Chapter 11
Refunds

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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 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 as per 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 specialized agency of 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 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 unutilized input tax credit at the end of any tax period:

Provided that no refund of unutilized 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 unutilized 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) 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 percent 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 [1]~~zero rated supplies for~~ **export** of goods or services or both or on inputs or input services used in making such [2]~~zero rated supplies for~~ **exports**;*

(b) refund of unutilized 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 recommendation of the Council, by notification, specify.

[1] Substituted via *The Central Goods & Services Tax (Amendment) Act, 2018* w.e.f 01.02.2019
[2] Substituted via *The Central Goods & Services Tax (Amendment) Act*, 2018 w.e.f 01.02.2019

[3][(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 the said 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) *Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings 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 proceeding 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.*

Explanation. — For the purposes of this section -

[3] Inserted vide *Finance Act, 2019* and notified vide *Notf No. 39/2019-CT dated 31-08-2019* w.e.f 01.09.2019

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 unutilized 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 the 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*

      (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 dispatch of goods by 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 [4][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 service 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 Appellate Authority, Appellate Tribunal or any Court, the date of communication of such judgment, decree, order or direction;*

   (e) *[5][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];*

[4] Inserted vide *The Central Goods & Services Tax Act (Amendment) Act, 2018* w.e.f. 01.02.2019
[5] Substituted via *The Central Goods & Services Tax (Amendment) Act, 2018* w.e.f 01.02.2019

(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.

Extract of 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 [subject to the provisions of rule 10B][6] 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:

[7][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]

[6] Inserted vide *Notf no. 35/2021 – CT dt. 24.09.2021.* Applicable w.e.f. 01.01.2022
[7] Substituted vide *Notf No. 47/2017-CT dated 18.10.2017*

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.

*[*1A) Any person, claiming refund under section 77 of the Act of any tax paid by him, in respect of a *transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of two years from the date of payment of the tax on the inter-State supply, 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 the said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of two years from the date on which this sub-rule comes into force][8].

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 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;

[8] Inserted vide *Notf no. 35/2021 – CT dt. 24.09.2021.* Applicable from a date to be notified later.

f) [9][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]

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;

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 subsection (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;

[9] Substituted vide *Notf No. 03/2019-CT dated 29.01.2019* w.e.f. 01.02.2019

(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) [10]*[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 other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(C) [11]*"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";.*

(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;

[12][(E) "Adjusted Total Turnover" means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

[10] Substituted vide *Notf no. 75/2017-CT dt 29.12.2017* w.e.f 23.10.2017

[11] Substituted vide *Notf no.16/2020-CT dt. 23/03/2020*

[12] Substituted vide *Notf No. 39/2018-CT dt. 04.09.2018*

excluding-

(i) the value of exempt supplies other than zero-rated supplies; and

(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];

*(F) "*Relevant *period" means the period for which the claim has been filed.*

[13]*[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 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R 1305 (E) dated the 18th 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.*

[14]*[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 23rd 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 23rd October, 2017 or notification No. 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; or

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

5) [15]*[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.

[13] Substituted vide *Notf no. 03/2018- CT dt. 23.01.2018* w.e.f 23.10.2018

[14] Substituted vide *Notf no. 54/2018-CT dt. 09.10.2018*

[15] Amendment made effective with effect from 01.07.2017 vide *Notf no. 26/2018-CT dt. 13.06.2017*

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

[16][Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4)]]

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.][14a]

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-

[16] Substituted vide *Notf no. 74/2018-CT dt.31.12.2018*
[14a] Inserted vide *Notf no. 15/2021-CT dt. 18.05.2021*

01, withdraw the said application for refund by filing an application in FORM GST RFD-01W.

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.][14b]

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.

[17][Provided that the order issued in FORM GST RFD-04 shall not be required to be revalidated by the proper officer]

3) The proper officer shall issue a payment [18][order] 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 [19][on the basis of a consolidated payment advice]

[[20][Provided that the payment [21][order] 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 [22] [order] was issued].

[23][4)The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (3).]

[14b] Inserted vide *Notf no. 15/2021-CT dt. 18.05.2021*
[17] Inserted vide *Notf no. 03/2019-CT dt. 29.01.2019* w.e.f 01.02.2019
[18] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f. date to be notified later
[19] Inserted w.e.f 24.09.2019 vide *Notf no. 49/2019-CT dt. 09.10.2019*
[20] Inserted vide *Notf no. 03/2019-CT dt. 29.01.2019* w.e.f 01.02.2019
[21] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f. date to be notified later
[22] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f. date to be notified later
[23] Inserted w.e.f 24.09.2019 vide *Notf no. 49/2019-CT dt. 09.10.2019*
[21a] Omitted vide *Notf no. 15/2021-CT dt 18.05.2021*
[21b] Substituted for the word and letter "Part B" vide *Notf no. 15/2021-CT dt. 18.05.2021*

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:

~~[Provided that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, an order giving details of the adjustment shall be issued in Part A of FORM GST RFD-07.]~~[21a]

[24][(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].";

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][21b] 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 no longer liable to be withheld, he may pass an order for release of withheld refund in Part B of FORM GST RFD- 07.][22a]

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:

[24] Inserted. vide *Notf no.16/2020-CT dated 23.03.2020*
[22a] Inserted vide *Notf no. 15/2021-CT dt 18.05.2021*

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)* [25][*or sub-rule (1A)] 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* [26]***[order]*** *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* [27]*[*on the basis of a consolidated payment advice].

