter shall register with the Export Promotion Council for obtaining a Registration-cum-Membership Certificate for availing benefits available to exporters under the current Foreign Trade Policy (“**FTP**”). These incentives or schemes under FTP would go a long way in lowering the cost burden.

Foreign trade is one of the indices of a country’s economic growth. India is one of the fastest-growing economies in the world. The Introduction of the GST has had a significant impact on the manner in which business is done in India and at the international level. It has changed the taxation policy for import and export transactions and introduced separate incentives by way of refund of the tax components resulting in nullifying the indirect tax effect on the cost of the supply.

Further, Working Capital, a signal of a company’s operating liquidity, is an important metric for all businesses, regardless of their size and area of business. Having enough Working Capital means that a Company is able to pay for all of its short-term expenses and liabilities. Sometimes, due to payment of taxes under a wrong tax head (i.e., instead of the SGST or CGST in the IGST or vice-versa) results in the blockage of their working capital (as ultimately payment of tax in correct head is to be made). As per the Article 265 of the Constitution of India states: *Taxes not to be imposed save by authority of law - No tax shall be levied or collected except by authority of law.*

Considering this fact, the Government of India, besides providing incentives in the form of refund to the exporters, has incorporated provisions for refund in the following situations:

- (a) Inverted duty structure, i.e., input credit is more than tax payable on output supply.
- (b) Supply of goods, which is equalised as export (Deemed Export).
- (c) Taxable person can also claim refund, if he has paid excess tax by mistake.

This hand book covers the various situations in which refund is allowed in the GST Law and the procedure prescribed for claiming the same.

## **I. List of Statutory Provision related to refund under GST**

<p><b>The Central Goods and Services Tax Act, 2017 hereinafter referred as “the CGST Act, 2017” or “the CGST Act”</b></p> <p><b>Chapter XI</b></p> <p><b>Sections</b></p> <ul style="list-style-type: none"><li>54. Refund of tax.</li><li>55. Refund in certain cases.</li><li>56. Interest on delayed refunds.</li><li>57. Consumer Welfare Fund.</li><li>58. Utilisation of Fund.</li></ul>	<p><b>The Central Goods and Services Tax Rules, 2017 (hereinafter referred as “the CGST Rules, 2017” or “the CGST Rules”)</b></p> <p><b>Chapter X</b></p> <p><b>Rules</b></p> <ul style="list-style-type: none"><li>89. Application for refund of tax, interest, penalty, fees or any other amount.</li><li>90. Acknowledgement.</li><li>91. Grant of provisional refund.</li><li>92. Order sanctioning refund.</li><li>93. Credit of the amount of rejected refund claim.</li><li>94. Order sanctioning interest on delayed refunds.</li><li>95. Refund of tax to certain persons.</li><li>95A. Refund of taxes to the retail outlets established in the departure area of an international Airport beyond immigration counters making tax free supply to outgoing international tourists.</li><li>96. Refund of integrated tax paid on goods or services exported out of India.</li><li>96A. Export of goods or services under bond or Letter of Undertaking.</li><li>96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised.</li><li>97. Consumer Welfare Fund.</li><li>97A. Manual filing and processing.</li></ul>
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## II. Forms prescribed under the GST Law

FORM	PARTICULARS
FORM-GST-RFD-01	Application for Refund.
FORM-GST-RFD-02	Acknowledgment.
FORM-GST-RFD-03	Deficiency Memo.
FORM-GST-RFD-04	Provisional Refund Order.
FORM-GST-RFD-05	Payment Order.
FORM-GST-RFD-06	Refund Sanction/Rejection Order.
FORM-GST-RFD-07	<sup>1</sup> Part-A <b>Order for withholding the refund</b>
	Part-B <b>Order for release of withheld refund</b>
FORM-GST-RFD-08	Notice for rejection of application for refund.
FORM-GST-RFD-09	Reply to show cause notice.
FORM-GST-RFD-10	Application for Refund by any specialized agency of UN or any Multilateral Financial Institution and Organization, Consulate or Embassy of foreign countries, etc.
FORM-GST-RFD-11	Furnishing of a bond or Letter of Undertaking for export of goods or services.
FORM-GST-RFD-01A	Application for Refund (Manual).
FORM-GST-RFD-01B	Refund Order Details.
FORM-GST-RFD-01W	<sup>2</sup> Application for Withdrawal of Refund Application
FORM-GST-RFD-10B	Application for refund by Duty-Free Shops/Duty Paid Shops (Retail outlets).

<sup>1</sup> Substituted vide Notification No. 15/2021–Central Tax Dated: 18th May, 2021

<sup>2</sup> Inserted vide Notification No. 15/2021–Central Tax Dated: 18th May, 2021

## Chapter 2

# Types of Refund and Conditions

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### The Statutory Provision

#### **Section 54. Refund of tax.**

- (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

**Provided** that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

- (2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.

- (3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

**Provided** that no refund of unutilised input tax credit shall be allowed in cases other than—

- (i) zero rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

**Provided further** that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

**Provided also** that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

- (4) The application shall be accompanied by–
- (a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and
  - (b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:
- Provided** that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.
- (5) .....
- (6) .....
- (7) .....
- (8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to–
- (a) refund of tax paid on <sup>3</sup>[export] of goods or services or both or on inputs or input services used in making such <sup>1</sup>[exports];
  - (b) refund of unutilised input tax credit under sub-section (3);
  - (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
  - (d) refund of tax in pursuance of section 77;
  - (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
  - (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.
- <sup>4</sup>[(8A) The Government may disburse the refund of the State tax in such manner as may be prescribed.]

<sup>3</sup> Substituted vide the CGST (Amendment) Act, 2018 read with Notification No.02/2019-Central Tax, dated 29.01.2019 – w.e.f. 01-02-2019. Prior to its substitution it was read as: “zero-rated supplies”

<sup>4</sup> Inserted vide the Finance (No. 2) Act, 2019 read with Notification No. 39/2019- Central Tax, dated 31.01.2019 - w.e.f. 01-09-2019.

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may-

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

**Explanation.** — For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

(11) .....

(12) .....

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

**Explanation.** — For the purposes of this section, —

(1) “**refund**” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3).

(2) “**relevant date**” means-

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods, —

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

## Types of Refund and Conditions

- (ii) if the goods are exported by land, the date on which such goods pass the frontier; or
  - (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
- (b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
- (c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—
  - (i) receipt of payment in convertible foreign exchange <sup>5</sup>[or in Indian rupees wherever permitted by the Reserve Bank of India], where the supply of services had been completed prior to the receipt of such payment; or
  - (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;
- (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
- <sup>6</sup>[(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;]
- (f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
- (g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- (h) in any other case, the date of payment of tax.

<sup>5</sup> Inserted vide the CGST (Amendment) Act, 2018 read with Notification No.02/2019-Central Tax, dated 29.01.2019- w.e.f. 01-02-2019.

<sup>6</sup> Substituted vide the CGST (Amendment) Act, 2018 read with Notification No.02/2019-Central Tax, dated 29.01.2019- w.e.f. 01-02-2019. Prior to its substitution it was read as:“(e)in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;”

## Extract from the CGST Rules, 2017

**89. Application for refund of tax, interest, penalty, fees or any other amount.**

- (1) Any person, except the persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application electronically in **FORM GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

*Provided that any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant tax period in **FORM GSTR-3** or **FORM GSTR-4** or **FORM GSTR-7**, as the case may be:*

*Provided further that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the –*

- (a) *supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorised operations, as endorsed by the specified officer of the Zone;*
- (b) *supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone:*

*[Provided also that in respect of supplies regarded as deemed exports, the application may be filed by, -*

- (a) *the recipient of deemed export supplies; or*
- (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]*<sup>7</sup>

*Provided also that refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him.*

- (2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in **FORM GST RFD-01**, as applicable, to establish that a refund is due to the applicant, namely: -

- (a) *the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in*

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<sup>7</sup> Substituted vide Notification No. 47/2017- Central Tax, dated 18.10.2017 for “Provided also that in respect of supplies regarded as deemed exports, the application shall be filed by the recipient of deemed export supplies”.

## Types of Refund and Conditions

*sub-section (6) of section 107 and sub-section (8) of section 112 claimed as refund;*

- (b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods;*
- (c) a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the export of services;*
- (d) a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;*
- (e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;*
- [(f) a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer, in a case where the refund is on account of supply of goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer;]<sup>8</sup>*
- (g) a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports;*
- (h) a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;*
- (i) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment;*

<sup>8</sup> Substituted vide Notification No. 03/2019- Central Tax, dated 29.01.2019 w.e.f. 01-02-2019 for “a declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a Special Economic Zone unit or a Special Economic Zone developer”

- (j) a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;
- (k) a statement showing the details of the amount of claim on account of excess payment of tax;
- (l) a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:  
Provided that a declaration is not required to be furnished in respect of the cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;
- (m) a Certificate in Annexure 2 of **FORM GST RFD-01** issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:  
Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;

*Explanation. – For the purposes of this rule-*

- (i) in case of refunds referred to in clause (c) of sub-section (8) of section 54, the expression "invoice" means invoice conforming to the provisions contained in section 31;
  - (ii) where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.
- (3) Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed.
- [(4) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula –
- $$\text{Refund Amount} = (\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$$
- Where, -
- (A) "Refund amount" means the maximum refund that is admissible;
  - (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

<p>[(C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;]<sup>9</sup></p> <p>(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely: - Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;</p> <p>[(E) "Adjusted Total Turnover" means the sum total of the value of-</p> <p>(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and</p> <p>(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-</p> <p>(i) the value of exempt supplies other than zero-rated supplies; and</p> <p>(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.]<sup>10</sup></p> <p>(F) "Relevant period" means the period for which the claim has been filed.</p> <p>[(4A) In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II,</p>
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<sup>9</sup> Substituted vide Notification No. 16/2020- Central Tax, dated 23.03.2020 for –(C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;"

<sup>10</sup> Substituted vide Notification No. 39/2018- Central Tax, dated 04.09.2018 for:  
“(E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding –  
(a) the value of exempt supplies other than zero-rated supplies and  
(b) the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any, during the relevant period;”

Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18<sup>th</sup> October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

[(4B) Where the person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax has –

(a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or Notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23<sup>rd</sup> October, 2017; or

(b) availed the benefit of notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299(E), dated the 13<sup>th</sup> October, 2017,

the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.<sup>11]</sup><sup>12]</sup><sup>13</sup>

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<sup>11</sup> Substituted vide Notification No. 54/2018- Central Tax, dated 09.10.2018 for “(4B) In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017 - Central Tax (Rate) dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E) dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E) dated the 23<sup>rd</sup> October, 2017 or notification No.78/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E) dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299(E) dated the 13<sup>th</sup> October, 2017, or all of them, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.”

<sup>12</sup> Substituted vide Notification No.03/2018- Central Tax, dated 23.01.2018 w.e.f. 23-10-2017. Till then it read as:“(4A) In the case of supplies received on which the supplier has availed the benefit of Notification No. 48/2017-Central Tax, dated 18.10.2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

## Types of Refund and Conditions

[(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula: –

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

Explanation: - For the purposes of this sub-rule, the expressions –

(a) "Net ITC" shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

(4B) In the case of supplies received on which the supplier has availed the benefit of notification No. 40/2017- Central Tax (Rate) dated 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax, (Rate) dated 23<sup>rd</sup> October, 2017, or both, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted."

<sup>13</sup> Substituted w.e.f. 23-10-2017 vide Notification No.75/2017- Central Tax, dated 29.12.2017 for "(4) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula -

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where,-

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;
- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking;
- (D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

- (E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;
- (F) "Relevant period" means the period for which the claim has been filed"

*(b) [“Adjusted Total turnover” and “relevant period” shall have the same meaning as assigned to them in sub-rule (4).]<sup>14</sup><sup>15</sup>*

- **Who can apply for the claim?**

Sub-section (1) of Section 54 of the CGST Act, 2017 states that “any person” who has paid any tax and interest, if any, paid on such tax or any other amount can apply for the claim of such tax, interest (if any) or other amount so paid. The term “ANY PERSON” opens the refund arena to that person who has borne the incidence of tax. This means that when the tax or interest is wrongly paid and the incidence of such tax is not passed to the receiver then the supplier is eligible for the refund or otherwise the receiver who paid the said taxes is eligible for the claim.

- **Type of claim permitted under Section 54:**

Section 54 of the CGST Act, 2017 is appended with the explanation of the term “refund”, which includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of the unutilized input tax credit (“ITC”) as provided under Sub-section (3) of Section 54.

This section deals with the legal and procedural aspects of claiming refund by any person in respect of:

- any tax and interest paid on such tax (which was excess paid, provided he had not passed on the incidence of such tax and interest to any other person);
  - where a refund voucher has been issued
  - Excess amount paid during registration as advance by the casual tax person / Non-resident taxable person
- excess balance in the electronic cash ledger;
- any other amount paid;

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<sup>14</sup> Substituted vide Notification No. 74/2018- Central Tax, dated 31.12.2018 for “(b) “Adjusted Total turnover” shall have the same meaning as assigned to it in sub-rule (4)”

<sup>15</sup> Amendment made effective with effect from 01-07-2017 vide Notification No. 26/2018- Central Tax, dated 13.06.2017 Substituted vide Notification No. 21/2018- Central Tax, dated 18.04.2018 for “(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula -

*Maximum Refund Amount = {(Turnover of inverted rated supply of goods) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods*

*Explanation. - For the purposes of this sub rule, the expressions “Net ITC” and “Adjusted Total turnover” shall have the same meanings as assigned to them in sub-rule (4).”*

## Types of Refund and Conditions

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- for a supply which is not provided and for which invoice has not been issued.
- on intra-State supply which is subsequently held to be inter-State supply and vice versa.
- on account of assessment/provisional assessment/appeal/any other order
- tax paid on zero-rated supplies of goods or services or both;
- unutilized input tax in the case of
  - Zero-rated supplies under the cover of Letter of Undertaking.
  - Supply of goods under inverted tax structure.
- tax paid on the supply of goods regarded as deemed exports;

Sub-section (8) of Section 54 categorically provides that the refund will be credited to the applicants' account only when the claim is for the purposes referred to in the Sub-section.

- **The time limit for the claim:**

In the erstwhile regime, the time limit for filing the claim application was ONE YEAR. In the GST regime, any person claiming any of the above-referred refunds is required to make an application to the proper officer before the expiry of TWO YEARS from the relevant date in prescribed form and manner. However, the time limit of TWO YEARS does not apply to the claim application filed for the reason of excess balance in the electronic cash ledger.

In **Jay Shree Tea And Industries Ltd. vs Commissioner of C. Ex.** [2005 (190) ELT 106 (Tri - Kolkata)] the Hon'ble Court held that:

*“..... withdrawing an amount from such account-current only requires permission from the Commissioner concerned. Neither the law of limitation nor the theory of unjust enrichment is applicable on such deposit. It is the money belonging to the appellant and has a right to withdraw it. There is a distinction between the amount appropriate towards duty and amount deposited for payment of a duty. In a former case duty which has only been levied and paid evidently becomes the property of the Government and no person would be entitled to get it back unless there is a provision of law to enable that person to get the duty already appropriated back from the State or the Government. In the latter case, however, when an amount has been deposited to be appropriated thereafter towards duty which may fall due there having no appropriation, the property in money does not pass to the Government unless the goods are cleared and the duty is levied.”*

## Handbook on Refunds under GST

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For all other type of refunds the time limit of TWO YEARS is counted from the relevant date, which is explained in the table given below:

Sr. No.	Purpose of Refund	The relevant date is the date on which -
1	Goods are exported out of India <i>via</i> sea or air	Ship or Aircraft in which goods are loaded leaves India.
2	Goods are exported out of India <i>via</i> the land route	Goods pass the custom frontier.
3	Goods are exported out of India <i>via</i> post	Goods are dispatched by post office.
4	Deemed Export	The return relating to deemed export is furnished.
5	Export of Services - when the supply of service is completed before receipt of payment	Payment is received in convertible foreign exchange, or Indian rupees wherever permitted by the RBI.
6	Export of Services - when payment is received in advance before the issue of invoice	The invoice is issued.
7	Refund as a consequence of Judgement/ Decree/ Order/ Direction of the Appellate Authority/ Appellate Tribunal / any Court	The communication of Order, Judgement/ decree, etc. issued.
8	Inverted Rate Duty	Due date of the return for the tax period under section 39.
9	Provisional payment of tax	The tax is adjusted after the final assessment.
10	A person other than the supplier	Goods or Services are received by such person.
11	Any other case	The tax is paid.

- **Period for refund claim:**

CBIC *vide* Circular No. 125/44/2019-GST, dated 18.11.2019 (“**Master Circular-Refund**” or “**Circular 125/44/2019**”), clarifies that the applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund claim has been filed, however, cannot spread across different financial years. There is a practical difficulty in those cases where the ITC is taken in months where there are no exports and the exports happen in the subsequent year. In such cases, the claimant applied for a lesser refund as compared to refund admissible.

CBIC vide Circular No. 135/05/2020-GST dated 31.03.2020 states that:

*“2.2 Hon’ble Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt Ltd., vide para 13 of the said order has stayed the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 and has also directed the Government to either open the online portal so as to enable the petitioner to file the tax refund electronically, or to accept the same manually within 4 weeks from the Order. Hon’ble Delhi High Court vide para 12 of the aforesaid Order has observed that the **Circulars can supplant but not supplement the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law.***

.....

*2.4 On perusal of the provisions under sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 and sub-section (3) of section 54 of the CGST Act, there appears no bar in claiming refund by clubbing different months across successive Financial Years*

*2.5 The issue has been examined and it has been decided to remove the restriction on clubbing of tax periods across Financial Years. Accordingly, circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply”*

Hence, restriction on clubbing of tax periods across financial years has been removed.

- **No refund if exporter has claimed duty drawback**

In Customs for the period 01-07-2017 to 30-9-2017, exporters were eligible to claim a higher rate of duty drawback with the condition that they will not claim:

- a refund of IGST paid on exported goods or
- take ITC on the inward supplies; which can be claimed as a refund of accumulated ITC used for zero-rated supply.

They claimed a higher rate of duty drawback and submitted the necessary declaration to the Customs for processing their drawback at a higher rate.

A similar restriction has been incorporated vide the proviso to Sub-section (3) of Section 54, where a refund of the accumulated ITC is not permitted if

- the goods exported out of India are subject to export duty.
- the supplier has availed drawback of central tax and state tax
- the supplier has claimed refund of the IGST paid on such supplies.

For the period commencing from 01-10-2017, it has been clarified by the Circular 125/44/2019 that if a supplier avails of drawback in respect of duties rebated under the Customs and

## Handbook on Refunds under GST

Central Excise Duties Drawback Rules, 2017, he shall be eligible for a refund of the unutilized ITC of CGST/SGST/IGST/Compensation cess. It is also clarified that refund of eligible credit on account of State Tax shall be available if the supplier of goods or services or both has availed of drawback in respect of the Central Tax. This is because of the following reasons:

- the drawback is limited to the incidence of duties of Customs on inputs used and remnant Central Excise Duty on specified petroleum products used for generation of captive power for manufacture or processing of export goods.
- only general AIRs with caps have been provided, unlike prior to 01-10-2017, when two rebate rates were provided.

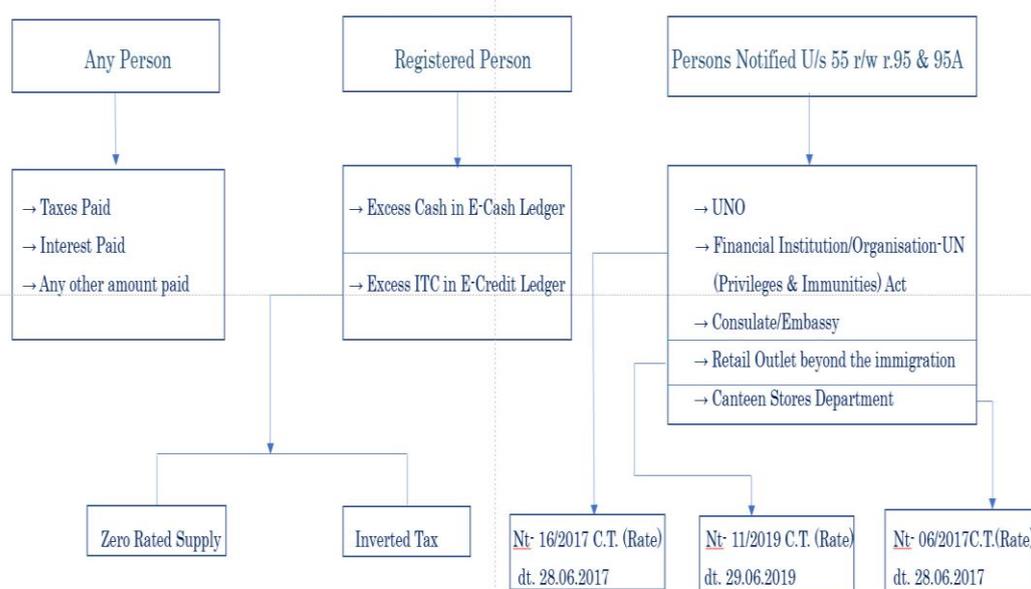
Thus the declaration required to be given by an exporter for claiming a composite rate of drawback as per *Circular no. 32/2017-Customs dated 27.7.2017* is no longer required w.e.f. 1-10-2017.

With the introduction of the Customs and Central Excise Duties Drawback Rules, 2017 the issue of claiming drawback claims and GST refund (i.e. export with payment or accumulated ITC) simultaneously has been resolved.

### • Minimum Refund Limit

Section 54(14) of the CGST Act provides that no refund under section 54(5) or 54(6) of the CGST Act shall be paid to an applicant if the amount is less than one thousand rupees. In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively.