[28][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 [29][order] 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 [30][order] was issued.]

4A) [31][The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (4)]

5) *Where the proper officer is satisfied that the amount refundable under sub-rule (1)* [32]*[or sub-rule (1A)] or 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* [33]***[a payment order]*** *FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund.*

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.

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[25] Inserted vide *Notf no.16/2020-CT dated 23/03/2020*
[26] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f date to be notified later
[27] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f date to be notified later
[28] Inserted vide *Notf no. 03/2019-CT dt. 29.01.2019* w.e.f 01.02.2019
[29] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f date to be notified later
[30] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f date to be notified later
[31] Inserted vide *Notf no. 31/2019 – CT dt. 28.06.2019* w.e.f a date to be notified later
[32] Inserted. vide *Notf no.16/2020-CT dated 23/03/2020*
[33] Substituted vide *Notf no. 31/2019-CT dt. 28.06.2019* w.e.f date to be notified later

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* ***[34][or otherwise]****, 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.* [35]*[~~prepared on the basis of the statement of the outward supplies furnished by the corresponding suppliers in FORM GSTR-1~~.]*

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* [36][~~and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any~~]

   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.*

   —[Provided that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in FORM GST RFD-10][37]*.*

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.*

[38]**[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.-

[34] Inserted vide *Notf no. 75/2017-CT dt 29.12.2017*
[35] Omitted vide *Notf no. 75/2017-CT dt 29.12.2017*
[36] Omitted vide *Notf no. 75/2017-CT dt 29.12.2017* and effective from 01.07.2017 vide Notf no. 26/2018-CT dt. 13.06.2018
[37] Inserted vide *Notf No. 40/2021-CT dt. 29.12.2021*. Applicable w.e.f 01.04.2021.
[38] Inserted vide Notf no. 31/2019 – CT dt. 28.06.2019 w.e.f 01.07.2019

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.

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].

96. Refund of integrated tax paid on goods [39] [or services] exported out of India

1) The shipping bill filed by [40][an exporter of goods] 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 an [41][*a departure manifest or] *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 GSTR3B, as the case may be;

[39] Inserted w.e.f 23.10.2017 vide *Notf no. 75/2017-CT dt. 29.12.2017*
[40] Substituted for the words —an exporterll w.e.f 23.10.2017 vide *Notf no. 03/2018-CT dt. 23.01.2018*
[41] Inserted vide *Notf no. 74/2018-CT dt. 31.12.2018*

c) *[the applicant has undergone Aadhaar authentication in the manner provided in rule 10B.]*[42]

2) *The details of the* [43]*[relevant export invoices in respect of export of goods] 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.*

[44]*[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].

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,* [45]*[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] 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.*

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.*

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[42] Inserted vide *Notf no. 35/2021 – CT dt. 24.09.2021*. Applicable w.e.f 01.01.2022.
[43] Substituted for words 'relevant export invoices' w.e.f. 23.10.2017 vide *Notf no. 03/2018-CT dt. 23.01.2018*
[44] Inserted vide *Notf no. 51/2017 – CT dt. 28.10.2017*
[45] Substituted w.e.f 23.10.2017 vide *Notf no.03/2018-CT dt. 23.01.2018*

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][41a] 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.][41b]*

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) *[[46][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]*

10) [47][[48][[49][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 18th 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 18th October, 2017 or notification No. 40/2017-Central 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 1320 (E), dated the 23rd October, 2017 or notification No. 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 13th 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 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th 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 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme]]]

[41a] Substituted for the word and letter —Part B vide *Notf no. 15/2021-CT dt. 18.05.2021*

[41b] Substituted for the word and letter "after passing an order in FORM GST RFD-06" vide *Notf no. 15/2021-CT dt. 18.05.2021*

[46] Inserted w.e.f 23.10.2017 vide *Notf no. 75/2017-CT dt. 29.12.2017*

[47] Substituted w.e.f 23.10.2017, vide *Notf no. 39/2018-CT dt. 04.09.2018*

[48] Substituted w.e.f 23.10.2017 *Notf no. 53/2018-CT dt. 09.10.2018*

[49] Substituted vide *Notf no. 54/2018-CT dt. 09.10.2018*

[50][Explanation.- For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.]

96A. [51][Export] 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, [52][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* [53][or in Indian rupees, wherever permitted by the Reserve Bank of India].