#### Who can apply for refund :



## Types of Refund and Conditions

- **Returns for the tax period should have been filed**

Any refund claim for a tax period may be filed only after furnishing all the returns in **FORM GSTR-1** and **FORM GSTR-3B** which were due to be furnished on or before the date on which the refund application is filed. However, in case of a claim for refund filed by the following taxpayers, who are not required to furnish returns in **FORM GSTR-1** and **FORM GSTR-3B**. They should furnish such returns that were due to be furnished on or before the date on which the refund application is being filed.

<b>TAXABLE PERSON</b>	<b>FORM</b>
A Composition Taxpayer	FORM GSTR-4(along with FORM GST CMP-08)
A Non-Resident Taxable Person	FORM GSTR-5
An Input Service Distributor	FORM GSTR-6

- **Reasons for refund:**

**(a) Excess Balance in Electronic Cash Ledger**

Any person can claim the refund of tax under the head "refund of excess balance in the electronic cash ledger" due to any of the following reasons:

- where taxes so deducted or collected are deposited under the wrong head (e.g., an amount deducted as Central Tax is deposited as Integrated Tax), thereby creating excess balance in the cash ledger of the deductor or the collector as the case may be.
- where tax deducted or collected in excess is paid while discharging the liability in **FORM GSTR-7** or **FORM GSTR-8**, as the case may be, and the said amount has been credited to the electronic cash ledger of the deductee, who does not have the means for adjusting the same.
- where the amount is remitted by the supplier under the wrong tax head of tax.
- where the supplier has remitted the amount over actual pay-out in cash.

CBIC has clarified *vide Circular No. 24/24/2017-GST dated 21.12.2017* that since **FORM GSTR-3** is not effective so the refund mechanism cannot be fully automated. Therefore, one needs to apply **FORM GST RFD 01A** under the category "refund of excess balance in the electronic cash ledger".

However, with effect from 26.09.2019, the applications for refund of excess balance in the electronic cash ledger shall be filed in **FORM GST RFD 01** on the common portal and the same shall be processed electronically pursuant to *Circular 125/44/2019*.

**(b) Zero Rated Supply**

One of the major categories under which claim for refund may arise is on account of exports. All exports (whether of goods or services), as well as supplies to SEZs, have been categorized

as Zero Rated Supplies in the IGST Act, 2017. “Zero-rated supply” under Section 16 of the IGST Act, 2017 means any of the following supplies of goods or services or both:

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

On account of zero-rating of supplies, the supplier will be entitled to claim the ITC in respect of goods or services or both used for such supplies even though they might be non-taxable or even exempt supplies. Every person claiming a refund on account of zero-rated supplies has two options. Either he can export under Bond/LUT and claim a refund of accumulated ITC or he may export on payment of integrated tax and claim refund thereof as per the provisions of Section 54 of the CGST Act, 2017. Thus, the GST law allows flexibility to the exporter (which includes the supplier making supplies to SEZ) to claim refund upfront as integrated tax (by making supplies on payment of tax using ITC) or export without payment of tax by executing a Bond/LUT and claim a refund of related ITC of taxes paid on inputs and input services used in making zero-rated supplies.

### **(c) Payment of Wrong Tax**

Under the GST a taxable person might pay IGST instead of CGST plus SGST and vice versa because of incorrect application of the place of supply provisions. In such cases, while making the appropriate payment of tax, interest will not be charged and the refund claim of the wrong tax paid earlier will be entertained without subjecting it to the provision of unjust enrichment.

### **(d) Casual/Non-Resident Taxable Persons**

A casual/Non-resident taxable person has to pay tax in advance at the time of registration. A refund may become due to such persons at the end of the registration period because the tax paid in advance may be more than the actual tax liability on the supplies made by them during the validity period of the registration period. The law envisages refund to such categories of taxable persons also. But the amount of excess advance tax shall not be refunded unless such a person has filed all the returns due during the time their registration was effective. Only after such compliance will the refund be granted.

### **(e) Merchant Export should be under the cover of Letter of Undertaking**

When the goods are procured by the merchant exporter at a concessional rate of 0.05% as prescribed under *Notification No. 40/2017- Central Tax (Rate), dated 23.10.2017*, subject to certain conditions specified in the said notifications. [parallel notification issued for the IGST rate of 0.1% *vide Notification No. 41/2017- Central Tax (Rate), dated 14.11.2017*].

The exporter will be eligible to take credit for the tax @ 0.05% / 0.1% paid by him and export the goods only under the cover of LUT/Bond and apply for the refund of the ITC on such export. Further, it has been clarified *vide Circular 125/44/2019* that such export cannot happen on the payment of IGST.

The supplier who supplies goods at the concessional rate for merchant export is eligible for refund on account of an inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of Section 54 of the CGST Act..

### **(f) Inverted Tax Structure**

Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council. This would include even those cases where supply has been made to merchant exporters under *Notification No. 40/2017- Central Tax (Rate), dated 23.10.2017* or *Notification No. 41/2017- Central Tax (Rate), dated 14.11.2017* or both. In such cases also, a refund can be applied under Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

### **(g) Deemed Export Supplies**

The Government has issued *Notification No. 48/2017-Central Tax, dated 18.10.2017* under Section 147 of the CGST Act, 2017 wherein certain supplies of goods have been notified as deemed export. Further, the third proviso to Rule 89(1) of the CGST Rules, 2017 allows the recipient or the supplier to apply for a refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidence as specified in *Notification No. 49/2017-Central Tax, dated 18.10.2017* is also required to be furnished, which includes an undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no ITC on such supplies has been availed by him. The undertaking from the recipient should be submitted electronically by the supplier along with his application for a refund claim. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall not claim the refund in respect of such supplies is also required to be furnished electronically. The procedure regarding the procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / BioTechnology Parks (BTP) Unit under deemed export as laid down in *Circular no. 14/14/2017-GST dated 06.11.2017* needs to be complied withvide *Circular No. 147/03//2021-GST dated 12th March,2021* this has been clarified that in order to ensure that there is no dual benefit to the claimant, the portal allows refund of only Input Tax Credit (ITC) to the recipients which is required to be debited by the claimant while filing application for refund claim. Therefore, whenever the recipient of deemed export supplies files an application for refund, the portal requires debit of the equivalent amount from the electronic credit ledger of the claimant.

## Chapter 3

# Refund in case of Zero Rated Supply

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### I. Overview

#### **Zero Rated Supply** [Section 16 of the IGST Act, 2017]

- (1) *“zero rated supply” means any of the following supplies of goods or services or both, namely,*
  - (a) *export of goods or services or both; or*
  - (b) *supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.*
- (2) *Subject to the provisions of Sub-section (5) of Section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.*
- (3) *A registered person making zero rated supply shall be eligible to claim refund under either of the following options:*
  - (a) *he may supply goods or services or both under a bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or*
  - (b) *he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of Section 54 of the Central Goods and Services Tax Act or the rules made thereunder.*

As per the above Section all exports (whether of goods or services), as well as supplies to SEZs have been categorized as Zero Rated Supplies in the IGST Act, 2017. Besides the above, the supplier is eligible to claim a refund on account of zero-rated supplies, and they have two options:

- Supply goods or services or both under LUT, accumulate the credits and then claim a refund, or
- Supply goods or services or both on payment of integrated tax and claim refund of such tax.

We have to understand that the supplier has to demonstrate that the transaction is export of either goods or services for classifying the same as “ZERO RATED SUPPLY” and claim the

related benefits given in the provisions. The terms “Export of Goods” and “Export of Services” have been prescribed and the same is reproduced below:

**EXPORTS OF GOODS AND EXPORTS OF SERVICES**

As per Section 2(5) of the IGST Act, 2017, “Export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India.”

CBIC vide Circular No. 108/27/2019 dated 18.07.2019 has clarified the doubts of trade and industry regarding the procedure to be followed in respect of goods sent/taken out of India for exhibition or on a consignment basis for export promotion (“activity”). Such activity does not constitute supply as per Section 7 of the CGST Act, 2017 and since such activity is not a supply, the same cannot be considered zero-rated supply as per the provisions contained in Section 16 of the IGST Act.

However, the CBIC vide Notification No. 16/2019 – Central Tax, dated 23.03.2020 (w.e.f. 23.03.2020) introduced a new Rule - Rule 96B:

**[Rule 96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised.]**—(1) Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of

section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

(2) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

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- Where any refund of unutilized ITC on account of export of goods or IGST paid on exported goods has been refunded to an applicant, and
- the sale proceeds in respect of the above said transaction have not been realised, in full or in part, by the exporter within the time allowed under FEMA or any extended period deposit the amount so refunded to the extent of non-compliance along with interest within 30 days of the given time limit.
- If the exporter fails to comply with the provisions stated above then the amount of refund will be recovered in accordance with the provision of Section 73 or Section 74 of the CGST Act, 2017.
- But, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999, but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.
- Besides the above, the exporter is permitted to claim refund of the amount paid within a period of 3 months on subsequent repatriation of exchange.

As per Section 2(6) of the IGST Act, 2017, the export of services means the supply of any service when-

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not establishments of a distinct person in accordance with Explanation 1 in Section 8 of the IGST Act.

Every limb of the definition given above should be satisfied for calling any transaction as export of services and thereby classifying the same under ZERO RATED SUPPLY.

### **SUPPLY TO A SPECIAL ECONOMIC ZONE DEVELOPER OR A SPECIAL ECONOMIC ZONE UNIT**

The CBIC *vide Circular No. 48/22/2018 - GST dated 14.06.2018* clarifies when a transaction qualifies as Supply to SEZ:

***Whether the benefit of zero-rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event management services, hotel and accommodation services, consumables etc.?***

As per section 16(1) of the IGST Act, "zero-rated supplies" means supplies of goods or services or both to a SEZ developer or a SEZ unit. Whereas, section 16(3) of the IGST Act provides for the refund to a registered person making zero rated supplies under bond/LUT or on payment of integrated tax, subject to such conditions, safeguards and procedure as may be prescribed. Further, as per the second proviso to rule 89 (1) of the Central Goods and Services Tax Rules, 2017 (CGST Rules in short), in respect of supplies to a SEZ developer or a SEZ unit, the application for refund shall be filed by the:

- (a) supplier of goods after such goods have been admitted in full in the SEZ for authorised operations, as endorsed by the specified officer of the Zone;
- (b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone.

A conjoint reading of the above legal provisions reveals that the supplies to a SEZ developer or a SEZ unit shall be zero rated and the supplier shall be eligible for refund of unutilized input tax credit or integrated tax paid, as the case may be, **only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations. An endorsement to this effect shall have to be issued by the specified officer of the Zone.**

Therefore, subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero-rated supply shall be available in such cases to the supplier.

## II. Type of Refund prescribed for ZERO RATED SUPPLY under Section 16(3)

- **supply goods or services or both under a Bond or Letter of Undertaking without payment of Integrated Tax and claim refund of an unutilised ITC.**
  - Refund of unutilized ITC on account of exports without payment of tax.
  - Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax.
- **supply goods or services or both on payment of Integrated Tax and claim refund of such tax paid on goods or services or both supplied.**
  - Refund of tax paid on export of services with payment of tax.
  - Refund of tax paid on export of goods with payment of tax.
  - Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax.

In this regard following have been discussed:

- (A) Export of Goods with Payment of IGST
- (B) Export of Services with Payment of IGST`

- (C) Supplies made to a Special Economic Zone Developer or a Special Economic Zone Unit
- (D) Export of Goods or Services under the Cover of Letter of Undertaking/Bond

### **(A) Export of Goods with Payment of IGST**

#### **Extract from the CGST Rules, 2017**

**Rule 96. Refund of integrated tax paid on goods [or services]<sup>16</sup> exported out of India.**

(1) *The shipping bill filed by [an exporter of goods]<sup>17</sup> shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:-*

- (a) *the person in charge of the conveyance carrying the export goods duly files [a departure manifest or]<sup>18</sup> an export manifest or an export report covering the number and the date of shipping bills or bills of export; and*
- (b) *the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be;*

(2) *The details of the [relevant export invoices in respect of export of goods]<sup>19</sup> contained in **FORM GSTR-1** shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.*

*[Provided that where the date for furnishing the details of outward supplies in **FORM GSTR-1** for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:*

*Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period.]<sup>20</sup>*

(3) *Upon the receipt of the information regarding the furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be from the common portal, [the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods]<sup>21</sup> and an amount equal to the*

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<sup>16</sup> Inserted w.e.f. 23-10-2017 vide Notification No. 75/2017- Central Tax, dated 29.12.2017

<sup>17</sup> Substituted for the words "an exporter" w.e.f. 23.10.2017 vide Notification No. 03/2018- Central Tax, dated 23.01.2018

<sup>18</sup> Inserted vide Notification No. 74/2018- Central Tax, dated 31.12.2018

<sup>19</sup> Substituted for the words "relevant export invoices" w.e.f. 23.10.2017 vide Notification No. 03/2018- Central Tax, dated 23.01.2018

<sup>20</sup> Inserted vide Notification No. 51/2017 – Central Tax, dated 28.10.2017

<sup>21</sup> Substituted for the words "the system designated by the Customs shall process the claim for refund" w.e.f. 23.10.2017 vide Notification No. 03/2018- Central Tax, dated 23.01.2018

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integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

- (4) The claim for refund shall be withheld where, -
- (a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or
- (b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.
- (5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.
- (6) Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in **Part A<sup>22</sup> of FORM GST RFD-07**
- (7) Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount "by passing an order in **FORM GST RFD-06** after passing an order for release of withheld refund in Part B of **FORM GST RFD-07**"<sup>23</sup>
- (8) The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.
- [(9) The application for refund of integrated tax paid on the services exported out of India shall be filed in **FORM GST RFD-01** and shall be dealt with in accordance with the provisions of rule 89]<sup>24</sup>
- (10) The persons claiming refund of integrated tax paid on exports of goods or services should not have

<sup>22</sup> Substituted Vide Notification No. 15/2021- Central Tax , dated 18.05.2021.

<sup>23</sup> Substituted Vide Notification No. 15/2021- Central Tax , dated 18.05.2021.

<sup>24</sup> Substituted vide Notification No. 3/2018- Central Tax, dated 23.01.2018 . Prior to this substitution it read as "(9) The application for refund of integrated tax paid on the services exported out of India shall be filed in FORM GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89."

As inserted vide Notification No. 75/2017- Central Tax, dated 29.12.2017- w.e.f. 23-10-2017

- (a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18<sup>th</sup> October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23<sup>rd</sup> October, 2017 has been availed; or
- (b) availed the benefit under notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13<sup>th</sup> October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.<sup>25]</sup><sup>26]</sup><sup>27]</sup>

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<sup>25</sup> Substituted vide Notification No 54/2018- Central Tax, dated 09.10.2018 for: "(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13<sup>th</sup> October, 2017."

<sup>26</sup> Substituted w.e.f. 23-10-2017 Notification No 53/2018- Central Tax, dated 09.10.2018 for: "(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have -

(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No.48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i),vide number G.S.R 1305 (E), dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate), dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i),vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23<sup>rd</sup> October, 2017 has been availed; or

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This refund is governed by Rule 96 of the CGST Rules, 2017 and the same is processed by the Customs authorities. It provides that the shipping bill filed by an exporter shall be deemed to be an application for refund of Integrated Tax paid on the goods exported out of India. The refund is processed by the Customs officer once EGM and valid return in **FORM GSTR-3B** has been filed. Once these conditions are met, the Customs System shall process the claim for refund and an amount equal to the Integrated Tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

### Refund procedure

**Filing of the Shipping Bill:** The Shipping bill is filed to obtain clearance for exports from Customs authorities. This bill is treated as a claim application for the purpose of the export of goods with the payment of IGST.

**Furnishing the details of export supplies in Table 6A of Form GSTR-1:** The details of zero-rated supplies declared in Table 6A of return in Form GSTR-1 are matched electronically with the corresponding details available in Customs Systems as per details provided in the shipping bills/bill of export. Thus, exporters must file their Form GSTR-1 very carefully to ensure that all relevant details match with the details provided in the shipping bill. For their

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*(b) availed the benefit under notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13<sup>th</sup> October, 2017."*

<sup>27</sup> *Substituted w.e.f. 23-10-2017, vide Notification No. 39/2018- Central Tax, dated 04.09.2018 for: "(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E) dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E) dated the 23<sup>rd</sup> October, 2017 or notification No. 78/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E) dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13<sup>th</sup> October, 2017."*

*The above text was substituted w.e.f 23.10.2017 vide Notification No. 03/2018- Central Tax, dated 23.01.2018. Till then it read as: (9) The persons claiming refund of integrated tax paid on export of goods or services should not have received supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) dated 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23<sup>rd</sup> October, 2017.*

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convenience, the details available in the Customs System have been made available for viewing in their Indian Customs Electronic Gateway (ICEGATE) login.

In case, where the shipping bill particulars are either not available or wrongly quoted in Form GSTR- 1, the only way out is to amend the Form GSTR-1 of the subsequent tax period in Table 9A (Amendments to taxable outward supply details furnished in returns for earlier tax periods) and enter the correct particulars as mentioned in the shipping bill.

Further, where the invoice number and IGST paid amount mismatch (i.e. the exporters have quoted different invoice numbers and amount in Table 6A of the Form GSTR - 1 and the shipping bill) then the same needs to be amended by following the amendment process prescribed above.

**Filing of Form GSTR-3B:** A registered person should properly disclose the Assessable Value and the IGST payment particulars for the tax period under the head “Zero-Rated Supply” in Entry 3.1(b) of the Form GSTR-3B. Since, there is a validation check in the GSTN system to ensure that the IGST paid on the export goods in any particular month [3.1(b)] is not less than the refund claimed by the exporter [Table 6A of Form GSTR - 1].

However, it has been observed that the exporters have inadvertently mis-declared IGST paid on export supplies as IGST paid on inter-State domestic outward supplies while filing Form GSTR-3B. The exporters have also in certain cases short paid IGST vis-à-vis their liability declared in Form GSTR-1. As a result of these mismatches in the amount of IGST paid on exported goods between Form GSTR-1 and Form GSTR-3B, the transmission of records from GSTN to Customs EDI system has not taken place and, consequently, IGST refunds could not be processed.

To overcome the problem of refund blockage, the CBIC *vide Circular No.12/2018 - Customs dated 29.05.2018 and Facilitation No. 11/2019 – Customs dated 13.09.2019*, has provided an interim solution **Applicable for the FY 2017 – 18 and FY 2018 – 19**. (Similar facility may be extended for the next financial years also)

The procedure of Interim solution is as under:

### **Cases where there is no short payment:**

- The Customs policy wing would prepare a list of exporters whose cumulative IGST amount paid against exports and inter-State domestic outward supplies mentioned in GSTR-3B is greater than or equal to the cumulative IGST amount indicated in GSTR-1 for the same period. Customs policy wing shall send this list to GSTN.
- GSTN shall send a confirmatory e-mail to these exporters regarding the transmission of records to the Customs EDI system.
- The exporters whose refunds are processed/sanctioned would be required to submit a certificate from Chartered Accountant or Cost Accountant before 31<sup>st</sup> October of the subsequent Financial Year to the Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on export of goods for the period. In case there are exports from

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multiple ports, the exporter is at liberty to choose any of the ports of export for submission of the said certificate.

- A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by 15<sup>th</sup> November of the subsequent Financial Year.
- Non-submission of the CA certificate shall affect the future IGST refunds of the exporter.
- The list of exporters whose refunds have been processed as above shall be sent to DG (Audit)/DG (GST) by the Board.

### **Cases where there is a short payment:**

- In cases where there is a short payment of IGST, i.e., cumulative IGST amount paid against exports and inter-State domestic outward supplies together mentioned in GSTR-3B is less than the cumulative IGST amount indicated in GSTR-1 for the same period, the Customs policy wing would send the list of such exporters to the GSTN and all the Chief Commissioner of Customs.
- E-mails shall be sent by GSTN to each exporter referred in para (i) above so as to inform the exporters that their records are held up due to short payment of IGST. The e-mail shall also advise the exporters to observe the procedure under this circular.
- The exporters would have to make the payment of IGST equal to the short payment in GSTR-3B of subsequent months so as to ensure that the total IGST refund being claimed in the Shipping Bill/GSTR-1(Table 6A) is paid. The proof of payment shall be submitted to Assistant/Deputy Commissioner of Customs in charge of the port from where the exports were made. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export.
- Where the aggregate IGST refund amount for the said period is up to ₹ 10 lakhs, the exporter shall submit proof of payment (self-certified copy of challans) of IGST payment to the concerned Customs office at the port of export.

However, where the aggregate IGST refund amount for the said period is more than ₹ 10 lakhs, the exporter shall submit proof of payment (self-certified copy of challans) of IGST to the concerned Customs office at the port of export along with a certificate from a chartered Account that the shortfall amount has been liquidated.

- The exporter would give an undertaking they would return the refund amount in case it is found to be not due to them at a later date.
- The Customs zones shall compile the list of exporters (GSTIN only), who have come forward to claim a refund after making requisite payment of IGST towards the short paid amount and complied with other prescribed requirements.
- The compiled list may be forwarded to Customs policy wing, DG (Audit) and DG (GST).

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Customs policy wing shall forward the said list of GSTINs to GSTN. On receipt of the list of exporters from Customs policy wing, GSTN shall transmit the records of those exporters to Customs EDI system.

- The exporters whose refunds are processed/sanctioned as above would be required to submit another certificate from Chartered Accountant before 31<sup>st</sup> October of the subsequent Financial Year to the Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July 2017 to March 2018 and April 2018 to March 2019. A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by 15<sup>th</sup> November of the subsequent Financial Year.
- Non-submission of the CA certificate shall affect the future IGST refunds of the exporter.

### Post refund audit

The exporters would be subjected to a post refund audit under the GST law. DG (Audit) shall include the above-referred GSTINs for conducting audit under the GST law. The inclusion of IGST refund aspects in the Audit Plan of those units may be ensured by DG (Audit). In case, Departmental Audit detects excess refunds to the exporters under this procedure, the details of such detections may be communicated to the concerned GST formations for appropriate action.

- **Transmission of record from GSTN to Customs EDI system:** When the exporters have declared properly paid IGST on export supplies in their **Form GSTR - 3B** and the same matches with the liability declared in **Form GSTR-1**, then the data will be transmitted to the Customs system wherein the GST return data is matched with the shipping bill data. If the matching is successful, ICES processes the claim for refund and the relevant amount of IGST paid with respect to each shipping bill or bill of export is electronically credited to the exporter's bank account as registered with the Customs authorities. But, wherever the matching fails on account of some error, the refund do not get sanctioned. The matching between the two data sources is done at invoice level and any mis-match of the laid down parameters results in one or more of the following errors/responses:

Code	Meaning
SB000	Successfully validated
SB001	Invalid SB details
SB002	EGM not filed
SB003	GSTIN mismatch

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SB004	Record already received and validated
SB005	Invalid invoice number
SB006	Gateway EGM not available

- **Non-filing/Late filing of Customs documents:** The majority of refund claims are getting processed and sanctioned within five days of the filing of **Form GSTR-1** and **Form GSTR-3B**. However, in few cases, particularly for the LCL (**Less Container Load**) cargo consignments originating from ICDs, Export General Manifest (“**EGM**”) related errors continue to hinder smooth and automatic sanction of IGST refund claims. The nature of these errors has been examined in detail and the CBIC *vide Circular No. 01/2019-Customs dated 02.01.2019* has given the main reasons for such EGM errors still hampering the IGST refund processing and the resolution for such errors, which is explained below:

### **Non-filing/Late filing of Online Local and Gateway EGM:**

- The processing of IGST refund gets hampered either because the local EGM has not been filed online or has been filed late. There are instances where the cargo originating from the hinterland ICDs reached the gateway port without the online filed local EGM. Earlier *vide Circular No. 42/2017- Customs. dated 07.11.2017* it was explained that because of the manual filing of EGM in respect of Shipping Bills originating from ICDs, the system is unable to match the gateway EGM and the local EGM. Therefore, **it instructed that all the custodians/carriers/shipping lines operating at ICDs/Gateway ports should file EGM online.** It is re-iterated that as the first step, the concerned stakeholders at the originating ICDs should file the local EGMs online.
- Where the export goods are directly moved by truck to the gateway port, filing the local EGM timely should not pose any problem. At inland ICDs/CFSs connected by train, the local EGM shall be filed before the goods move out of ICD/CFS. In ICDs/CFSs not connected by train but where the movement of export goods begins from the nearest train-based ICD/CFS, it has been observed that local EGM is not being filed as the Train Number is not known to the custodian for want of the rail receipt. In such cases, it must be ensured that the local EGM is filed by the custodian immediately after getting the train details in which containers are moving to Gateway port, but in any case, before the train leaves for the Gateway port. Officers at these stations shall constantly monitor to check the pendency and take necessary action
- Non-filing of EGM clearly hints at non-compliance by the custodian/person in charge of the conveyance carrying export goods. **Section 41 of the Customs Act authorizes the customs officer to take action against such non-filers. However, more than invoking the penal sections, jurisdictional Commissioners need to constantly monitor the activity of timely filing of the EGM and take necessary steps to ensure the same.**

### Mismatch in Local EGM and Gateway EGM:

- The errors arising out of the mismatch of information provided in local and Gateway EGM has been discussed in para 6 of *Circular No. 06/2018 - Customs* wherein the Board has clearly delineated the roles and responsibilities of the Customs officers at the inland ICDs/CFSs and at the Gateway port or CFSs attached with the gateway ports respectively, in so far as the task of integrating the local EGM and the gateway EGM is concerned.
- One of the major hindrances in the smooth processing of IGST refunds for the past period is the problem faced by field formations in gathering information with regard to LCL cargo from Shipping lines and Custodians. The matter has been examined. The procedure-related to the consolidation of cargo at Gateway ports has already been prescribed *vide Circular No. 55/2000-Customs, dated 30.06.2000 ("Circular Cus. 55")* wherein it is provided *inter-alia* that the custodian of the gateway port or CFS near gateway port is required to maintain a container-wise tally sheet, giving details of the export consignments, the previous Container No., Shipping Bill No., AR-4 No. and the details of the new container in which goods have been re-stuffed. It was also mandated that the concerned shipping line would issue the Bill of Lading, a copy of which would be handed over to the custodian. After necessary endorsements regarding inspection, the other transference copy would be returned to the originating ICD/CFS. Thus, the custodian of the CFSs or Gateway port bears the responsibility to maintain all records with regard to LCL cargo consolidated at their premises. Subsequently, *vide Circular No. 08/2018-Customs*, instead of the said transference copy, correlation with the final bill of lading or written confirmation from the custodian of the gateway CFS was permitted for purposes of integration of the local and gateway EGM.
- It has also been learnt that in some field formations tally sheet is being maintained in the form of a Container Load Plan (CLP) which is prepared by Shipping lines and gives details of packages in the container. It has been reported that cargo is de-stuffed under customs supervision based on Container De-stuffing Plan (CDP). Preparing CLP/CDP does not absolve the custodian of the responsibility of keeping account of the cargo being handled in the form of a tally sheet. Such local practice of CLP/CDP appears to have been started only for the convenience of shipping lines/custodians. The accounting of previous containers vis-a-vis new containers in case of LCL cargo being re-stuffed at CFS or Gateway port is an important event in establishing the linkage between the local EGM and Gateway EGM. *Circular Cus. 55* mandating the procedure to be followed at Gateway Ports or CFS attached to Gateway ports and the originating inland ICDs/CFSs for consolidation of LCL cargo on Gateway ports or CFS attached to such gateway ports is still being used and has not been dispensed with.
- Agents of Shipping lines/freight forwarders/consolidators operating at the inland ICDs/CFSs play a critical role in booking export cargo for the overseas destination. The

## Refund in case of Zero Rated Supply

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CBIC has deputed its officers to some of the inland ICDs/CFSs. The feedback obtained has revealed that these entities have all the necessary information regarding the movement of goods from ICDs/CFSs to the Gateway port, consolidation at the gateway port and the journey beyond. These entities can be easily approached to provide the requisite information/documents for rectification of EGM related errors in cases where exporters for some reason do not have the requisite information. Jurisdictional Customs officers at inland ICDs/CFSs are, therefore, required to approach these agents to obtain the details of re-worked containers (C or N related EGM errors). The information gathered from the agents shall be collated and immediately communicated to Gateway port officers so that rectification of errors (C or N) could be done.

- Customs officers in charge of CFSs shall provide a list of Shipping Bills having SB006 error, i.e., EGM errors to the concerned CFSs at gateway ports. The custodians shall, in turn, provide details as mentioned in Tally Sheets or CDP/CLP (containing container details) relating to the said SBs to the Customs officers. Simultaneously, Gateway port officers shall coordinate with the officers of the originating ICDs/CFSs to obtain relevant particulars in accordance with the aforesaid procedure. It shall be the responsibility of the officers in charge of CFSs at Gateway ports to obtain necessary details from the stakeholders which establish linkages between the goods received from inland ICDs/CFSs and those exported out of India, except in cases where the local EGM has not been filed, in which case the responsibility would be of the officers manning the inland ICD/CFS.
- Once the details are received, the Preventive officer/P.O. at the gateway port, CFSs shall use the option in the Preventive Officer role (PREV\_OFF) to rectify container details. (Refer ICES Advisory 08/18 dated 09.03.2018). The preventive officer can amend the container details in the Gateway EGM CTR Amendment Option to correct the N and C errors after verifying relevant details from the shipping bill, master BL and House(local) BL. Once the corrections are made, the EGM officer at Gateway port can revalidate EGMs for the successful integration of the updated details. For those shipping bills in respect of which no gateway EGM was filed in the first place, the shipping line can file supplementary EGM for successful integration.
- Responsibilities and liabilities of custodians have been provided in detail in the Handling of Cargo in Customs Areas Regulations, 2009. Regulation 6 clearly casts the responsibility of keeping account of export goods on the Customs Cargo Service Provider (CCSP). Further, the procedure for suspension or revocation and the imposition of penalty is provided in Regulation 12 which can be resorted to in cases where CCSP fails to comply with the regulations. This must be strictly enforced after following due process in instances of persistent non-compliance.
- Export of goods out of India is an essential condition for grant of IGST refund as provided in Rule 96 of CGST Rules, 2017. It therefore warrants verification whether the goods were indeed exported out of India where the IGST refund claims have been long

pending with EGM error (SB006).

### Stuffing Report by Preventive Officers at Gateway Ports

- It appears that in some gateway ports, the Preventive officers are entering stuffing report in ICES application of Customs EDI System about the shipping bills filed only in the gateway port, and not for the shipping bills which have been filed in ICDs. It is important that Preventive officers posted in gateway ports should enter stuffing reports for all shipping bills irrespective of where they have been filed, i.e., in the gateway ports or ICDs.
- Further, in order to avoid the problem of mismatch in information in local and gateway EGMs, the preventive officers must play a proactive role. Custodians at the CFSs/Gateway Ports shall prepare a Tally Sheet as mandated in *Circular Cus. 55*. The preventive officer shall supervise de-stuffing and re-stuffing, and verify details like number of package (s), quantity etc. and satisfy himself that there is no short shipment, replacement or diversion of cargo. In addition to providing the stuffing report for the local cargo, the gateway port officer should also verify the correctness of package (s) and container details for cargo coming from inland ICDs cargo immediately in ICES, using the Gateway EGM CTR Amendment option. Tally sheets shall be prepared containing all the necessary details simultaneously. Corrections, if required, in the container/package details shall be rectified at this very stage to avoid the occurrence of N and C errors, when the gateway EGM is eventually filed. Once the corrections are made, the EGM officer at the Gateway port can revalidate EGMs for successful integration of the updated details.

**Export General Manifest:** Filing EGM correctly is a must for treating the shipping bill or bill of export as a refund claim. Commissioners must ensure that the concerned airlines/shipping lines/carriers file EGM/Export report within the prescribed time. Cases that remain in EGM error due to any reason should be followed up to ensure that records are updated at the gateway port, especially for ICDs. Exporters may be advised that they should follow up with their carriers to ensure that correct EGM/export reports are filed in a timely manner.

Due to either mismatch in information furnished in EGM I the shipping bill or non-filing of EGM in certain cases, the compliance of '*exported out of India*' requirement in Rule 96(2) of the CGST Rules, 2017 remained unfulfilled. It has also been noticed that Gateway EGM in case of many ICD's Shipping Bills have been manually filed, due to which the system is unable to match the EGM details. It is to be ensured that all the shipping lines operating in the ICDs/Gateway ports file EGM online. All ICDs and Gateway ports have already been instructed to ensure that the shipping lines file supplementary EGM online for the consignments exported in July 2017 by 31<sup>st</sup> October. For subsequent months also, the ICDs must ensure that the shipping lines invariably file the Gateway EGM online. In cases where supplementary EGMs have been filed successfully, refunds have already been given.

The Shipping lines/agents have been filing EGM electronically for exports originating from the

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gateway ports. However, for cargo originating from the ICDs, the Shipping lines/agents were filing EGM in the manual mode. Absence of electronic EGMs and their integration with local EGMs has been the major obstacle in processing refund claims of exports from the ICDs.

In order to overcome this issue, the Shipping lines have been mandated to include the shipping bills originating from the ICDs while filing the electronic EGMs at the gateway ports. In cases where the EGMs have not incorporated the shipping bills pertaining to ICDs, the Shipping lines/agents have been asked to file supplementary EGMs. While the Shipping lines have been largely cooperative in filing regular or supplementary EGMs for cargo originating from the ICDs, there are still many instances where no EGMs have been filed or EGMs have been filed with errors. This is causing avoidable delay in processing refund claims. The jurisdictional officers at the gateway port may initiate swift penal action against Shipping lines/agents who fail to file either regular or supplementary EGMs electronically for the cargo originating from ICDs.

In order to ensure a hassle free processing of refund claims, the following steps need to be ensured by the jurisdictional officers in the ICDs:

- (a) filing of a local EGM, i.e., train or truck summary, as the case may be, immediately after cargo leaves the port,
- (b) liaising with jurisdictional officers at the gateway port for incorporation of Shipping Bills pertaining to the cargo originating in the ICDs, in the EGMs filed at the gateway port by the Shipping lines/agents
- (c) rectification of errors in local and gateway EGMs, wherever necessary.

The jurisdictional officers at the gateway port should strictly monitor the EGM pendency and error reports available in ICES. The officers at the gateway port have to resolve the EGM errors expeditiously by asking the Shipping lines/agents to file requisite amendments and approving them on ICES. In cases, where there are errors either in the shipping bill or in the local EGM (i.e., truck or train summary), the remedial action has to be taken by the jurisdictional officer in ICP.

It has been observed that mis-match of information provided in local and gateway EGMs mainly occurs because of:

S.No.	Reason	Error Code
(i)	incorrect gateway port code in the local EGM	M
(ii)	change in container for LCL cargo or mistakes committed while entering container number	C
(iii)	incorrect count of containers	N
(iv)	mistakes in entering the nature –f cargo - LCL or FCL	T
(v)	the let export order is given in ICES after sailing date of the vessel	L

ICES has provisions to correct all these errors. The procedure to be followed for each type of error has been clearly delineated in the step by step guide issued by the Directorate of Systems for dealing with the errors. In case of specific difficulties, the same may be taken up with Directorate of Systems.

There is a shared responsibility between officers working at the ICDs and gateway ports for ensuring an error-free filing and integration of local and gateway EGMs. The officers at both locations should also ensure swift rectification of errors and effective coordination between the domestic carriers, who file local EGMs, and the Shipping lines/agents, who file the gateway EGMs. The error free filing and integration of EGMs is a pre-requisite for smooth processing of refunds. Recognizing this necessary outreach may be done to sensitize domestic carriers as well as the Shipping lines/agents with regard to due diligence that is required in filing of EGMs and their critical importance in hassle free processing of the IGST refunds.

- **Bank account details:** As per Rule 96 of the CGST Rules, 2017, the refund is to be credited in the bank account of the applicant mentioned in his registration particulars. As a practice, exporters have been declaring details of bank account to the Customs for the purpose of drawback, etc. It may be that bank account details available with the Customs do not match with those declared in the GST registration form. In order to ensure smooth processing and payment of refund of the IGST paid on exported goods, it has been decided that said refund amount shall be credited to the bank account of the exporter registered with the Customs even if it is different from the bank account of the applicant mentioned in his registration particulars. However, exporters may be advised to either change the bank account declared to the Customs to align it with their GST registration particulars or add the account declared with the Customs in their GST registration details.
- Further, as the refund payments are being routed through the Public Financial Management System (“**PFMS**”) portal, the bank account details should be verified and validated by PFMS. The status of validation of bank account with PFMS is available in ICES. Exporters may be advised that if the account has not been validated by PFMS, they must get their details corrected in the Customs system so that their bank account gets validated by PFMS. Exporters are also advised not to change their bank account details frequently to avoid delay in refund payments.
- In some cases, bank account details available with the Customs have been invalidated by PFMS. Reports on such accounts/IECs have been provided to the Commissionerates by the Directorate of Systems in ICES and by email. Exporters may be advised that if the account has not been validated by PFMS, they must get their details corrected in the EDI system. Exporters are also advised not to change their bank account details frequently so as to avoid delay in refund payment.
- **Processing of refund claims:** Proper officer of each jurisdiction shall generate a payment scroll of eligible IGST refunds in the same manner as Remission of State Levies (“**RoSL**”) scrolls are generated. The scroll shall be transmitted electronically to

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PFMS system for onward payment into their bank accounts. Unlike RoSL where paper scrolls are to be sent by field formations, in this case, electronic verification will be done centrally by a DDO appointed in this regard. Detailed EDI procedure for processing of claims and generation of refund scrolls is being circulated by Directorate of Systems, CBEC. DG-Systems is also laying down the procedure for payment and accounting in consultation with Pr. CCA CBEC and CGA of India. Proper officers have been designated in each Commissionerate, who started generating refund scrolls from 10.10.2017 onwards.

- **Handling of cases under Rule 96(4)(a):** Rule 96(4)(a) provides that refund is to be withheld if a request has been received from the jurisdictional Commissioner of Central tax, State tax or Union territory tax to withhold the payment of refund in accordance with the provisions of section 54 (10) or (11). In such cases, the proper officer of integrated tax at the Customs station has to intimate withholding of refund to the applicant and the jurisdictional Commissioner of Central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation has to be transmitted to the common portal.
- The Commissioners should put in place a mechanism for keeping record of such intimations received from jurisdictional Commissioner of Central tax, State tax or Union territory tax and ensure that refunds are not processed and sanctioned in such cases. Necessary communication should be sent promptly to the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, in respect of claims that have been withheld. Mechanism to communicate the same to Common portal is being worked out.
- **Exports in violation of the provisions of the Customs Act, 1962:** In case the proper officer determines that the goods were exported in violation of the provisions of the Customs Act, 1962. IGST refund has to be withheld as per the Rule 96(4)(b)

### IMPORTANT NOTE:

The Government has observed several cases where the fraudulently obtained credit or ineligible credit has been monetized through the refund of IGST on exports of goods. It has also found that the ITC was taken by the exporters based on fake invoices and IGST on exports was paid using such ITC. Because of this, the CBIC issued *Circular No. 131/1/2020 GST dated 23-01-2020*, **CLARIFYING THE STANDARD OPERATING PROCEDURE TO BE FOLLOWED BY EXPORTERS.**

### The details are as follows:

- To mitigate the risk, the Board has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and artificial intelligence tools based on which certain exporters are taken up for further verification. Overall, in a broader time frame the percentage of such exporters selected for verification is a small fraction of the total number of exporters claiming refunds. The refund scrolls in such cases are kept in

## Handbook on Refunds under GST

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abeyance till the verification report is received from the field formations. Further, the export consignments/shipments of concerned exporters are subjected to 100 % examination at the customs port.

- While the verifications are meant to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context, it is advised that exporters whose scrolls have been kept in abeyance for verification are informed at the earliest either by the jurisdictional CGST or by the Customs. To expedite verification, the exporters on being informed in this regard or on their own should fill in information in the format attached as Annexure-I to this Circular and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information in this regard. However, the jurisdictional authorities must adhere to timelines prescribed for verification.
- Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing information in the prescribed proforma by the exporter. If the verification is not completed within this period, the jurisdiction officer will bring it to the notice of the nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner Office.
- After 14 working days from the date of submission of details in the prescribed format, the exporter may also draw the attention of Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax regarding the matter by sending an email to the Chief Commissioner concerned.
- The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within the next 7 working days.
- If any refund remains pending for more than one month, the exporter may register his grievance at [www.cbic.gov.in/issue](http://www.cbic.gov.in/issue) by giving all the relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been submitted etc.

**CIRCULAR NO. 22/2019-CUSTOMS DATED 24.7.2019**  
**CLARIFICATION REGARDING REFUND OF IGST PAID ON IMPORT IN CASE OF RISKY EXPORTERS**

*The Board has received representations wherein various exporters and organisations have raised the issue of repeated opening of export containers for 100% examination related to risky exporters, under the new procedure laid down in Circular No. 16/2019-Customs dated 17.6.2019. Exporters have taken the plea that their cargo is getting delayed and they have to incur additional costs for carrying out re-packing.*

*The matter has been examined. The Board has issued the aforesaid circular as a preventive measure against fraudulent refund of IGST on the basis of ineligible or fraudulently availed input tax credit (ITC). While addressing the aforesaid issue and*

consequent risk to revenue, the Board would not like to dilute the emphasis it laid on reduction in time and cost related to EXIM clearances. It is pertinent to mention that only a miniscule percentage of export consignments are being selected for examination on account of risk associated with fraudulent availment of IGST refunds. However, keeping in view the issues raised by the traders, the Board has decided that the requirement of 100% physical examination of each export consignment shall be gradually relaxed, provided no irregularity has been noticed in earlier examinations of export consignments of export entities in terms of Circular No. 16/2019-Customs dated 17.6.2019.

In order to bring down the level of examination, the Board has decided that RMCC shall take into consideration the feedback received from field formations with regard to the 100% examination conducted on exports of risk based identified entities and wherever the examination has validated the declaration made in the shipping bill, RMCC may review the risk assessment and gradually taper down the percentage of physical examination. Suitable alerts based on re-evaluated risk may accordingly be inserted in the system by RMCC in such cases.

## (B) Export of Services with Payment of IGST

Extract from the CGST Rules, 2017

### Rule 96: Refund of integrated tax paid on goods [or services]<sup>28</sup> exported out of India.

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[(9) The application for refund of integrated tax paid on the services exported out of India shall be filed in **FORM GST RFD-01** and shall be dealt with in accordance with the provisions of rule 89]<sup>29</sup>

(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have

- (a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18<sup>th</sup> October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No.

<sup>28</sup> Inserted w.e.f. 23.10.2017 vide Notification No. 75/2017- Central Tax, dated 29.12.2017

<sup>29</sup> Substituted vide Notification No. 3/2018- Central Tax, dated 23.01.2018. Prior to this substitution it read as "(9) The application for refund of integrated tax paid on the services exported out of India shall be filed in FORM GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89."

As Inserted vide Notification No. 75/2017- Central Tax, dated 29.12.2017- w.e.f. 23-10-2017

41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or

- (b) availed the benefit under *Notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017*, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13<sup>th</sup> October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.]<sup>30]</sup><sup>31]</sup><sup>32</sup>

<sup>30</sup> Substituted vide *Notification No. 54/2018- Central Tax, dated 09.10.2018* for: “(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub –section (i), vide number G.S.R 1305 €, dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13<sup>th</sup> October, 2017.”

<sup>31</sup> Substituted w.e.f. 23-10-2017 *Notification No. 53/2018- Central Tax, dated 09.10.2018* for: “(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have -  
(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No.48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i),vide number G.S.R 1305 (E), dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate), dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i),vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23<sup>rd</sup> October, 2017 has been availed; or  
(b) availed the benefit under notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i),vide number G.S.R 1299 (E), dated the 13<sup>th</sup> October, 2017.”

<sup>32</sup> Substituted w.e.f. 23-10-2017, vide *Notification No. 39/2018- Central Tax, dated 04.09.2018* for: “(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India,

## Refund in case of Zero Rated Supply

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The exporter who had paid taxes on the export of services is eligible for the refund of such tax paid on an application in **Form GST RFD 01** under the head “*Refund of tax paid on export of services with payment of tax*” within the time limit prescribed.

### Refund procedure

- **Furnishing the details of export supplies in Table 6A of GSTR-1:** The details of zero-rated supplies declared in Table 6A of return in Form GSTR-1.
- **Filing form GSTR 3B:** The registered person should properly disclose the Assessable Value and the IGST payment particulars for the tax period under the head “*Zero-Rated Supply*” in entry 3.1(b) of the Form GSTR 3B. There is a validation check in the GSTN system to ensure that the IGST paid on the export in any particular month [3.1(b)] is not less than the refund claimed by the exporter [Table 6A].

However, it has been observed that the exporters have inadvertently mis-declared IGST paid on export supplies as IGST paid on inter-State domestic outward supplies while filing GSTR-3B. The exporters have also in certain cases short paid IGST vis-à-vis their liability declared in GSTR-1. As a result of these mismatches in the amount of IGST paid on export services between GSTR-1 and GSTR-3B, the validation fails and GSTN does not permit claims for refund. However, to overcome the problem of blockage of the refund, the CBIC had clarified the following *vide Circular No.12/2018 – Customs, dated 29-05-2018*.

In this regard, it has been clarified *vide Circular 125/44/2019* that for the tax periods commencing from 01.07.2017 to 31.03.2021<sup>33</sup>, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01** on the common portal

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*Ministry of Finance, notification No. 48/2017-Central Tax dated the 18<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E) dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E) dated the 23<sup>rd</sup> October, 2017 or notification No. 78/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E) dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13<sup>th</sup> October, 2017.”*

*The above text was substituted w.e.f 23-10-2017 vide Notification No 03/2018- Central Tax, dated 23.01.2018. Till then it read as: (9) The persons claiming refund of integrated tax paid on export of goods or services should not have received supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) dated 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23<sup>rd</sup> October, 2017.*

<sup>33</sup> Relaxation extended *vide Circular No. 147/03//2021-GST dated 12.03.2021*.

subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period.

- **File Form GST RFD 01 using Online utility.** - The online claim application has to be accompanied with the **Declaration / Statement / Undertaking / Certificates** which are listed in **Annexure – II**.

Along with the above referred **Declaration / Statement / Undertaking / Certificates** the applicant has to submit online supporting documents for such claim which are listed in **Annexure – III**.

### **Restrictions imposed by Rule 96(10) of the CGST Rules (applicable to Export of Goods or Services with payment of IGST)**

Rule 96(10) of the CGST Rules restricted exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios, which are as follows:

- (a) Where the inputs or Capital Goods received were covered *vide* benefit under the following **notification**
  - 48/2017 Central Tax dated 18.10.2017: Deemed Export Supply.
  - 40/2017 Central Tax (Rate) dated 23.10.2017: Intra State procurement by Merchant Exporter.
  - 41/2017 Integrated Tax (Rate) dated 23.10.2017: Inter State procurement by Merchant Exporter.
- (b) Availed the following exemption under **notification**:
  - 78/2017 – Customs dated 13.10.2017: Seeks to exempt goods imported by EOUs from integrated tax and compensation cess.
  - 79/2017 – Customs dated 13.10.2017: Seeks to amend various Customs exemption notifications to exempt Integrated Tax/Cess on import of goods under Advance Authorisation (AA) / Export Promotion Capital Goods (EPCG) Schemes.

However, representations were made that exporters who have received capital goods under the EPCG Scheme, should be allowed to avail the facility of claiming refund of the Integrated tax paid on exports.

The GST Council, in its 30<sup>th</sup> meeting held in New Delhi on 28-09-2018, accorded approval to the proposal of suitably amending the said Sub-rule along with Sub-rule (4B) of Rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility. *Notification No. 54/2018 – C.T. dated 09-10-2018* was issued to carry out the changes recommended by the GST Council. In addition, *Notification No. 39/2018 – Central Tax dated 04.09.2018* was rescinded *vide Notification No. 53/2018 – Central Tax dated 09.10.2018*.

The net effect of these changes is that any exporter who himself/herself imported any inputs/capital goods as per *Notification Nos. 78/2017 - Customs and 79/2017-Customs both*

*dated 13.10.2017, before the issuance of the Notification No. 54/2018 – Central Tax dated 09.10.2018, shall be eligible to claim refund of the Integrated Tax paid on exports.*

Further, exporters who have imported inputs as per *Notification Nos. 78/2017-Customs dated 13.10.2017*, after the issuance of *Notification No. 54/2018 – Central Tax dated 09.10.2018*, would not be eligible to claim refund of integrated tax paid on exports. However, exporters who are receiving capital goods under the EPCG scheme, either through import as per *Notification No. 79/2017-Customs dated 13.10.2017* or through domestic procurement as per *Notification No. 48/2017- C.T. dated 18.10.2017*, shall continue to be eligible to claim refund of Integrated tax paid on exports and would not be hit by the restrictions provided in Sub-rule (10) of Rule 96 of the CGST Rules.

### **(C) Supplies made to A Special Economic Zone Developer or A Special Economic Zone Unit**

Special Economic Zone is one of the special schemes under the Ministry of Commerce, as part of the Government's export promotion strategy. Special Economic Zone is a notified area governed by the Special Economic Zone Act, 2005 (hereinafter referred to as the SEZ Act, 2005). As per Section 51 of the SEZ Act, 2005 the provisions of such Act would have an overriding effect on provisions of any other Act, including taxation laws. Hence, it has to be noted that this Act has an overriding effect over the GST Law. In case of any conflict between the two legislations, the provision of the SEZ Act shall prevail.

**51. Act to have overriding effect.**

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Any supply of goods or services by a SEZ unit to a DTA unit will fall under Section 7(5) (b) of the IGST Act, 2017 and shall be treated as inter-State supply chargeable to IGST as per Section 5 of the said Act. Further, Section 53 of the SEZ Act, 2005 provides that the area notified as SEZ shall be **deemed to be a territory outside the customs territory of India for the purpose of undertaking authorized operations** and be deemed to be a port, inland container depot, land station or land customs station for the Customs Act, 1962.

Accordingly, to provide relief from indirect taxes to SEZ units from any supply of goods or services made to them, the concept of zero ratings has been made applicable for supplies made to SEZ under the GST. Zero-rated supply is defined in Section 16 (1) of the IGST Act, 2017.

The supplier, who supplies goods or services or both to a Special Economic Zone Developer or a Special Economic Zone Unit can claim the following refund:

- Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;

- Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;

### **REFUND IS POSSIBLE ONLY WHEN THE SUPPLY IS FOR AUTHORISED OPERATION:**

A person making zero-rated supplies can claim refund of ITC or claim refund of IGST paid on such supplies, as per Section 16 of the IGST Act. The procedure for refund is given in Section 54 of the CGST Act along with Rule 89 of the CGST Rules, 2017. Accordingly, a supplier of goods or services to SEZ unit claiming refund of IGST paid on supplies to SEZ unit or input tax credits may make an application before the expiry of two years from the relevant date in **Form GST RFD-01**. Rule 89 relating to refund stipulates that the supply, in respect of which tax had been paid and refund is sought, shall be necessarily for authorized operations.

However, the term 'authorised operation' in this context is not explicitly used in the IGST Act. Therefore, an issue arises as to whether the benefit of zero rating will be eligible only in respect of supplies made for SEZ's authorized operations or in respect of all operations of SEZ in the course of its business.

### **Refund procedure:**

- **Furnishing the details of export supplies in Table 6B of GSTR-1:** The details of invoices raised to SEZ developer or SEZ unit are declared in Table 6B of return in Form GSTR-1.
- **Filing GSTR-3B:** A registered person should properly disclose the Assessable Value and the IGST payment particulars for the tax period under the head "Zero-Rated Supply" in entry 3.1(b) of the Form GSTR-3B. Since there is a validation check in the GSTN system to ensure that the IGST paid on the export in any particular month [3.1(b) Outward taxable supplies (zero rated)] is not less than the refund claimed by the exporter [Table 6B].

However, it has been observed that the exporters inadvertently mis-declare IGST paid on export supplies as IGST paid on interstate domestic outward supplies while filing GSTR-3B. The suppliers have also in certain cases short paid IGST vis-à-vis their liability declared in GSTR-1. As a result of these mismatches in the amount of IGST paid on SEZ invoice between GSTR-1 and GSTR-3B, the validation fails and GSTN will not allow any refund claims. However, to overcome the problem of refund blockage, CBIC made some clarifications in *Circular No.12/2018 - Customs dated 29.05.2018*

In this regard, it has been clarified vide Circular 125/44/2019 that for the tax periods commencing from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01** on the common portal subject to the condition that the amount of refund of Integrated Tax/Cess claimed shall not be more than the aggregate amount of Integrated Tax/Cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period.

- **File Form GST RFD 01 using Online utility.** - The online claim application has to be accompanied with the **Declaration / Statement / Undertaking / Certificates** which are

listed in **Annexure – II**.

Along with the above referred **Declaration / Statement / Undertaking / Certificates** the applicant has to submit online supporting documents for such claim which are listed in **Annexure – III**.

### **(D) Export of Goods or Services under the Cover of Letter of Undertaking/Bond**

Extract from the CGST Rules, 2017

#### **Rule 96A. [Export]<sup>34</sup> of goods or services under bond or Letter of Undertaking.-**

(1) Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in **FORM GST RFD-11** to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of —

- (a) fifteen days after the expiry of **three months**<sup>35</sup>, or such further period as may be allowed by the Commissioner,] **from the date of issue of the invoice** for export, if the goods are not exported out of India; or
- (b) fifteen days after the expiry of **one year**, or such further period as may be allowed by the Commissioner, **from the date of issue of the invoice for export**, if the payment of such services is not received by the exporter in convertible foreign exchange [or in Indian rupees, wherever permitted by the Reserve Bank of India]<sup>36</sup>.

(2) The details of the export invoices contained in **FORM GSTR-1** furnished on the common portal shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.

[Provided that where the date for furnishing the details of outward supplies in **FORM GSTR-1** for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

<sup>34</sup> Substituted vide Notification No. 03/2019- Central Tax, dated 29.01.2019 w.e.f. 01-02-2019 for “Refund of integrated tax paid on Export”

<sup>35</sup> Inserted vide Notification No.47/2017- Central Tax, dated 18.10.2017

<sup>36</sup> Inserted vide Notification No.03/2019- Central Tax, dated 29.01.2019 w.e.f. 01-02-2019

Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period.]<sup>37</sup>

(3) Where the goods are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

(4) The export as allowed under bond or Letter of Undertaking withdrawn in terms of sub-rule (3) shall be restored immediately when the registered person pays the amount due.

(5) The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond.

(6) The provisions of sub rule (1) shall apply, *mutatis mutandis*, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax”;

The registered person who has opted to provide

- exporting goods or services or both without payment of integrated tax
- Supplying goods or services or both without payment of integrated tax

has to execute a Letter of Undertaking (hereinafter referred as LUT) or Bond. In this connection the CBIC *vide Circular No. 08/08/2017 dated 04.10.2017* stipulates the procedure given below:

- **Eligibility to export under LUT:** The facility of export under the LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the IGST Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees.
- **Validity of LUT:** The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in Rule 96A (1) of the CGST Rules and the registered person fails to pay the amount mentioned in the said Sub-rule, the facility of export under the LUT will be deemed to have been withdrawn. If the amount mentioned in the said Sub-rule is paid subsequently, the facility of export under the LUT shall be restored. As a result, exports, during the period from when the facility to export under the LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable Integrated Tax or under a Bond with a Bank Guarantee.

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<sup>37</sup> *Inserted vide Notification No.51/2017- Central Tax, dated 28.10.2017*

## Refund in case of Zero Rated Supply

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- **Form for LUT:** The registered person (exporters) shall fill and submit **FORM GST RFD-11** on the common portal. The LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.
- **Documents for LUT:** No document needs to be physically submitted to the jurisdictional office for acceptance of the LUT.
- **Acceptance of LUT/Bond:** An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been accepted was ineligible to furnish it in place of a bond as per *Notification No. 37/2017 – Central Tax dated 4.10.2017* then the exporter's LUT will be liable for rejection, and shall be deemed to have been rejected ab initio.
- **Bank guarantee:** Since the facility of export under the LUT has been extended to all registered persons, a bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.
- **Clarification regarding running Bond:** The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding Integrated Tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit/credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central Tax officer as and when required.
- **Sealing by officers:** Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report will be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.
- **Realization of export proceeds in Indian Rupee:** Attention is invited to para A (v) Part- I of RBI Master *Circular No. 14/2015-16 dated 01.07.2015* (updated as on 05.11.2015), which states that "there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely

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convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan". Further, attention is invited to the amendment to Section 2(6) of the IGST Act, 2017 which allows realization of export proceeds of services in INR, wherever allowed by the RBI.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods or services to countries outside India or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian Currency or convertible foreign exchange, as long as they are in accordance with the applicable RBI guidelines.

- **Jurisdictional officer:** The LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter.

**Condonation for delay in the execution of LUT: (zero-rated supplies were made before filing the LUT):** In this regard, the substantive benefits of zero rating may not be denied where it has been established that exports have been made in terms of the relevant provisions. The delay in furnishing of the LUT in such cases will be condoned and the facility for export under LUT will be allowed on ex post facto basis, taking into account the facts and circumstances of each case.

**Payment of IGST along with interest:** Any registered person who makes Zero-Rated Supply without payment of Integrated tax after furnishing a LUT/Bond would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of the time line given below:

Type of Transaction	Criterion	Time Period
Export of Goods	Taking goods out of India to a place outside India.	3 months from the date of issue of the invoice.
Export of Services	Received Convertible Foreign Exchange for the services.	1 year from the date of issue of the invoice.
Supply of Goods to SEZ	Endorsement by the specified officer that the goods have been admitted in full for authorised operations.	3 months from the date of issue of the invoice.
Supply of Services to SEZ	Endorsement by the specified officer with respect to the receipt of services for authorised operations.	1 year from the date of issue of the invoice.

The jurisdictional Commissioner may consider granting extension of time limit for export as provided in the Rule 96A (1) on post facto basis keeping in view the facts and circumstances of each case. The same principle is followed in case of export of services.

The application filed for refund of unutilized ITC on account of zero-rated supplies (with payment of tax or without payment of tax under Bond/LUT) has to be accompanied by

documentary evidence as may be prescribed to establish that a refund is due to the applicant; and such documentary or other evidence as per Rule 89(2) of the CGST Rules, 2017, which specifies documents to be attached with the refund application in case of different types of refund applicants.

### Refund procedure

- **Furnishing the details of export supplies in Table 6A of GSTR-1:** The details of zero-rated supplies declared in Table 6A of return in GSTR-1.
- **Filing GSTR 3B:** A registered person should properly disclose the Assessable Value and the IGST payment particulars for the tax period under the head “Zero-Rated Supply” in entry 3.1(b) of GSTR 3B. There is a validation check in the GSTN system to ensure that they are eligible for refund. In case the date is not filled in the said entry then the network will not permit refund.
- Rule 89(2) of the CGST Rules, 2017, specifies documents to be attached with the refund application in case of different types of refund applicants.
- **File Form GST RFD 01 using Online utility.** - The online claim application has to be accompanied with the **Declaration / Statement / Undertaking / Certificates** which are listed in **Annexure – II**.

Along with the above referred **Declaration / Statement / Undertaking / Certificates** the applicant has to submit online supporting documents for such claim which are listed in **Annexure – III**.

## Chapter 4

# Refund Due to Inverted Tax Structure

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Sub-section (3) of Section 54 of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, Sub-section (59) of Section 2 of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course of furtherance of business. Thus, inputs do not include services or capital goods. Therefore, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized ITC.

Further, it is clarified by the CBIC that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of ITC accumulated on account of inverted tax structure.

CBIC *vide* Circular no. 135/05/2020 – GST 31.03.2020 has *inter alia* clarified that refund **of accumulated ITC under Section 54(3)(ii) of the CGST Act would not be applicable in cases where the input and the output supplies are the same**. The relevant extract from the Circular is as under:

*It has been brought to the notice of the Board that some applicants are seeking refund of the unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods. This can be explained through an illustration. An applicant trading in goods has purchased, say goods “X” attracting 18% GST. However, subsequently, the rate of GST on “X” has been reduced to say 12%. It is being claimed that the accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund of accumulated ITC under clause (ii) of Sub-section (3) of Section 54 of the CGST Act.*

*It may be noted that refund of accumulated ITC in terms clause (ii) of Sub-section (3) of Section 54 of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that **the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of Sub-section (3) of Section 54 of the CGST Act. It is hereby clarified that refund of accumulated ITC under clause (ii) of Sub-section (3) of Section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same.***

### Refund procedure:

- **Filing Form GSTR-1 and Form GSTR-3B:** The registered person should disclose the Assessable Value of such supply in entry 3.1(a) of GSTR-3B.

## Refund Due to Inverted Tax Structure

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- Rule 89(2) of the CGST Rules, 2017, specifies documents to be attached with the refund application of different types of refund applicants.

**File Form GST RFD 01 using Online utility.** - The online claim application has to be accompanied with the **Declaration / Statement / Undertaking / Certificates** which are listed in **Annexure – II**.

Along with the above referred **Declaration / Statement / Undertaking / Certificates** the applicant has to submit online supporting documents for such claim which are listed in **Annexure – III**.

## Chapter 5

# Common Refund Procedure for Supplies Made without Payment of Tax/ Inverted Tax Structure

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**Applicants of refunds of unutilized ITC, i.e.** refund of unutilized ITC on account of:

- supplies made to SEZ Unit/ SEZ Developer without payment of tax;
- export of goods or services under the cover of letter of undertaking/ bond i.e., exports without payment of tax;
- accumulation due to inverted tax structure;

**shall have to** upload a copy of **FORM GSTR-2A** for the relevant period (or any prior or subsequent period(s) in which the relevant invoices have been auto-populated) for which the refund is being claimed. The proper officer shall rely upon **FORM GSTR-2A** as evidence of the accounting of the supply by the corresponding supplier(s) in relation to which the ITC has been availed by the applicant. It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are available in **FORM GSTR-2A** of the relevant period uploaded by the applicant.

As per *Circular 125/44/2019*, the applicants shall also upload the details of all the invoices on the basis of which ITC has been availed during the relevant period for which the refund is being claimed, in the format enclosed as **Annexure –IV** along with the application for refund claim. And such availment of ITC will be subject to restrictions imposed under Sub-rule (4) of Rule 36 of the CGST Rules inserted *vide Notification No. 49/2019- Central Tax, dated 9.10.2019* and amended *vide Notification No. 75/2019 – Central Tax, dated 26.12.2019 – w.e.f.1-01-2020* read with *Notification No. 30/2020 – Central Tax, dated 03.04.2020*. The applicant shall also declare the eligibility or otherwise of the ITC availed against the invoices related to the claim period in the said format for enabling the proper officer to determine the same.

Self-certified copies of invoices in relation to which the refund of ITC is being claimed and which are declared as eligible for ITC in **Annexure IV**, but not populated in **FORM GSTR-2A**, shall be uploaded by the applicant along with the application in **FORM GST RFD-01**.

However, the same has been amended *vide Circular No.135/05/2020 – GST dated 31.03.2020* which stipulates that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in **FORM GSTR-1** and are reflected in the **FORM GSTR-2A** of the applicant. The relevant excerpt of *Circular No.135/05/2020* is as under:

**5. Guidelines for refunds of Input Tax Credit under Section 54(3)**

5.1 In terms of para 36 of circular No. 125/44/2019-GST dated 18.11.2019, the refund of ITC availed in respect of invoices not reflected in **FORM GSTR-2A** was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the **FORM GSTR-2A** of the applicant.

5.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the **FORM GSTR-2A** of the applicant. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

It has been further clarified vide Circular No. 139/09/2020-GST dated 10<sup>th</sup> June, 2020 that the aforesaid Circular No.135/05/2020 dated 31<sup>st</sup> March, 2020 does not in any way impact the refund of ITC availed on the invoices / documents relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies), etc.

**In case of Export of Goods or Services under the cover of Letter of Undertaking/Bond Assessable Value in the tax invoice/ shipping bill value:** At the time of supply of goods an exporter declares that the goods meant for export are exported under an invoice issued under Rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as per Section 15 of the CGST Act read with the Rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill/bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill/bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund.

**Calculation of Refund amount:**

In case of these refunds [A., B., C.], the common portal calculates the refundable amount as the least of the following amounts:

- I. The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the CGST Rules [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax];

[Rule 89(4) applicable in case of supplies made to SEZ Unit/SEZ Developer without payment of tax and exports without payment of tax;

Rule 89(5) applicable in case of accumulation due to inverted tax structure]

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- II. The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in **FORM GSTR-3B** for the said period has been filed; and
- III. The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

### I(a). Maximum Refund Amount as per the formula in Rule 89(4)

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where the,

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net ITC" means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed for the following:
  - a. Inward supplies received under Deemed Export Notification No. 48/2017 Central Tax, dated 18.10.2017
  - b. Inward supplies received under Merchant Export Notification No. 40/2017 Central Tax (Rate) or 41/2017 Integrated Tax (Rate) both issued on dated 23.10.2017
  - c. Import of goods received by the EOU vide exemption Notification No. 78/2017 – Customs dated 13.10.2017.
  - d. Import of goods received under AA/EPCG Schemes vide exemption Notification No. 79/2017 – Customs dated 13.10.2017.
- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under Rule 89(4A) or Rule 89(4B) or both.
- (D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under a bond or letter of undertaking, calculated in the following manner:

PARTICULARS FOR THE PERIOD UNDER REFUND	AMOUNT IN INR
Payments received for the zero-rated supply of services during the period (A)	XXX.XX
Value of the zero-rated supply of services completed during the period for which payment had been received in advance in any period prior to the period under refund (B)	XXX.XX

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Advances received for zero-rated supply of services for which the supply of services has not been completed during the period of refund (C)	XXX.XX
<b>TURNOVER OF ZERO-RATED SUPPLY OF SERVICES WITHOUT IGST PAYMENT (A + B-C)</b>	<b>XXX.XX</b>

(E) “Adjusted Total Turnover” is calculated in the following manner:

<b>PARTICULARS FOR THE PERIOD UNDER REFUND</b>	<b>AMOUNT IN INR</b>
Turnover in a State or Union Territory as defined under clause (112) of Section 2 of the CGST Act, 2017	XXX.XX
Turnover of Zero-rated supply of services determined in terms of clause (D)	XXX.XX
Turnover of Non-Zero rated supply of services	XXX.XX
Less:	
Total turnover of services	XXX.XX
Turnover of exempted supplies other than zero-rated supplies	XXX.XX
Turnover in respect of deemed export and merchant export	XXX.XX
<b>ADJUSTED TOTAL TURNOVER</b>	<b>XXX.XX</b>

**Clarification issued by the CBIC for calculating the maximum refund amount as specified in Rule 89 (4) of the CGST Rules.**

[Circular No. 147/03//2021-GST, dated 12<sup>th</sup> March, 2021]

“Adjusted Total Turnover” includes “Turnover in a State or Union Territory”, as defined in Section 2(112) of CGST Act. As per Section 2(112), “Turnover in a State or Union Territory” includes turnover/ value of export/ zero-rated supplies of goods. The definition of “Turnover of zero-rated supply of goods” has been amended vide *Notification No.16/2020-Central Tax dated 23.03.2020*, as detailed above. In view of the above, it can be stated that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of “Turnover of zero-rated supply of goods”, need to be taken into consideration while calculating “turnover in a state or a union territory”, and accordingly, in “adjusted total turnover” for the purpose of sub-rule (4) of Rule 89. Thus, the restriction of 150% of the value of like goods domestically supplied, as applied in “turnover of zero-rated supply of goods”, would also apply to the value of “Adjusted Total Turnover” in Rule 89 (4) of the CGST Rules, 2017.

Accordingly, it is clarified that for the purpose of Rule 89(4), the value of export/ zero-rated supply of goods to be included while calculating “adjusted total turnover” will be same as being determined as per the amended definition of “Turnover of zero-rated supply of goods” in the said sub-rule.

(F) “Relevant period” means the period for which the claim has been filed.

**Illustration:** Suppose a supplier is manufacturing only one type of goods and is supplying the same goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table given below. In this case, actual value per unit of goods exported is more than 1.5 times the value of same/ similar goods in domestic market, as declared by the supplier:

Net admissible ITC = Rs. 270

<b>Outward Supply</b>	<b>Value per unit</b>	<b>No of units supplied</b>	<b>Turnover</b>	<b>Turnover as per amended definition</b>
Local (Quantity 5)	200	5	1000	1000
Export (Quantity 5)	350	5	1750	1500 (1.5*5*200)
<b>Total</b>			2750	2500

The formula for calculation of refund as per Rule 89(4) is :

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Turnover of Zero-rated supply of goods (as per amended definition) = Rs. 1500

Adjusted Total Turnover= Rs. 1000 + Rs. 1500 = Rs. 2500 [and not Rs. 1000 + Rs. 1750]

Net ITC = Rs. 270

Refund Amount = Rs. 1500\*270/2500 = Rs. 162

**Thus, the admissible refund amount in the instant case is Rs. 162.**

**Common Refund Procedure for Supplies Made without Payment of Tax...**

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**l(b). Maximum Refund Amount as per the formula in Rule 89(5)**

Refund Amount = {(Turnover of inverted rated supply of goods and services) × Net ITC ÷ Adjusted Total Turnover} – tax payable on such inverted rated supply of goods and services.

Where the

- (A) “Net ITC” means ITC availed on inputs during the relevant period other than the ITC availed for which refund is claimed for the following:
- e. Inward supplies received under Deemed Export Notification No. 48/2017 Central Tax, dated 18.10.2017
  - f. Inward supplies received under Merchant Export Notification No. 40/2017 Central Tax (Rate) or 41/2017 Integrated Tax (Rate) both issued on dated 23.10.2017
  - g. Import of goods received by the EOU vide exemption Notification No. 78/2017 – Customs dated 13.10.2017.
  - h. Import of goods received under AA/EPCG Schemes vide exemption Notification No. 79/2017 – Customs dated 13.10.2017.
- (B) “Adjusted Total turnover” is calculated in the following manner:

PARTICULARS FOR THE PERIOD UNDER REFUND	AMOUNT IN INR
Turnover in a State or Union Territory as defined under clause (112) of Section 2 of the CGST Act, 2017	XXX.XX
Turnover of Zero-rated supply of services determined in terms of clause (D)	XXX.XX
Turnover of Non-Zero rated supply of services	XXX.XX
Less:	
Total turnover of services	XXX.XX
Turnover of exempted supplies other than zero-rated supplies	XXX.XX
Turnover in respect of deemed export and merchant export	XXX.XX
<b>ADJUSTED TOTAL TURNOVER</b>	<b>XXX.XX</b>

- (C) "Relevant period" means the period for which the claim has been filed.

**Clarification issued by the CBIC for calculating the maximum refund amount as specified in Rule 89 (5) of the CGST Rules.**

- Refund of unutilized ITC in case of inverted tax structure, as provided in section 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability. Where there are multiple inputs attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules, the term "Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax
- The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with the help of following example:
  - Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).
  - The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.
  - Further assume that the applicant supplies the output Y having value of ₹ 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be ₹ 3,000/-. Since the applicant has no other outward supplies, his adjusted total turnover will also be ₹ 3,000/-.
  - If we assume that Input A, having value of ₹ 500/- and Input B, having value of ₹ 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to ₹ 385/- (Rs. 25/- and ₹ 360/- on Input A and Input B respectively).
  - Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of ₹ 385/-.
  - From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is ₹ 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is ₹ 25/-.

## Common Refund Procedure for Supplies Made without Payment of Tax...

- The refund of accumulated ITC in the above situation will be available under Section 54(3) of the CGST Act, 2017 read with Rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.
- Further assume that the applicant supplies the output Y having value of ₹ 3,000 during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be ₹ 3,000. Since the applicant has no other outward supplies, his adjusted total turnover will also be ₹ 3,000.
- If we assume that Input A, having the value of ₹ 500 and Input B, having the value of ₹ 2,000, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to ₹ 385 (Rs. 25 and ₹ 360 on Input A and Input B respectively).
- Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of ₹ 385.
- From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is ₹ 360, we get the maximum refund amount, as per Rule 89(5) of the CGST Rules which is ₹ 25.

After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

- GST, to the extent of balance available;
- CGST and SGST/UTGST, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, CSGT), the differential amount is to be debited from the other electronic credit ledger (i.e., SGST/UTGST, in this case).

The order of debit described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications. **However, for applications where this order is not adhered to by the applicant, no adverse view may be taken by the tax authorities.**

For all refund applications where refund of unutilized ITC of compensation cess is being claimed, the calculation of the refundable amount of compensation cess shall be done separately and the amount so calculated will be debited from the balance of compensation cess available in the electronic credit ledger.

## **Handbook on Refunds under GST**

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The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of ITC shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of Central Tax. It is clarified that if a supplier avails of drawback in respect of duties rebated under the Customs and Central Excise Duties Drawback Rules, 2017, he shall be eligible for refund of unutilized ITC of CGST/SGST/IGST/Compensation cess. It is also clarified that refund of eligible credit on account of State Tax shall be available if the supplier of goods or services or both has availed of drawback in respect of Central Tax.

## Chapter 6

# Deemed Exports

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### What are deemed export supplies?

Section 147 of the CGST Act, 2017 empowers the Central Government, on the recommendations of the Council, to notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India. Hence, the Government has issued *Notification No. 48/2017- Central Tax, dated 18.10.2017* to notify the following supplies of goods as deemed exports:

- Supply of goods by a registered person against Advance Authorisation, where authorisation was issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs for physical exports.
- Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation, where such authorisation was issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015-20 for import of capital goods for physical exports.
- Supply of goods by a registered person to Export Oriented Unit.
- Supply of gold by a bank or Public Sector Undertaking specified in *Notification No. 50/2017-Customs, dated 30.06.2017* (as amended) against Advance Authorisation.

NOTE: In case of Advance Authorisation when the goods manufactured were exported after availing ITC on inputs used in the manufacture of such exports, then within 6 months of such supply a certificate from Chartered Accountant stating that the inputs were used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) is required to be submitted to the jurisdictional Commissioner of GST or any other officer authorised by him. No certificate shall be required if ITC has not been availed on inputs used in the manufacture of export goods.

### What is the proof that a transaction is a deemed export?

The person who effects the transaction is the one who is responsible to prove that the transaction is a deemed export and hence he has to take all precaution in collating the documentary proof in this regard, and hence the Government has issued *Notification No. 49/2017-Central Tax dated 18.10.2017* to notify the documents to be collected as evidence by the supplier of deemed export supplies:

- In case of supply against Advance Authorisation or Export Promotion Capital Goods Authorisation holder

## Handbook on Refunds under GST

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Acknowledgement by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received.

- In case of supply to Export Oriented Unit:
  - Endorsement in tax invoice by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
  - An undertaking by the recipient of deemed export supplies that no ITC on such supplies has been availed by him.
  - 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.

The above documentation will help the suppliers to demonstrate that their transaction qualifies as deemed export and they are eligible for refund under Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017. Besides the above Notification the CBIC has also issued Circular No. 14/14/2017-GST dated 06.11.2017 listing the procurement procedure of supplies of goods from DTA by EOU / EHTP Unit /STP Unit / BTP Unit under the deemed export.

### **CIRCULAR NO.14/14/2017-GST, DATED 6.11.2017**

*In accordance with the decisions taken by the GST Council in its 22<sup>nd</sup> meeting held on 06.10.2017 at New Delhi to resolve certain difficulties being faced by exporters post-GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 (hereinafter referred to as 'the Act') and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies. Accordingly, Notification No. 48/2017-Central Tax dated 18.10.2017 has been issued to treat such supplies to EOU/EHTP/STP/BTP units as deemed exports. Further, Rule 89 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') has been amended vide Notification No. 47/2017- Central Tax dated 18-10-2017 to allow either the recipient or supplier of such supplies to claim refund of tax paid thereon.*

*2. For supplies to EOU/EHTP/STP/BTP units in terms of Notification No. 48/2017-Central Tax dated 18.10.2017, the following procedure and safeguards are prescribed:*

- (a) The recipient EOU/EHTP/STP/BTP unit shall give prior intimation in a prescribed proforma in "Form-A" (appended herewith) 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 said intimation shall be given to —*

- a. the registered supplier;*

- b. *the jurisdictional GST officer in charge of such registered supplier; and*  
 c. *its jurisdictional GST officer.*
- (b) *The registered supplier thereafter will supply goods under tax invoice to the recipient EOU/EHTP/STP/BTP unit.*
- (c) *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.*
- (d) *The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU/EHTP/STP/BTP unit.*
- (e) *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. The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. 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. 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. 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 every month) in a CD or Pen drive, as convenient to the said unit.*
3. *The above procedure and safeguards 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 availed by such unit.*

**Who can file a refund application?**

- the supplier of deemed export supplies, provided that the recipient of deemed export supplies has neither claimed refund in respect of such supplies nor availed any ITC on such supplies.
- the recipient of deemed export supplies, provided he undertakes that refund has been claimed only for those invoices which have been detailed in statement 5B for the tax period and he has not availed ITC on such invoices. He has also to declare that he has not claimed refund with respect to the said supplies. (as per the clarification in the **Circular 125/44/2019**, PARA 41, the extract of which is as under:

**Guidelines for refund of tax paid on deemed exports**

41. Certain supplies of goods have been notified as deemed exports vide notification No. 48/2017-Central Tax, dated 18-10-2017 under section 147 of the CGST Act. Further, the third proviso to rule 89(1) of the CGST Rules allows either the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017-Central Tax, dated 18-10-2017 are also required to be furnished which includes an undertaking that the recipient of deemed export supplies shall not claim the refund in respect of such supplies and shall not avail any input tax credit on such supplies. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking shall have to be furnished by him stating that refund has been claimed only for those invoices which have been detailed in statement 5B for the tax period for which refund is being claimed and the amount does not exceed the amount of input tax credit availed in the valid return filed for the said tax period<sup>38</sup>. The recipient shall also be required to declare that the supplier has not claimed refund with respect to the said supplies. The procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU)/Electronic Hardware Technology Park (EHTP) Unit/Software Technology Park (STP) Unit/Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST, dated 6.11.2017 [2017 (6) G.S.T.L. C13] needs to be complied with

**Refund procedure:**

- **Furnishing the details of deemed supplies in GSTR-1:** The details of invoices raised by the supplier should file the invoices raised under the head deemed export should be filed in Form GSTR-1.
- **Filing GSTR-3B:** The registered person should disclose the Assessable Value of such supply in entry 3.1(a) of the Form GSTR 3B.
- **File Form GST RFD 01 using Online utility.** – The online claim application has to be accompanied with the **Declaration / Statement / Undertaking / Certificates** which are listed in **Annexure – I**.

Along with the above referred **Declaration / Statement / Undertaking / Certificates** the applicant has to submit online supporting documents for such claim which are listed in **Annexure – II**.

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<sup>38</sup> Amended vide Circular No. 147/03//2021-GST dated 12.03.2021

## Chapter 7

# Application for and Processing of Refund in Virtual Environment

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### Statutory Provision

**Sec. 54. Refund of tax.**

- (1) .....
- (2) .....
- (3) .....
- (4) The application shall be accompanied by—
  - (a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and
  - (b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

**Provided** that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub- section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to-

- (a) refund of tax paid on <sup>39</sup>[export] of goods or services or both or on inputs or input services used in making such <sup>1</sup>[exports];
- (b) refund of unutilised input tax credit under sub-section (3);
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) refund of tax in pursuance of section 77;
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

<sup>40</sup>[(8A)The Government may disburse the refund of the State tax in such manner as may be prescribed.]

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may-

- (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;
- (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

**Explanation.** — For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

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<sup>39</sup> Substituted vide the CGST (Amendment) Act, 2018 read with Notification No.02/2019-Central Tax, dated 29.01.2019 - w.e.f. 01-02-2019. Prior to its substitution it was read as: “zero-rated supplies”

<sup>40</sup> Inserted vide the Finance (No. 2) Act, 2019 read with Notification No. 39/2019- Central Tax, dated 31.01.2019 - w.e.f. 01-09-2019.

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(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceeding under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

### Rule 90. Acknowledgement

(1) *Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement in **FORM GST RFD-02** shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.*

(2) *The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4) of rule 89, an acknowledgement in **FORM GST RFD-02** shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.*

(3) *Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in **FORM GST RFD-03** through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.*

*[“Provided that the time period, from the date of filing of the refund claim in **FORM GST RFD-01** till the date of communication of the deficiencies in **FORM GST RFD-03** by the proper officer, shall be excluded from the period of two years as specified under sub-section (1) of Section 54,*

in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.”;<sup>41</sup>

(4) Where deficiencies have been communicated in **FORM GST RFD-03** under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under this rule along with the deficiencies communicated under sub-rule (3)

(5) The applicant may, at any time before issuance of provisional refund sanction order in **FORM GST RFD-04** or final refund sanction order in **FORM GST RFD-06** or payment order in **FORM GST RFD-05** or refund withhold order in **FORM GST RFD-07** or notice in **FORM GST RFD-08**, in respect of any refund application filed in **FORM GST RFD-01**, withdraw the said application for refund by filing an application in **FORM GST RFD-01W**<sup>42</sup>.

(6) On submission of application for withdrawal of refund in **FORM GST RFD-01W**, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in **FORM GST RFD-01**, shall be credited back to the ledger from which such debit was made.”;<sup>42</sup>

#### **Rule 91. Grant of provisional refund**

(1) The provisional refund in accordance with the provisions of sub-section (6) of section 54 shall be granted subject to the condition that the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

(2) The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in **FORM GST RFD-04**, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90:

[Provided that the order issued in **FORM GST RFD-04** shall not be required to be revalidated by the proper officer.]<sup>43</sup>

(3) The proper officer shall issue a [payment order]<sup>44</sup> in **FORM GST RFD-05** for the amount sanctioned under sub-rule (2) and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund [on the basis of a consolidated payment advice]<sup>45</sup>:

<sup>41</sup> Inserted vide Notification No. 15/2021-Central Tax, dated 18.05.2021.

<sup>42</sup> Inserted vide Notification No. 15/2021-Central Tax, dated 18.05.2021.

<sup>43</sup> Inserted vide Notification No.03/2019 – Central Tax, dated 29.01.2019 w.e.f. 01-02-2019.

<sup>44</sup> Substituted vide Notification No.31/2019 – Central Tax, dated 28.06.2019 read with Notf no. 42/2019 – CT dt. 24.09.2019 w.e.f. 24-09-2019. Prior to the substitution it read as: “payment order”

<sup>45</sup> Inserted w.e.f. 24.09.2019 vide Notification No.49/2019-CT dt. 09.10.2019

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*[Provided that the [payment order]<sup>46</sup> in **FORM GST RFD-05** shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said [payment order]<sup>47</sup> was issued.]<sup>48</sup>*

*[(4) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (3).]<sup>49</sup>*

### **Rule 92. Order sanctioning refund**

*(1) Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in **FORM GST RFD-06** sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him on a provisional basis under sub-section (6) of section 54, amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable;*

*[ ]<sup>50</sup>*

*[(1A) Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in **FORM RFD-06** sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue **FORM GST PMT-03** re-crediting the said amount as Input Tax Credit in electronic credit ledger.]<sup>51</sup>*

*(2) Where the proper officer or the Commissioner is of the opinion that the amount of refund is liable to be withheld under the provisions of sub-section (10) or, as the case may be, sub-section (11) of section 54, he shall pass an order in Part A<sup>52</sup> of **FORM GST RFD-07** informing him the reasons for withholding of such refund.*

*["Provided that where the proper officer or the Commissioner is satisfied that the refund is*

<sup>46</sup> Substituted vide Notification No.31/2019 – Central Tax, dated 28.06.2019 read with Notf no. 42/2019 – CT dt. 24.09.2019 - w.e.f. 24-09- 2019

<sup>47</sup> Substituted vide Notification No.31/2019 – Central Tax, dated 28.06.2019 read with Notf no. 42/2019 – CT dt. 24.09.2019 - w.e.f. 24-09-2019

<sup>48</sup> Inserted vide Notification No. 03/2019- Central Tax, dated 29.01.2019 w.e.f. 01-02-2019

<sup>49</sup> Inserted vide Notification No. 49/2019- Central Tax, dated 09.10.2019- w.e.f. 24-09-2019

<sup>50</sup> Proviso to sub-rule (1) omitted vide Notification No. 15 /2021 – Central Tax, dated 18.03.2021

<sup>51</sup> Inserted vide Notification No. 16/2020- Central Tax, dated 23.03.2020

<sup>52</sup> for the word and letter "Part B", the word and letter "Part A" shall be substituted vide Notification No. 15/2021-Central Tax, dated 18.05.2021.

*no longer liable to be withheld, he may pass an order for release of withheld refund in Part B of **FORM GST RFD- 07.**”;*<sup>53</sup>

(3) *Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in **FORM GST RFD-08** to the applicant, requiring him to furnish a reply in **FORM GST RFD-09** within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in **FORM GST RFD-06** sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, mutatis mutandis, apply to the extent refund is allowed:*

*Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.*(4) *Where the proper officer is satisfied that the amount refundable under sub-rule (1) [or sub-rule (1A)]<sup>54</sup> or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in **FORM GST RFD-06** and issue a [payment order]<sup>55</sup> in **FORM GST RFD-05** for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund [on the basis of a consolidated payment advice]<sup>56</sup>:*

*[Provided that the order issued in **FORM GST RFD-06** shall not be required to be revalidated by the proper officer:*

*Provided further that the [payment order]<sup>57</sup> in **FORM GST RFD-05** shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said [payment order]<sup>58</sup> was issued.]<sup>59</sup>*

*[(4A) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (4).]<sup>60</sup>*

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<sup>53</sup> *Inserted vide Notification No. 15/2021-Central Tax, dated 18.05.2021.*

<sup>54</sup> *Inserted vide Notification No. 16/2020- Central Tax, dated 23.03.2020*

<sup>55</sup> *Substituted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 read with Notification No. 42/2019 – Central Tax, dated 24.09.2019 w.e.f. 24-09-2019. Prior to substitution it read as : “payment advice”*

<sup>56</sup> *Inserted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 read with Notification No. 42/2019 – Central Tax, dated 24.09.2019 w.e.f. 24-09-2019*

<sup>57</sup> *Substituted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 read with Notification No. 42/2019 – Central Tax, dated 24.09.2019 w.e.f. 24-09-2019. Prior to substitution it read as : “payment advice”*

<sup>58</sup> *Substituted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 read with Notification No. 42/2019 – Central Tax, dated 24.09.2019 w.e.f. 24-09-2019. Prior to substitution it read as : “payment advice”*

<sup>59</sup> *Inserted vide Notification No. 03/2019- Central Tax, dated 29.01.2019 w.e.f. 01.02.2019*

<sup>60</sup> *Inserted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 read with Notification No. 42/2019 – Central Tax, dated 24.09.2019 w.e.f. 24-09-2019*

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(5) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or [or sub-rule (1A)]<sup>61</sup> sub-rule (2) is not payable to the applicant under sub-section (8) of section 54, he shall make an order in **FORM GST RFD-06** and issue [a payment order]<sup>62</sup> in **FORM GST RFD-05**, for the amount of refund to be credited to the Consumer Welfare Fund.

### **Rule 93: Credit of the amount of rejected refund claim**

(1) Where any deficiencies have been communicated under sub-rule (3) of rule 90, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.

(2) Where any amount claimed as refund is rejected under rule 92, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**.

*Explanation.* – For the purposes of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.

With effect from 26.09.2019, the applications for the following types of refunds shall be filed in **FORM GST RFD-01** on the common portal and the same shall be processed electronically:

**Filing of FORM GST RFD-01:** The applicants have to file their application on the common portal for any of the categories mentioned below:

- Refund of unutilized ITC on account of exports without payment of tax;
- Refund of tax paid on export of services with payment of tax;
- Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
- Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;
- Refund of unutilized ITC on account of accumulation due to inverted tax structure;
- Refund to the supplier of tax paid on deemed export supplies;
- Refund to the recipient of tax paid on deemed export supplies;
- Refund of excess balance in the electronic cash ledger;
- Refund of excess payment of tax;
- Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and *vice versa*;

<sup>61</sup> Inserted vide Notification No. 16/2020- Central Tax, dated 23.03.2020

<sup>62</sup> Substituted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 read with Notification No. 42/2019 – Central Tax, dated 24.09.2019 w.e.f. 24-09-2019. Prior to substitution it read as : “payment advice”

## Handbook on Refunds under GST

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- Refund on account of assessment/provisional assessment/appeal/any other order;
- Refund on account of “any other” ground or reason.

This shall entail filing of statements/declarations/undertakings which are part of **FORM GST RFD-01**, and also uploading of other documents/invoices which shall be required to be provided by the applicant for processing of the refund claim. It has been further clarified that neither the refund application in **FORM GST RFD-01** nor any of the supporting documents shall be required to be physically submitted to the office of the jurisdictional proper officer. The facility of uploading these other documents/invoices shall be available on the common portal may be uploaded along with the refund application.

The Application Reference Number (ARN) will be generated only after the applicant has completed the process of filing the refund application in **FORM GST RFD-01**, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under Rule 90(2) of the CGST Rules on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement or a deficiency memo, as the case may be, shall be counted from the said date.

This will obviate the need for an applicant to visit the jurisdictional tax office for the submission of the refund application and/or any of the supporting documents. Accordingly, the acknowledgement for the complete application (**FORM GST RFD-02**) or deficiency memo (**FORM GST RFD-03**), as the case may be, would be issued electronically by the jurisdictional tax officer based on the documents received from the common portal.

If a refund application is electronically transmitted to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically as soon as possible, but not later than three working days from the date of generation of the ARN. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction.

It may be noted that the facility to reassign such refund applications is already available with the Commissioner or the officer(s) authorized by him.

**Transfer to Jurisdictional Proper Officer:** The refund application in **FORM GST RFD-01** filed by all taxpayers, who have already been assigned to the Centre or the State tax authorities, shall be automatically forwarded by the common portal to the concerned authority. At the same time, there might be some migrated taxpayers, who have remained unassigned so far. The refund application in **FORM GST RFD-01** filed by such unassigned taxpayers shall be forwarded, for processing, by the common portal to the jurisdictional proper officer of the tax authority from which the taxpayer has originally migrated.

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Such officers will continue to process these applications up to the stage of issuance of final order in **FORM GST RFD-06** and the related payment order in **FORM GST RFD-05** even if the applicant is assigned to the counterpart tax authority while the refund claim is under processing. However, if such an applicant gets assigned to one of the tax authorities after generation of the ARN and a deficiency memo gets issued for the refund application submitted by him, then the re-submitted refund application, after correction of deficiencies, shall be treated as a fresh refund application and shall be forwarded to the jurisdictional proper officer of the tax authority to which the taxpayer has now been assigned, irrespective of which authority handled the initial refund claim and issued the deficiency memo.

**Acknowledgement:** The proper officer after verifying the completeness of the application has to issue either acknowledgement in **Form GST RFD – 02** or Deficiency Memo in **Form GST RFD – 03**.

**Deficiency Memo** – With in the period of 15 days from the date of generation of ARN for **FORM GST RFD-01** the proper officer should communicate to the applicant the deficiencies in **FORM GST RFD-03**.

Once an acknowledgement has been issued in relation to a refund application, no deficiency memo, on any grounds, may be subsequently issued for the said application. After a deficiency memo has been issued, **the refund application will not be further processed and a fresh application will have to be filed within 2 years of the relevant date, as stated in the explanation after section 54(14) of the CGST Act.**

Any amount of ITC/cash debited from electronic credit/cash ledger would be re-credited automatically once the deficiency memo has been issued. It may be noted that the re-credit would take place automatically and no order in **FORM GST PMT- 03** is required to be issued. The applicant is required to rectify the deficiencies highlighted in the deficiency memo and file a fresh refund application electronically in **FORM GST RFD-01** again for the same period and this application would have a new and distinct ARN.

Once an application has been submitted afresh, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original deficiency memo remain un-rectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

**Provisional Refund only in case of ZERO-RATED SUPPLY:** The proper officer has to release 90% of the amount claimed through **Form GST RFD-04**; however, the CBIC in the **Circular 125/44/2019** has clarified that no prohibition under the law prevents a proper officer from sanctioning the entire amount within 7 days of the issuance of acknowledgement in **FORM GST RFD-06**, instead of granting of provisional refund of 90% of the amount claimed through **FORM GST RFD-04**. If the proper officer is fully satisfied about the eligibility of a refund claim on account of zero-rated supplies, and is of the opinion that no further scrutiny is required, the proper officer may issue final order in **FORM GST RFD-06** within 7 days of the issuance of acknowledgement. In such cases, the issuance of a provisional refund order in **FORM GST RFD-04** will not be required.

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The CBIC has further clarified that no adjustment or withholding of refund, as provided under section 54(10) or (11) of the CGST Act, shall be allowed in respect of the amount of refund which has been provisionally sanctioned. In cases where there is an outstanding recoverable amount due from the applicant, the proper officer, instead of granting refund on a provisional basis, may process and sanction refund on a final basis at the earliest and recover the amount from the amount so sanctioned.

**Scrutiny of Application:** The proper officer will scrutinise the refund application along with the enclosed documents and process the refund application within 60 days from the date of ARN. In case of refund claim on account of export of goods without payment of tax, the SHIPPING BILL details shall be verified by the proper officer through ICEGATE portal ([www.icegate.gov.in](http://www.icegate.gov.in)) wherein the officer would be able to check details of the EGM and shipping bill by keying in port name, SHIPPING BILL number and date. It is advised that while processing refund claims, information contained in Table 9 of **FORM GSTR-1** of the relevant tax period as well as that of the subsequent tax periods should also be taken into cognizance, wherever applicable.

In this regard, *Circular No. 26/26/2017-GST dated 29.12.2017* provides the procedure for rectification of errors made while filing the returns in **FORM GSTR-3B** has been provided. Therefore, in case of discrepancies between the data furnished by the taxpayer in **FORM GSTR-3B** and **FORM GSTR-1**, proper officer shall refer to the said Circular and process the refund application accordingly.

**Re-crediting of electronic credit ledger on account of rejection of refund claim:** In case of rejection of refund claim of unutilized/accumulated ITC due to ineligibility of the ITC under any provisions of the CGST Act and Rules made thereunder, the proper officer shall have to issue a show cause notice in **FORM GST RFD-08**, under Section 54 of the CGST Act, read with Section 73 or Section 74 of the CGST Act, requiring the applicant to show cause as to why:

- (a) the refund amount corresponding to the ineligible ITC should not be rejected as per the relevant provisions of the law; and
- (b) the amount of ineligible ITC should not be recovered as wrongly availed ITC under Section 73 or Section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

The above notice shall be adjudicated following the principles of natural justice, and an order shall be issued, in **FORM GST RFD-06**, under Section 54 of the CGST Act read with Section 73 or Section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b), then **FORM GST RFD-06** shall have to be issued accordingly, and the amount of ineligible ITC, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of **FORM GST DRC-07**.

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Alternatively, the applicant can voluntarily pay this amount, along with interest and penalty, as applicable, before service of the demand notice, and intimate the same to the proper officer in **FORM GST DRC-03** in accordance with section 73(5) or section 74(5) of the CGST Act, as the case may be, read with Rule 142(2) of the CGST Rules.

In such cases, the need for serving a demand notice for recovery of ineligible ITC will be obviated. In any case, the proper officer shall order for the rejected amount to be re-credited to the electronic credit ledger of the applicant using **FORM GST PMT-03**, only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

In case of rejection of a claim for refund, on account of any reason other than the ineligibility of credit, the process described above shall be followed with the only difference that there shall be no proceedings for recovery of ineligible ITC under Section 73 or Section 74, as the case may be.

**Example 1:** M/s. XYZ had applied for a refund of Rs.100 on account of zero-rated supplies. The proper officer, after prima-facie examination of the application, sanctions ₹ 90 as provisional refund through **FORM GST RFD-04** and the same is electronically credited to his bank account. However, on detailed examination of the claim, it appears to the proper officer that only an amount of ₹ 70 is admissible as refund to the applicant.

In such cases, the proper officer shall have to issue a show cause notice to the applicant, in **FORM GST RFD-08**, under Section 54 of the CGST Act, read with Section 73 or Section 74 of the CGST Act requiring the applicant to show cause as to why:

- (a) the amount claim of ₹ 30 should not be rejected as per the relevant provisions of the law; and
- (b) the amount of ₹ 20 erroneously refunded should not be recovered under Section 73 or Section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

**Example 2:** M/s. ABC had applied for a refund claim of unutilized/accumulated ITC of Rs.100, but only Rs.80 is sanctioned (Rs.15 rejected on account of ineligible ITC and Rs.5 on account of any other reason).

As stated above, a show cause notice, in **FORM GST RFD-08**, shall have to be issued to the applicant, requiring him to show cause as to why:

- (a) the refund claim amounting to Rs.20 should not be rejected under the relevant provisions of the law and
- (b) the ineligible ITC of ₹ 15/- should not be recovered under section 73 or section 74, as the case may be, with interest and penalty, if any.

If the said notice is decided against the applicant, ₹ 15/-, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of **FORM GST DRC-07**.

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Further, ₹ 20/- would be re-credited through **FORM GST PMT – 03** only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

Continuing with the above example, further assume that the applicant files an appeal against this order and the Appellate Authority decides wholly in favour of the applicant. It is clarified that in such a case the petitioner would file a fresh refund claim for the said amount of ₹ 20 under the option of claiming refund "On Account of Assessment/ Provisional Assessment/ Appeal/ Any other order".

**PROCEDURE TO CLAIM REFUND IN FORM GST RFD-01 SUBSEQUENT TO FAVOURABLE ORDER IN APPEAL OR ANY OTHER FORUM – CIRCULAR NO. 111/30/2019-GST DATED 03.10.2019**

*Appeals against rejection of refund claims are being disposed offline as the electronic module for the same is yet to be made operational.*

*As per rule 93 of the CGST Rules, 2017 where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger, if any, is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in **FORM GST RFD-01**.*

*In case a favourable order is received by a registered person in appeal or in any other forum in respect of a refund claim rejected through issuance of an order in **FORM GST RFD-06**, the registered person would file a fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order" claiming refund of the amount allowed in appeal or any other forum.*

*Since the amount debited, if any, at the time of filing of the refund application was not re-credited, the registered person shall not be required to debit the said amount again from his electronic credit ledger at the time of filing of the fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order".*

*The registered person shall be required to give details of the type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority. The registered person would also be required to upload:*

- a copy of the order of the Appellate or other authority,*
- copy of the refund rejection order in **FORM GST RFD 06** issued by the proper officer or such other order against which appeal has been preferred and other related documents.*

*Upon receipt of the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" the proper officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in **FORM GST RFD 06** and issue payment order in **FORM GST RFD 05** accordingly.*

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*The proper officer disposing the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" shall also ensure re-credit of any amount which remains rejected in the order of the appellate (or any other authority). However, such re-credit shall be made following the guideline as laid down in para 4.2 of Circular No. 59/33/2018 – GST dated 04.09.2018.*

**ILLUSTRATED** - a registered person who makes an application for refund of unutilized ITC on account of export to the extent of Rs.100/- and debits the said amount from his electronic credit ledger. The proper officer disposes the application by allowing refund of ₹ 70/- and rejecting the refund of ₹ 30/-. However, he does not re-credit ₹ 30/- since appeal is preferred by the claimant and accordingly **FORM GST RFD 01B** is not uploaded.

Assume that the appellate authority allows refund of only ₹ 10/- out of the ₹ 30/- for which the registered person went in appeal. This ₹ 10/- shall be claimed afresh under the category "Refund on account of assessment/provisional assessment/appeal/any other order" and processed accordingly. However, subsequent to processing of this claim of Rs.10/- the proper officer shall re-credit Rs.20/- to the electronic credit ledger of the claimant, provided that the registered person is not challenging the order in a higher forum.

For this purpose, **FORM GST RFD 01B** under the original ARN which has so far not been uploaded will be uploaded with refund sanctioned amount as Rs.80/- and the amount to be re-credited as ₹ 20/-. In case, the proper officer who rejected the refund claim is not the one who is disposing the application under the category "Refund on account of assessment/provisional assessment/appeal/any other order", the latter shall communicate to the proper officer who rejected the refund claim to close the ARN as above only after obtaining the undertaking as referred in para 4.2 of Circular no. 59/33/2018 – GST dated 4.9.2018.

Disbursal of refunds: Separate disbursement of refund amounts under different tax heads by different tax authorities, i.e., disbursement of Central Tax, Integrated Tax and Compensation Cess by Central tax officers and disbursement of State tax by State tax officers, was causing undue hardship to the refund applicants. In order to facilitate refund applicants on this account, it has now been decided that for a refund application assigned to a Central tax officer, both the sanction order (**FORM GST RFD-04/06**) and the corresponding payment order (**FORM GST RFD-05**) for the sanctioned refund amount, under all tax heads, shall be issued by the Central tax officer only.

Similarly, for refund applications assigned to a State/UT tax officer, both the sanction order (**FORM GST RFD-04/06**) and the corresponding payment order (**FORM GST RFD-05**) for the sanctioned refund amount, under all tax heads, shall be issued by the State/UT tax officer only.

The sanctioned refund amounts, as entered in the payment orders issued by the Central and State/UT tax officers, shall be disbursed through the PFMS of the Controller General of Accounts (CGA), Ministry of Finance, Government of India. On filing of a refund application in

**FORM GST RFD-01**, the common portal shall generate a master file for the applicant containing the relevant details like name, GSTIN, bank account details, etc. This master file shall be shared with PFMS for validation of the bank account details provided by the applicant in the refund application. Once the bank account is validated, PFMS will create a unique assessee code (combination of GSTIN + validated bank account number) for the applicant. This code will be used by PFMS for all refund payments made to the applicant in the said bank account. Therefore, in order to avoid repeat validations and generation of multiple unique assessee codes for the same GSTIN, it shall be advisable for the applicants to enter the same bank account details in successive refund applications submitted in **FORM GST RFD-01**. In cases where an applicant wishes to avail the refund in a different bank account, which has not yet been validated, a new unique assessee code (comprising of GSTIN + new bank account) will be generated by PFMS after validation of the said bank account.

If the bank account details mentioned by an applicant in the refund application submitted in **FORM GST RFD-01** are invalidated, an error message shall be transmitted by PFMS to the common portal electronically and the common portal shall make the error message available to the applicant and the refund officers on their dashboards. On receiving such an error message, the applicant can:

- (a) rectify the invalidated bank account details by filing a non-core amendment in **FORM GST REG- 14**; or
- (b) add a new bank account by filing a non-core amendment in **FORM GST REG- 14**

The updated bank account details will be reflected in a drop-down menu on the dashboard. From this drop-down menu, the applicant can choose any bank account, including the ones rectified (option (a)) or newly added (option (b)), from the list of bank accounts available in his registration database. The chosen bank account details will again be sent to PFMS for validation. The proper officer will be able to issue the payment order in **FORM GST RFD-05** only after the selected bank account has been validated.

By following the above process, validation errors, if any, will generally be corrected before the issuance of payment order in **FORM GST RFD-05**. Therefore, there should generally not be any validation errors after issuance of a payment order in **FORM GST RFD-05**. However, in certain exceptional cases, it is possible that a validation error occurs even after issuance of the payment order. In such cases, the payment order will be invalidated by the common portal and a new payment order will have to be issued by the proper officer after following the rectification process described above. The re-issued payment order will have a new reference number and shall contain the newly selected bank account details. However, there will be no change in either the original ARN or the sanction order number or the amount for which the payment order was originally issued.

It may be noted that the applicant, at the time of filing of refund application in **FORM GST RFD-01**, can select a bank account only from the list of bank accounts provided by him at the

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time of registration in **FORM GST REG-01**, or subsequently through filing a non-core amendment in it. The same account details will be auto-populated in the payment order issued in **FORM GST RFD-05**. Any change in these auto-populated bank account details shall not be allowed unless there is a validation error in relation to the same.

The disbursement status of the refund amount would be communicated by PFMS to the common portal. The common portal shall notify the same to the taxpayer by email/SMS. Such details shall also be available on the status tracking facility on the dashboard.

Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6% (notified *vide Notification No. 13/2017- Central Tax dated 28.06.2017*) on the refund amount starting from the date immediately after the expiry of 60 days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the applicant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Therefore, interest will be calculated starting from the date immediately after the expiry of 60 days from the date of receipt of the application till the date on which the amount is credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05** within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.

The provisions relating to refund provide for partial as well as complete adjustment of refund against any outstanding demand under GST or under any existing law. It is hereby clarified that both partial or complete adjustment of sanctioned amount of refund against any outstanding demand under GST or under any existing law would be made in **FORM GST RFD-06**. Furthermore, Section 142(9)(a) or (8)(a) or (7)(a) or (6)(b) of the CGST Act provides for recovery of any tax, interest, fine, penalty or any other amount recoverable under the existing law as an arrear of tax under the GST unless such amount is recovered under the existing law. It is hereby clarified that adjustment of refund amount against any outstanding demand under the existing law can be done.

### **Change in manner of refund of tax paid on supplies other than zero rated supplies**

#### **Circular No.135/05/2020 – GST dated 31.03.2020**

When the application has been filed by the claimant under any of the following categories:

- Refund of excess payment of tax;
- Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;
- Refund on account of assessment/provisional assessment/appeal/any other order;
- Refund on account of “any other” ground or reason.

The refund claims on supplies other than zero rated supplies, no separate debit of ITC from electronic credit ledger is required to be made by the applicant at the time of filing refund

claim, being claim of tax already paid. However, the total tax would have been normally paid by the applicant by debiting tax amount from both electronic credit ledger and electronic cash ledger. At present, in these cases, the amount of admissible refund, is paid in cash even when such payment of tax or any part thereof, has been made through ITC.

As this could lead to allowing unintended encashment of credit balances, this issue has been engaging attention of the Government. Accordingly, *vide Notification No.16/2020-Central Tax dated 23.03.2020*, sub-rule (4A) has been inserted in rule 86 of the CGST Rules, 2017 which reads as under:

*“(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.”*

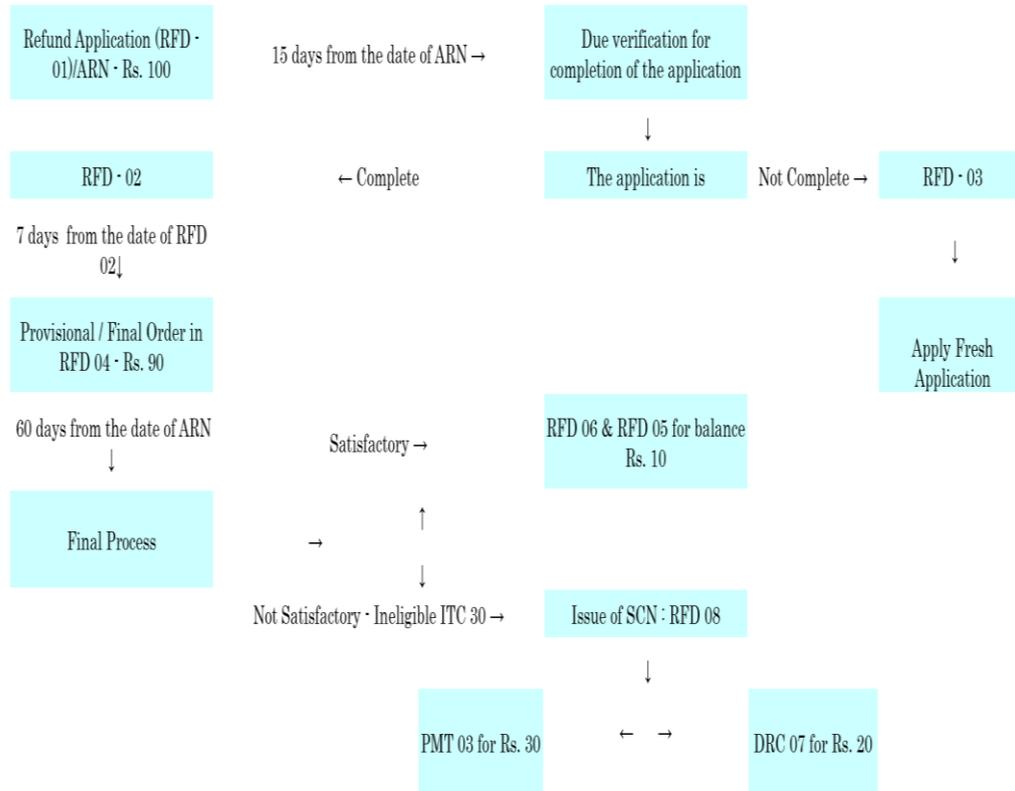
Further, *vide* the same notification, sub-rule (1A) has also been inserted in rule 92 of the CGST Rules, 2017. The same is reproduced hereunder:

*“(1A)Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in **FORM RFD-06** sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount Circular No.135/05/2020 – GST paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue **FORM GST PMT-03** re-crediting the said amount as Input Tax Credit in electronic credit ledger.”*

The combined effect the abovementioned changes is that any such refund of tax paid on supplies other than zero rated supplies will now be admissible proportionately in the respective original mode of payment i.e. in cases of refund, where the tax to be refunded has been paid by debiting both electronic cash and credit ledgers (other than the refund of tax paid on zero-rated supplies or deemed export), the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which application for refund has been filed. Such amount, shall be accordingly paid by issuance of order in **FORM GST RFD-06** for amount refundable in cash and **FORM GST PMT-03** to re-credit the amount attributable to credit as ITC in the electronic credit ledger.

## Application for and Processing of Refund in Virtual Environment

### PROCESSING OF REFUND:



## Chapter 8

# Refund of Tax to Specific Category of Persons

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### Statutory Provision

#### **Section 54: Refund of tax**

(1) .....

(2) *A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.*

(3) .....

#### **Section 55: Refund in certain cases**

*The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.*

### Extract from the CGST Rules, 2017

#### **Rule 95. Refund of tax to certain persons**

(1) *Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued section 55 shall apply for refund in **FORM GST RFD-10** once in every quarter, electronically on the common portal [or otherwise]<sup>63</sup>, either directly or through a Facilitation Centre notified by the Commissioner, along with a statement of the inward supplies of goods or services or both in **FORM GSTR-11**. ~~prepared on the basis of the~~*

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<sup>63</sup> Inserted vide Notification No. 75/2017-Central Tax, dated 29.12.2017

## Refund of Tax to Specific Category of Persons

~~statement of the outward supplies furnished by the corresponding suppliers in **FORM GSTR-1.**~~<sup>64</sup>

(2) An acknowledgement for the receipt of the application for refund shall be issued in **FORM GST RFD-02.**

(3) The refund of tax paid by the applicant shall be available if-

(a) the inward supplies of goods or services or both were received from a registered person against a tax invoice ~~[and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any]~~<sup>65</sup>;

(b) name and Goods and Services Tax Identification Number or Unique Identity Number of the applicant is mentioned in the tax invoice; and

(c) such other restrictions or conditions as may be specified in the notification are satisfied.

(4) The provisions of rule 92 shall, *mutatis mutandis*, apply for the sanction and payment of refund under this rule.

(5) Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.

### **[95A. Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist. -**

(1) Retail outlet established in departure area of an international airport, beyond the immigration counters, supplying indigenous goods to an outgoing international tourist who is leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.

(2) Retail outlet claiming refund of the taxes paid on his inward supplies, shall furnish the application for refund claim in **FORM GST RFD- 10B** on a monthly or quarterly basis, as the case may be, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(3) The self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice shall be submitted along with the refund application.

<sup>64</sup> Omitted vide Notification No. 75/2017- Central Tax, dated 29.12.2017

<sup>65</sup> Omitted vide Notification No. 75/2017- Central Tax, dated 29.12.2017. Amendment made effective with effect from 01-07-2017 vide Notification No. 26/2018- Central Tax, dated 13.06.2017

- (4) *The refund of tax paid by the said retail outlet shall be available if-*
- (a) *the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;*
  - (b) *the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;*
  - (c) *name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and*
  - (d) *such other restrictions or conditions, as may be specified, are satisfied.*
- (5) *The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.*

*Explanation.- For the purposes of this rule, the expression "outgoing international tourist" shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.]<sup>66</sup>*

Section 55 of the CGST Act, 2017 has empowered the Central Government to notify any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons as may be specified in this behalf, who shall be entitled to claim a refund IGST/CGST/SGST paid by it on the inward supplies of goods or services or both. Hence, the Government has issued the following notification in this connection:

- **Notification No. 6/2017-Central Tax (Rate), New Delhi, dated 28.6.2017/ Notification No. 6/2017-Integrated Tax (Rate), dated 28.6.2017:** the Central Government has specified the Canteen Stores Department (hereinafter referred as "CSD"), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.
- **Notification No. 16/2017-Central Tax (Rate), dated 28.6.2017/ Notification No. 13/2017-Integrated Tax (Rate), dated 28.6.2017:** the Central Government has specified United Nations or a specified international organisation and Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein to claim refund of the tax paid on inward supplies.
- **Notifications No. 11/2019 – C.T. (Rate) dated 29.06. 2019/ Notification No. 10/2019-Integrated Tax (Rate), dated 29.6.2019:** With effect from 01-07-2019, the Central

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<sup>66</sup> *Inserted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 w.e.f. 01-07-2019*

## Refund of Tax to Specific Category of Persons

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Government has specified retail outlets established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to outgoing international tourists, as class of persons who shall be entitled to claim refund of the applicable tax paid on inward supply of such goods, subject to the conditions specified in Rule 95A of the CGST Rules, 2017

Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued under Section 55 shall apply for refund in **FORM GST RFD-10** once in every quarter, electronically on the common portal or otherwise, along with a statement of the inward supplies of goods or services or both in **FORM GSTR-11**. Section 54(2) of the CGST Act provides time limit of six months for filing the refund claim. However, the CBIC *vide Notification No. 20/2018 – C.T. dated 28-03-2018*, extended the time limit and now the refund claim can be filed within 18 months from the last date of the quarter in which the supply was received. **The notification failed to specify the period of application of such extention.**

**REFUND BY CANTEEN STORES DEPARTMENT - Circular No.60/34/2018 - GST dated 4-09-2018:**

**Filing Application for Refund:** the refund under section 55 is not with respect to the accumulated ITC but it is based on the invoices of the inward supplies of goods received by Canteen Stores Department.

As per Rule 95 the application for refund under Section 55 has to be filed on a quarterly basis. Till the time the online utility for filing the refund claim is made available on the common portal, the applicants were requested to apply for refund by filing an application in **FORM GST RFD-10A** manually to the jurisdictional tax office along with the following documents:

- An undertaking stating that the goods on which refund is being claimed have been received by the CSD;
- A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed;
- Copies of the valid return filed in **FORM GSTR-3B** by the CSD for the period covered in the refund claim;
- Copies of **FORM GSTR- 2A** of the CSD for the period covered in the refund claim along with the attested hard copies of the invoices on which refund is claimed but which are not reflected in **FORM GSTR 2A**;
- Details of the bank account in which the refund amount is to be credited.

**Processing and sanction of the refund claim:** Upon receipt of the complete application in **FORM GST RFD-10A**, an acknowledgement shall be issued manually within 15 days of the receipt of the application in **FORM GST RFD-02** by the proper officer. In case of any deficiencies in the requisite documentary evidences to be submitted, the same shall be

## Handbook on Refunds under GST

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communicated to the applicant by issuing a deficiency memo manually in **FORM GST RFD-03** by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued and this should be complete in all respects.

The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in **FORM GSTR- 3B** has been filed by the applicant. The proper officer may scrutinize the details contained in **FORM RFD-10A**, **FORM GSTR-3B** and **FORM GSTR-2A**. The proper officer may rely upon **FORM GSTR-2A** as an evidence of the accounting of the supply made by the corresponding suppliers to the applicant in relation to which the refund has been claimed.

The proper officer should ensure that the amount of refund sanctioned is 50 % of the CGST/SGST/IGST paid on the supplies received by the applicant. The proper officer shall issue the refund sanction/rejection order manually in **FORM GST RFD-06** along with the payment advice manually in **FORM GST RFD-05** for each tax head separately.

**REFUND BY DUTY FREE SHOPS AND DUTY PAID SHOPS:** *Circular No. 106/25/2019 - GST dated 29.06.2019:*

There are two type of retail outlets in the international airports.

- 'Duty Free Shops' (hereinafter referred to as "**DFS**") which are point of sale for goods sourced from a warehoused licensed under Section 58A of the Customs Act, 1962.
- 'Duty Paid Shops' (hereinafter referred to as "**DPS**") retailing duty paid indigenous goods.

The procedure for procurement of imported/warehoused goods is governed by the provisions contained in the Customs Act. The procedure and applicable rules as specified under the Customs Act are required to be followed for procurement and supply of such goods by DFS. Under the GST regime there is no special procedure for procurement of indigenous goods for sale by DFS or DPS. Therefore, all indigenous goods have to be procured by DFS or DPS on payment of applicable tax when procured from the domestic market.

**Supply of indigenous goods by DFS or DPS established at the departure area of the international airport beyond immigration counters (hereinafter referred to as "the retail outlets") to eligible passengers.**

The sale of indigenous goods procured from domestic market by retail outlets to an eligible passenger is a "supply" under the GST law and is subject to levy of Integrated tax but the same has been exempted *vide Notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29-06-2019*. Therefore, retail outlets will supply such indigenous goods without collecting any taxes from the eligible passenger and may apply for refund.

The retail outlets applying for refund shall be registered under the provisions of Section 22 of the CGST Act, 2017 read with the Rules made thereunder and shall have a valid GSTIN. Such retail outlets shall be established at the departure area of the international airport beyond

## Refund of Tax to Specific Category of Persons

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immigration counters and shall be entitled to claim a refund of all applicable CGST/SGST/IGST and Compensation cess paid by them on all inward supplies of indigenous goods received for the purposes of subsequent supply of such goods to the eligible passengers.

### **Procedure for applying for refunds:**

**Maintenance of Records:** The records with respect to duty paid indigenous goods being brought to the retail outlets and their supplies to eligible passengers shall be maintained in electronic form. The data shall be kept updated, accurate and complete at all times by such retail outlets and shall be available for inspection/verification of the proper officer of central tax at any time.

The electronic records must incorporate the feature of an audit trail, which means a secure, computer generated, time stamped record that allows for reconstruction of the course of events relating to the creation, modification or deletion of an electronic record and includes actions at the record or system level, such as, attempts to access the system or delete or modify a record.

**Invoice-based refund:** The refund to be granted to retail outlets is not on account of their accumulated ITC but is based on the invoices of the inward supplies of indigenous goods received by them. Since, the supply made by such retail outlets to eligible passengers has been exempted *vide Notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29.06.2019*, such retail outlets will not be eligible for ITC of taxes paid on such inward supplies and the same will have to be reversed in accordance with the provisions of the CGST Act, 2017 read with the Rules made thereunder.

**No refund of tax paid on input services, if any, will be granted to the retail outlets.**

**Documents required for claim:** Any supply made to an eligible passenger by the retail outlets without payment of taxes by such retail outlets shall require the following documents/declarations:

- Details of the Passport (via Passport Reading Machine);
- Details of the Boarding Pass (via a barcode scanning reading device);
- A passenger declaration as per Annexure B;
- A copy of the invoice clearly evidencing that no tax was charged from the eligible passenger by the retail outlet.

The retail outlets will be required to prominently display a notice that international tourists are eligible for purchase of goods without payment of domestic taxes.

**Manual filing of refund claims:** As per Rule 95A of the CGST Rules, 2017 the retail outlets are required to apply for refund on a monthly or quarterly basis depending upon the frequency of furnishing of return in **FORM GSTR-3B**. Till the time the online utility for filing the refund claim

## Handbook on Refunds under GST

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is made available on the common portal, these retail outlets shall apply for refund by filing an application in **FORM GST RFD-10B**, as inserted *vide Notification No. 31/2019 – C.T. dated 28.06.2019* manually to the jurisdictional proper officer.

The refund application shall be accompanied with the following documents:

- An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been received by such retail outlets;
- An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been sold to eligible passengers;
- Copies of the valid return furnished in **FORM GSTR- 3B** by the retail outlets for the period covered in the refund claim;
- Copies of **FORM GSTR- 2A** for the period covered in the refund claim; and
- Copies of the attested hard copies of the invoices on which refund is claimed but are not reflected in **FORM GSTR-2A**.

**Processing and sanction of the refund claim:** Upon receipt of the complete application in **FORM GST RFD-10B**, an acknowledgement shall be issued manually by the proper officer within 15 days of the receipt of application in **FORM GST RFD-02**. In case of any deficiencies or need for any additional information, the same shall be communicated to the retail outlets by issuing a deficiency memo manually in **FORM GST RFD-03** by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued against one refund application which is complete in all respects.

The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in **FORM GSTR-3B** has been filed by the retail outlets. The proper officer may scrutinize the details contained in **FORM RFD-10B**, **FORM GSTR-3B** and **FORM GSTR-2A**. The proper officer may rely upon **FORM GSTR-2A** as an evidence of the account of the supply received by the retail outlets in relation to which the refund has been claimed.

Normally, officers are advised not to call for hard copies of invoices reflected in **FORM GSTR-2A**. However, they are required to submit hard copies of only those invoices of inward supplies that have not been reflected in the **FORM GSTR-2A**.

The proper officer shall issue the refund order manually in **FORM GST RFD-06** along with the manual payment advice in **FORM GST RFD-05** for each head, i.e., CGST/SGST/IGST/ Compensation Cess. Where any refund has been made in respect of an invoice without the tax having been paid to the Government or where the supply of such goods was not made to an eligible passenger, such amount refunded shall be recovered along with interest as per Section 73 or Section 74 of the CGST Act, as the case may be.

The scheme shall be effective from 01.07.2019 and applicable in respect of all supplies made to eligible passengers after the said date. In other words, retail outlets are would be eligible to

## Refund of Tax to Specific Category of Persons

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claim refund of taxes paid on inward supplies of indigenous goods received by them even prior to 01.07.2019 as long as all the conditions laid down in Rule 95A of the CGST Rules, 2017 and this circular [Circular No. 106/25/2019 - GST dated 29.06.2019] are fulfilled.

**REFUND BY UIN AGENCIES Notification No. 16/2017-Central Tax (Rate), dated 28.6.2017-** Circular No. 36/10/2018 - GST dated 13.03.2018, Circular No. 43/17/2018 - GST dated 13.04.2018, Circular No. 63/37/2018 - GST dated 14.09.2018 ("**CIR GST 63/37/2018**") and Circular No. 68/42/2018 - GST dated 05.10.2018

All the entities who have been issued UINs will be eligible for refund of inward supply of goods or services in terms of Notification No. 16/2017 – Central Tax (Rate), dated 28.06.2017. It may be noted that the conditions specified under the said notification need to be complied with while applying for the refund.

Applying for the claim: The procedure for filing a refund application has been outlined under Rule 95 of the CGST Rules, 2017 which provides for filing of refund on a quarterly basis in **FORM RFD- 10** along with a statement of inward invoices in **FORM GSTR- 11**. It is hereby clarified that **FORM GSTR-11** along with **FORM GST RFD-10** has to be filed separately for each of those quarters for which refund claim is being filed.

*Circular No. 36/10/2018 - GST dated 13.03.2018 inter alia* provides that all the entities claiming refund shall submit the duly filled physical copy of **FORM RFD-10** to the jurisdictional Central Tax Commissionerate. All refund claims shall be processed and sanctioned by respective Central Tax offices. In order to facilitate the processing of refund claims of UIN entities, a nodal officer has been designated in each State. Application for refund claim is to be submitted before the designated Central Tax nodal officers in the State in which the UIN has been obtained.

There may be cases where multiple UINs existed for the same entity but were later merged into one single UIN. In such cases, field formations were requested to process refund claims for earlier unmerged UINs also. Hence, the refund application will be made with the single UIN only but invoices of old UINs may be declared in the refund claim, which may be accepted and taken into account while processing the refund claim.

After issuance of *Circular No. 36/10/2018 - GST dated 13.03.2018* wherein the Board, clarified and specified the detailed procedure for UIN refunds. *Circular No. 43/17/2018-GST, dated 13.4.2018* provides clarification on issues and representations have been received regarding the processing of refund to agencies which have been allotted UINs which are as under:

- Providing statement of invoices while submitting the refund application: The procedure for filing a refund application has been outlined under Rule 95 of the CGST Rules which provides for filing of refund on a quarterly basis in **FORM RFD-10** along with a statement of inward invoices in **FORM GSTR-11**. It has come to the notice of the Board that the print version of **FORM GSTR-11** generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated **FORM**

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**GSTR-11** does not have invoice-level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with the refund application. Further, the officers are advised not to ask for original or hard copy of the invoices, unless necessary.

- No mention of UINs on Invoices: It was represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. The Board, clarified that the recording of UIN on the invoice is a necessary condition under Rule 46 of the CGST Rules. If suppliers/vendors do not record the UINs, action will be initiated against them under the provisions of the CGST Act, 2017.
- Further, in cases where, UIN has not been recorded on the invoices pertaining to refund claim for the quarter of July-September, 2017, October-December, 2017 and January-March, 2018\*\* a one-time waiver is being given by the Government, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency.

### NOTE-

\*\* Such waiver of non-recording of UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April, 2018 to March, 2020 has been provided subject to same condition *vide CIR GST 63/37/2018 read with Corrigendum F.No. 20/16/04/18-GST, dated 6.9.2019.*

Thereafter *CIR GST 63/37/2018* provided clarification regarding processing of refund claims filed by UIN entities as:

- Non-compliance with letter of reciprocity: The GST Act provides for examination of the refund claims in accordance with the letter of reciprocity issued by the Ministry of External Affairs (“**MEA**”). Generally, these letters of reciprocity include certain specific conditions on the basis of which refunds have to be processed and sanctioned. For example, letters may specify the minimum value of goods or services or the end use of such goods or services (for official or personal purposes).

However, it has been observed that delay in processing the UIN refunds is primarily due to the non-furnishing of the hard copy of the invoices by the UIN entities and the statement of invoices as specified above. It may be noted that these are needed to determine the eligibility for grant of refund in accordance with the reciprocity letter issued by the MEA.

- To expedite the processing of the refund applications filed by the UIN entities, the applications should also contain *Refund Checklist, Certificate, Undertaking and Statement of Invoices* in the format prescribed in **CIR GST 63/37/2018**.
- Prior Permission letter for GST refund for purchase of vehicles: The MEA vide letter F.No. D-II/451/12(5)/2017 dated 21.06.2018 states that it is mandatory to enclose the

## Refund of Tax to Specific Category of Persons

copy of 'Prior Permission Letter' issued by the Protocol Special Section of the MEA at the time of submission of the GST refund for purchase of vehicle by the foreign representatives. Accordingly, it is advised that to avoid delay in the processing of refunds, the UIN entities must submit a copy of the 'Prior Permission letter' and mention the same in the covering letter while applying for refund on the purchase of vehicles.

### **Circular No. 68/42/2018 - GST dated 05.10.2018-Refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received**

Section 55 of the CGST Act provides that UIN agencies are entitled to claim refund of the taxes paid on the notified supplies of goods and services, subject to such conditions and restrictions as are prescribed in *Notification No. 16/2017 – Central Tax (Rate), dated 28.06.2017*.

Section 11 of the GST (Compensation to States) Act, 2017, provides that provisions of the CGST Act, 2017 and IGST Act, 2017 apply in relation to levy and collection of Compensation Cess. Further, Section 9(2) of the GST (Compensation to States) Act, 2017 provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CGST Act and the rules made thereunder, shall apply in relation to the levy and collection of Compensation Cess. Therefore, notifications issued under the CGST Act except those prescribing rate or granting exemptions, are applicable for the purpose of this Act.

Accordingly, *Notification No. 16/2017 – Central Tax (Rate) dated 28.06.2017* shall be applicable for the purposes of refund of Compensation Cess to UIN agencies.

Passing of refund order and settlement of funds: The facility of centralized UIN ensures that irrespective of the type of tax (CGST, SGST, IGST or Cess) and the State where such inward supply of goods or services have been procured, all refunds would be processed by Central authorities only. A monthly report as prescribed in **CIR GST 63/37/2018** is required to be furnished to the Director General of Goods and Services Tax by the 30th of the succeeding month. Field officers shall send a copy of the order passed for such refunds to their State counterparts for information.

### **CIRCULAR NO. 23/2019-CUSTOMS [F.NO. 450/119/2017-CUS-IV], DATED 01.08.2019**

*Board has received various representations wherein specialized agencies have raised the matter of refund of IGST paid on imported goods. It has been informed that the specialized agencies are paying IGST on import of goods but the refund of same is not being processed by Customs formations.*

**2.** *The matter has been deliberated among various wings of the Board like TRU, GST Policy Wing and Customs Policy Wing. It has been decided to operationalise a refund mechanism of IGST paid on imports by the specialized agencies as under:*

- (i) Section 55 of the CGST Act provides refund of taxes paid on the notified supplies of goods or services or both received by them. In pursuance of this provision,*

*Notification No.16/2017-Central Tax (Rate) dated 28.6.2017 has been issued which inter-alia provides that United Nations or a specified international organisation shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to a certificate from United Nations or that specified international organisation that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international organisation. A similar refund mechanism has been provided in respect of integrated tax vide notification No.13/2017-Central Tax (Rate) and Union Territory tax vide Notification No.16/2017-Union Territory Tax (Rate) respectively.*

- (ii) Section 3 (7) of Customs Tariff Act, 1975 (CTA), provides for a parity between the integrated tax rate attracted on imported goods and the integrated tax applicable on the domestic supplies of goods. In the case of UN and specialised agencies, the above referred to notifications envisage payment and then refund of taxes paid. Therefore, on this principle of parity, specialised agencies ought to get the refund of the IGST paid on imported goods.*

**3.** *In view of the above, Board has decided that respective customs field formations shall provide refund of IGST paid on import of goods by the specialized agencies notified by Central Government under Section 55 of CGST, Act, 2017.*

## Chapter 9

# Interest for Delay Refund

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### Statutory Provision

**Section 56: Interest on delayed refunds.**

*If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:*

**Provided** that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

**Explanation.—** For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

### Extract from the CGST Rules, 2017

**Rule 94: Order sanctioning interest on delayed refunds**

Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a [payment order]<sup>67</sup> in **FORM GST RFD-05**, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

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<sup>67</sup> Substituted vide Notification No. 31/2019 – Central Tax, dated 28.06.2019 read with Notification No. 42/2019 – Central Tax, dated 24.09.2019 w.e.f. 24-09-2019. Prior to substitution it read as: “payment advice”

Section 56 of the CGST Act, 2017 clearly states that, if any tax ordered to be refunded is not refunded within sixty days from the date of receipt of application, interest at the rate of 6 per cent as notified *vide Notification No. 13/2017 – Central Tax, dated 28.06.2017* on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the applicant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the applicant.

Where any interest is due and payable to the applicant under Section 56 of the CGST Act, 2017 the proper officer shall make an order along with a payment order in **Form GST RFD-05**, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

## Chapter 10

# Consumer Welfare Fund

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### Statutory Provision

**Section 57: Consumer Welfare Fund**

*The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund, —*

- (a) the amount referred to in sub-section (5) of section 54;*
  - (b) any income from investment of the amount credited to the Fund; and*
  - (c) such other monies received by it,*
- in such manner as may be prescribed.*

**Section 58: Utilisation of the Fund**

*(1) All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.*

*(2) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor General of India.*

### Extract from the CGST Rules, 2017

**[Rule 97. Consumer Welfare Fund.**

*(1) All amounts of duty/central tax/ integrated tax/Union territory tax/cess and income from investment along with other monies specified in sub-section (2) of section 12C of the Central Excise Act, 1944 (1 of 1944), section 57 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017) and section 12 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017) shall be credited to the Fund:*

*Provided that an amount equivalent to fifty per cent. of the amount of integrated tax determined under sub-section (5) of section 54 of the Central Goods and Services Tax Act, 2017, read with section 20 of the Integrated Goods and Services Tax Act, 2017, shall be deposited in the Fund:*

*[Provided further that an amount equivalent to fifty per cent. of the amount of cess determined under sub-section (5) of section 54 read with section 11 of the Goods and*

*Services Tax (Compensation to States) Act, 2017 (15 of 2017), shall be deposited in the Fund.]<sup>68</sup>*

*(2) Where any amount, having been credited to the Fund, is ordered or directed to be paid to any claimant by the proper officer, appellate authority or court, the same shall be paid from the Fund.*

*(3) Accounts of the Fund maintained by the Central Government shall be subject to audit by the Comptroller and Auditor General of India.*

*(4) The Government shall, by an order, constitute a Standing Committee (hereinafter referred to as the 'Committee') with a Chairman, a Vice-Chairman, a Member Secretary and such other members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Fund for welfare of the consumers.*

*(5) (a) The Committee shall meet as and when necessary, generally four times in a year;*

*(b) the Committee shall meet at such time and place as the Chairman, or in his absence, the Vice-Chairman of the Committee may deem fit;*

*(c) the meeting of the Committee shall be presided over by the Chairman, or in his absence, by the Vice-Chairman;*

*(d) the meeting of the Committee shall be called, after giving at least ten days' notice in writing to every member;*

*(e) the notice of the meeting of the Committee shall specify the place, date and hour of the meeting and shall contain statement of business to be transacted thereat;*

*(f) no proceeding of the Committee shall be valid, unless it is presided over by the Chairman or Vice-Chairman and attended by a minimum of three other members.*

*(6) The Committee shall have powers -*

*(a) to require any applicant to get registered with any authority as the Central Government may specify;*

*(b) to require any applicant to produce before it, or before a duly authorised officer of the Central Government or the State Government, as the case may be, such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;*

*(c) to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or the State Government, as the case may be;*

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<sup>68</sup> Inserted vide Notification No. 26/2018- Central Tax, dated 13.06.2018

- (d) to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;
  - (e) to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum along with accrued interest, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;
  - (f) to recover any sum due from any applicant in accordance with the provisions of the Act;
  - (g) to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;
  - (h) to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;
  - (i) to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of the nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;
  - (j) to identify beneficial and safe sectors, where investments out of Fund may be made, and make recommendations, accordingly;
  - (k) to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;
  - (l) to make guidelines for the management, and administration of the Fund.
- (7) The Committee shall not consider an application, unless it has been inquired into, in material details and recommended for consideration accordingly, by the Member Secretary.
- [(7A) The Committee shall make available to the Board 50 per cent. of the amount credited to the Fund each year, for publicity or consumer awareness on Goods and Services Tax, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty-five crore rupees per annum.]<sup>69</sup>;
- (8) The Committee shall make recommendations: -
- (a) for making available grants to any applicant;
  - (b) for investment of the money available in the Fund;
  - (c) for making available grants (on selective basis) for reimbursing legal expenses incurred by a complainant, or class of complainants in a consumer dispute, after its final adjudication;
  - (d) for making available grants for any other purpose recommended by the Central Consumer Protection Council (as may be considered appropriate by the Committee);

<sup>69</sup> Inserted w.e.f. 01-07-2017 vide Notification No. 49/2019- Central Tax, dated 09.10.2019

~~(e) for making available up to 50% of the funds credited to the Fund each year, for publicity/ consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty five crore rupees per annum.<sup>70</sup>~~

Explanation. - For the purposes of this rule,

- (a) 'Act' means the Central Goods and Services Tax Act, 2017 (12 of 2017), or the Central Excise Act, 1944 (1 of 1944) as the case may be;
- (b) 'applicant' means,
- (i) the Central Government or State Government;
  - (ii) regulatory authorities or autonomous bodies constituted under an Act of Parliament or the Legislature of a State or Union Territory;
  - (iii) any agency or organization engaged in consumer welfare activities for a minimum period of three years, registered under the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force;
  - (iv) village or mandal or samiti or samiti level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes;
  - (v) an educational or research institution incorporated by an Act of Parliament or the Legislature of a State or Union Territory in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956) and which has consumers studies as part of its curriculum for a minimum period of three years; and
  - (vi) a complainant as defined under clause (b) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986), who applies for reimbursement of legal expenses incurred by him in a case instituted by him in a consumer dispute redressal agency.
- (c) 'application' means an application in the form as specified by the Standing Committee from time to time;
- (d) 'Central Consumer Protection Council' means the Central Consumer Protection Council, established under sub-section (1) of section 4 of the Consumer Protection Act, 1986 (68 of 1986), for promotion and protection of rights of consumers;
- (e) 'Committee' means the Committee constituted under sub-rule (4);
- (f) 'consumer' has the same meaning as assigned to it in clause (d) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986), and includes consumer of goods on which central tax has been paid;

<sup>70</sup> Omitted w.e.f. 01-07-2017 vide Notification No. 49/2019- Central Tax, dated 09.10.2019

- (g) "duty" means the duty paid under the Central Excise Act, 1944 (1 of 1944) or the Customs Act, 1962 (52 of 1962);
- (h) "Fund" means the Consumer Welfare Fund established by the Central Government under sub-section (1) of section 12C of the Central Excise Act, 1944 (1 of 1944) and section 57 of the Central Goods and Services Tax Act, 2017 (12 of 2017);
- (i) 'proper officer' means the officer having the power under the Act to make an order that the whole or any part of the central tax is refundable] <sup>71</sup>

<sup>71</sup> Substituted vide Notification No. 21/2018- Central Tax, dated 18.04.2018 for Consumer Welfare Fund.-(1) All credits to the Consumer Welfare Fund shall be made under sub-rule (5) of rule 92.

(2) Any amount, having been credited to the Fund, ordered or directed as payable to any claimant by orders of the proper officer, appellate authority or Appellate Tribunal or court, shall be paid from the Fund.

(3) Any utilisation of amount from the Consumer Welfare Fund under sub-section (1) of section 58 shall be made by debiting the Consumer Welfare Fund account and crediting the account to which the amount is transferred for utilisation.

(4) The Government shall, by an order, constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other Members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers.

(5) The Committee shall meet as and when necessary, but not less than once in three months.

(6) Any agency or organisation engaged in consumer welfare activities for a period of three years registered under the provisions of the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force, including village or mandal or samiti level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes, or any industry as defined in the Industrial Disputes Act, 1947 (14 of 1947) recommended by the Bureau of Indian Standards to be engaged for a period of five years in viable and useful research activity which has made, or is likely to make, significant contribution in formulation of standard mark of the products of mass consumption, the Central Government or the State Government may make an application for a grant from the Consumer Welfare Fund:

Provided that a consumer may make application for reimbursement of legal expenses incurred by him as a complainant in a consumer dispute, after its final adjudication.

(7) All applications for grant from the Consumer Welfare Fund shall be made by the applicant Member Secretary, but the Committee shall not consider an application, unless it has been inquired into in material details and recommended for consideration accordingly, by the Member Secretary.

(8) The Committee shall have powers -

- a. to require any applicant to produce before it, or before a duly authorised Officer of the Government such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;
- b. to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or, as the case may be, State Government;
- c. to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;

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The Consumer Welfare Fund Rules were framed and notified in the Gazette of India in 1992, which have been incorporated in the Consumer Welfare Fund Rule 97 of the CGST Rules. The Consumer Welfare Fund has been set up under Section 57 of the CGST Act. Earlier, the Central Excise and Salt Act, 1944 was amended in 1991 to enable the Central Government to create a Consumer Welfare Fund where the money which is not refundable to the manufacturers, etc. is being credited. In the GST regime, the refund is to be credited to Consumer Welfare Fund, except in the cases specified under Sub-section (8) of Section 54 of the CGST Act. These cases are listed below:

- refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports;
- refund of unutilized ITC under Sub-section (3) of Section 54;
- refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- refund of tax in pursuance of Section 77;
- the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

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- d. to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;*
  - e. to recover any sum due from any applicant in accordance with the provisions of the Act;*
  - f. to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;*
  - g. to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;*
  - h. to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of nature of activity under pursuit, after ensuring that the financial assistance provided shall not be mis-utilised;*
  - i. to identify beneficial and safe sectors, where investments out of Consumer Welfare Fund may be made and make recommendations, accordingly;*
  - j. to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;*
  - k. to make guidelines for the management, administration and audit of the Consumer Welfare Fund.*

*The Central Consumer Protection Council and the Bureau of Indian Standards shall recommend to the Goods and Services Tax Council, the broad guidelines for considering the projects or proposals for the purpose of incurring expenditure from the Consumer Welfare Fund.*

Besides, the Fund established by the Government will be further credited with the following:

- any income from investment of the amount credited to the Fund and
- such other monies received by it.

Guidelines for seeking financial assistance from the Consumer Welfare Fund were framed based on the report of a Working Group set up in 1993, which was subsequently revised twice, in 2007 and 2014.

Financial assistance from Consumer Welfare Fund is given to the following persons on application for grant –

- The Central or State Government
- Regulatory bodies or autonomous bodies of the Central or State Government
- Any agency or organisation engaged in consumer welfare activities for a period of three years registered under the Companies Act, 2013 or under any other law for the time being in force
- village or mandal or samiti level co-operatives of consumers, especially Women, Scheduled Castes and Scheduled Tribes
- an educational or research institution incorporated by an Act of Parliament or the Legislature of a State or Union Territory in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University under section 3 of the University Grants Commission Act, 1956 and which has consumers studies as part of its curriculum for a minimum period of three years;
- a complainant who applies for the reimbursement of legal expenses incurred by him in a case instituted by him in a consumer dispute redressal agency.

The Government, by an order, constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers.

The Government or the authority specified by it shall maintain a proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

# Annexure I

Pursuant to **Circular No.131/1/2020-GST dated 23.01.2020** -Standard Operating Procedure (SOP) to be followed by exporters

**The details to be provided by the exporter for verification:**

**I. GST related data:**

1. GSTIN –
2. Please provide the following details if the proprietor/director/partner of this entity is also associated with other entities.

S No	Name of Director/Partner/ Proprietor	Name of the other Entity Associated with	PAN (DIN if Director)	GSTIN	Registration status (Active / Inactive)
1					
2					
3					

3. Turnover of previous Financial Year -  
(For New Entity till date Current Financial Year Turnover, if any)

4. Details of GST liability–

S No	Return Type	Declared aggregate liability for Previous Financial Year	Declared aggregate liability for Current Financial Year
1	GSTR 3B		
2	GSTR 1		

5. Details of ITC:

FY	ITC available in GSTR-2A	ITC availed in GSTR-3B	Mismatch	Details of payment or reversal of mismatched ITC
2017-18				
2018-19				
2019-20				

6. Details of refund claimed in previous Financial Year and current Financial Year-

S. No	GSTIN	Type of Refund	ARN No. and Date	Amount		Authority from which refund claimed
				Claimed	Sanctioned	

## 7. Summary of E Way Bills generated for relevant period.

S No	Supplies	No of E way Bill generated	HSNs	Taxable Amount
1	Inward			
2	Outward			

**II. Financial Data**

## 1. Bank Account details including the bank accounts of proprietor/partner/directors–

S. No.	Account Number	IFSC Code	Account Type	Name of Account Holder	PAN of Account Holder	Date of opening of Bank Account

2. Bank Account statement of past 6 months in respect of the bank accounts provided above.
3. BRCs/FIRCs evidencing receipt of foreign remittances against the exports made in past 1 year.
4. Bank letter for up to date KYC of all bank accounts provided above.
5. Top 5 creditors and Debtors (with GSTIN) from account(s) where refunds are proposed to be received and from which major business transactions (payments for supplies and receipts) are carried out.

**III. Additional Data**

1. Copy of PAN.
2. Copy of IEC
3. Certificate of Incorporation or partnership deed
4. Rent agreement of all premises along with geo-tagged photos
5. Telephone Bill of past 3 months for all premises
6. Electricity Bill of past 3 months for all premises
7. Number of employees and the statement of PF evidencing employees
8. Copy of the following schedules of the latest Income Tax Return:
  - (i) Computation of depreciation on plant and machinery under the Income- tax Act
  - (ii) Computation of depreciation on other assets under the Income-tax Act
  - (iii) Summary of depreciation on all the assets under the Income-tax Act

## Annexure II

List of all statements / declarations / undertakings / certificates to be provided along with the refund application:

Sl. No.	Type of Refund	Declaration / Statement / Undertaking / Certificates to be filled online
1	Refund of unutilized ITC on account of exports without payment of tax	<ul style="list-style-type: none"><li>— Declaration under second and third proviso to Section 54(3)</li><li>— Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li><li>— Statement 3 under Rule 89(2)(b) and Rule 89(2)(c)</li><li>— Statement 3A under Rule 89(4)</li></ul>
2	Refund of tax paid on export of services made with payment of tax	<ul style="list-style-type: none"><li>— Declaration under second and third proviso to Section 54(3)</li><li>— Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li><li>— Statement 2 under Rule 89(2)(c)</li></ul>
3	Refund of unutilized ITC on account of Supplies made to SEZ units/developer without payment of tax	<ul style="list-style-type: none"><li>— Declaration under third proviso to Section 54(3)</li><li>— Statement 5 under Rule 89(2)(d) and Rule 89(2)(e)</li><li>— Statement 5A under Rule 89(4)</li><li>— Declaration under Rule 89(2)(f)</li><li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li><li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under Rule 89(2)(m)</li></ul>
4	Refund of tax paid on supplies made to SEZ units/developer with payment of tax	<ul style="list-style-type: none"><li>— Declaration under second and third proviso to Section 54(3)</li><li>— Declaration under Rule 89(2)(f)</li><li>— Statement 4 under Rule 89(2)(d) and Rule 89(2)(e)</li><li>— Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li></ul>

		<ul style="list-style-type: none"> <li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under Rule 89(2)(m)</li> </ul>
5	Refund of ITC unutilized on account of accumulation due to inverted tax structure	<ul style="list-style-type: none"> <li>— Declaration under second and third proviso to Section 54(3)</li> <li>— Declaration under Section 54(3)(ii)</li> <li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li> <li>— Statement 1 under Rule 89(5)</li> <li>— Statement 1A under Rule 89(2)(h)</li> <li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under Rule 89(2)(m)</li> </ul>
6	Refund to the supplier of tax paid on deemed export supplies	<ul style="list-style-type: none"> <li>— Statement 5(B) under Rule 89(2)(g)</li> <li>— Declaration under Rule 89(2)(g)</li> <li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li> <li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under Rule 89(2)(m)</li> </ul>
7	Refund to the recipient of tax paid on deemed export supplies	<ul style="list-style-type: none"> <li>— Statement 5(B) under Rule 89(2)(g)</li> <li>— Declaration under Rule 89(2)(g)</li> <li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li> <li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under Rule 89(2)(m)</li> </ul>
8	Refund of excess payment of tax	<ul style="list-style-type: none"> <li>— Statement 7 under Rule 89(2)(k)</li> <li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li> <li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m)</li> </ul>

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9	Refund of tax paid on intra-state supply which is subsequently held to be an inter-state supply and vice versa	<ul style="list-style-type: none"><li>— Statement 6 under Rule 89(2)(j)</li><li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li></ul>
10	Refund on account of assessment/assessment/appeal/ or any other order	<ul style="list-style-type: none"><li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li><li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under Rule 89(2)(m)</li></ul>
11	Refund on account of any other ground or reason	<ul style="list-style-type: none"><li>— Undertaking in relation to Section 16(2)(c) and Section 42(2)</li><li>— Self-declaration under Rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under Rule 89(2)(m)</li></ul>

## Annexure III

List of supporting documents to be provided along with the refund application:

Sl. No.	Type of Refund	Supporting documents to be additionally uploaded
1	Refund of unutilized ITC on account of exports without payment of tax	<ul style="list-style-type: none"> <li>— Copy of <b>Form GSTR- 2A</b> of the relevant period</li> <li>— Statement of invoices (Annexure IV)</li> <li>— Self-certified copies of invoices entered in Annexure B whose details are not found in Form GSTR- 2A of the relevant period</li> <li>— BRC/FIRC in case of export of services and shipping bill (only in case of exports made through non-EDI ports) in case of goods</li> </ul>
2	Refund of tax paid on export of services made with payment of tax	<ul style="list-style-type: none"> <li>— BRC/FIRC/any other document indicating the receipt of sale proceeds of services</li> <li>— Copy of <b>Form GSTR- 2A</b> of the relevant period</li> <li>— Statement of invoices (Annexure IV)</li> <li>— Self-certified copies of invoices entered in Annexure A whose details are not found in Form GSTR- 2A of the relevant period</li> <li>— Self-declaration regarding non-prosecution under Sub-rule (1) of Rule 91 of the CGST Rules for availing provisional refund</li> </ul>
3	Refund of unutilized ITC on account of Supplies made to SEZ units/developer without payment of tax	<ul style="list-style-type: none"> <li>— Copy of <b>Form GSTR- 2A</b> of the relevant period</li> <li>— Statement of invoices (Annexure IV)</li> <li>— Self-certified copies of invoices entered in Annexure B whose details are not found in <b>Form GSTR- 2A</b> of the relevant period</li> <li>— Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to Rule 89(1)</li> </ul>

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4	Refund of tax paid on supplies made to SEZ units/developer with payment of tax	<ul style="list-style-type: none"> <li>— Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to Rule 89(1)</li> <li>— Self-certified copies of invoices entered in Annexure A whose details are not found in <b>Form GSTR -2A</b> of the relevant period</li> <li>— Self-declaration regarding non-prosecution under Sub-rule (1) of Rule 91 of the CGST Rules for availing provisional refund</li> </ul>
5	Refund of ITC unutilized on account of accumulation due to inverted tax structure	<ul style="list-style-type: none"> <li>— Copy of <b>Form GSTR- 2A</b> of the relevant period</li> <li>— Statement of invoices (Annexure IV)</li> <li>— Self-certified copies of invoices entered in Annexure-IV whose details are not found in <b>Form GSTR- 2A</b> of the relevant period</li> </ul>
6	Refund to the supplier of tax paid on deemed export supplies	— Documents required under <i>Notification No. 49/2017-Central Tax dated 18.10.2017</i> and <i>Circular No. 14/14/2017-GST dated 06.11.2017</i>
7	Refund to the recipient of tax paid on deemed export supplies	— Documents required under <i>Circular No. 14/14/2017-GST dated 06.11.2017</i>
8	Refund of excess payment of tax	
9	Refund of tax paid on intra-state supply which is subsequently held to be an inter-state supply and vice versa	
10	Refund on account of assessment/ Provisional assessment/ appeal/ any other order	<ul style="list-style-type: none"> <li>— Reference number of the order and a copy of the Assessment/ Provisional Assessment/ Appeal/ Any Other Order</li> <li>— Reference number/proof of payment of pre-deposit made earlier for which refund is being claimed</li> </ul>
11	Refund on account of any other ground or reason	— Documents in support of the claim

## Annexure IV

**Statement of invoices to be submitted with application for refund of unutilized ITC**

Sr. No.	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Category of input supplies	Central Tax	State Tax/ Union Territory Tax	Integ-rated Tax	Cess	Eligible for ITC	Amount of eligible ITC	
			Invoice No.	Date	Value								
1	2	3	4	5	6	7	8	9	10	11	12	13	14
			Inputs/ Input Services/ capital goods	Inputs/ Input Services/ capital goods	Value	Inputs/ Input Services/ capital goods	<sup>72</sup> HSN/SAC code					Yes/No/ Partially	

<sup>72</sup> Added as per requirement stipulated in Circular No. 135/05/2020 – GST dated 31.03.2020



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