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.*

   [54][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.]

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.*

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[50] Inserted vide *Notf. No. 16/2020-CT dated 23.03.2020 w.e.f 23.10.2017*
[51] Substituted vide *Notf no. 03/2019-CT dt. 29.01.2019 w.e.f 01.02.2019*
[52] Inserted vide *Notf no. 47/2017-CT dt. 18.10.2017*
[53] Inserted vide *Notf no. 03/2019-CT dt. 29.01.2019 w.e.f 01.02.2019*
[54] Inserted vide *Notf no. 51/2017-CT dt. 28.10.2017*

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.;

[55]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."

*[**96C. Bank Account for credit of refund***

For the purposes of sub-rule (3) of rule 91, sub-rule (4) of rule 92 and rule 94, —bank account shall mean such bank account of the applicant which is in the name of applicant and obtained on his Permanent Account Number.

Provided that in case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with the Aadhaar number of the proprietor.][56]

[55] Inserted. vide *Notf No.16/2020-CT dated 23.03.2020*

[56] Inserted vide *Notf No. 35/2021-CT dt. 24.09.2021.* Applicable w.e.f a date to be notified later.

[57]**[97A. Manual filing and processing**

Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.]

Related Provisions of the Statute

Section or Rule	Description
2(39)	Definition of Deemed Exports
2(42)	Drawback
17(2)	Taxable supplies include zero rates supplies
25(9)	Registration of UN agencies and notified persons for claiming refund
31(3)(e)	Refund Voucher where no supply is made
42(9)	Refund of Interest paid on acceptance of outward supplies
43(9)	Refund of Interest paid on acceptance of reduction of output tax liability
49(6)	Refund of balance in electronic cash or credit ledger
51(8)	Refund of tax deducted in excess or erroneously
60(5)	Refund of provisionally paid tax
65(7)	Audit of erroneous refund by tax authorities
66(6)	Special Audit of erroneous refund
73,74,75	Demand of erroneous refund
77 of CGST, Section 19 of IGST and section 12 of UTGST	Tax wrongfully collected and paid to Central Government or State Government
122(1)(viii)	Prosecution for fraudulent obtaining of refund
132(1)(b)	Prosecution for issue of invoice resulting in wrongful refund of tax
132(1)(e)	Prosecution for fraudulent obtaining of refund
142(1)	Refund of duty paid under existing law on return of goods
147	Deemed Exports
170	Rounding off of Refund

[57] Inserted vide *Notf no. 55/2107-CT dt. 15.11.2017*

IGST Act

2(5)	Export of Goods
2(6)	Export of Services
7(5)	Inter-State supply
11	Place of supply of goods exported out of India
12	Place of supply when location of supplier or location of recipient is outside India.
15	Refund of Integrated tax paid on supply of goods to tourist leaving India
16	Zero Rated Supply

54.1 Introduction

Section 54 deals with the legal and procedural aspects of claiming refund by any person in respect of

- any tax (paid in excess);
- interest paid on such tax; or
- any other amount paid (which was not required to be paid);
- tax paid on export of goods or services or both
- tax paid on the deemed exports as notified in *N.N. 48/2017 C.T. dated 18.10.2017*;
- unutilized input tax credit at the end of tax period in cases of:
    - zero rated supplies as defined in sec. 16 (1) of the IGST Act, 2017, other than when
        - goods are subjected to export duty.
        - the supplier avails drawback of central tax or claims refund of integrated tax paid on such supplies. [After the introduction of the Customs and Central Excise Duties Drawback Rules, 2017 this condition has become invalid]
    - tax of inputs being higher than the rate of tax on output supplies, other than NIL rated or fully exempted.
- Supply which is not provided either wholly or partially and for which invoice has not been issued or refund voucher has been issued.
- Any other amount paid on intra-State supply which is **subsequently** held to be inter-State supply and vice versa.
- Refund to Casual Taxable Person/ Non Resident Taxable Person (subject to furnishing all returns for the period of continuity of registration)

This section provides for conditions and procedures for claiming refund without specifying all the circumstances in which the refund will be eligible to an applicant. Some Other circumstances where refund may be granted but are not covered by section 54 may be as follows:

(a) Refund of duty/tax under existing law

(b) Refund in case of International Tourist

(c) Refund of Provisionally paid tax

(d) Refund of Compensation Cess

(e) Refund on account of Excess or Erroneous Deduction

(f) Refund on Inward Supplies to Canteen Stores Department

(g) Refund to Inward Supplies to UN and agencies

(h) Refund of Interest against restoration of ITC

(i) Refund of Interest against restoration of reduction in output tax liability

(j) Refund due to order of Appellate Authority/Court

(k) Refund of Central share in CGST & IGST in hilly areas

(l) Refund of tax under Seva Bhoj Yojna

Thus, it can be inferred that refund is possible only when

(a) tax, interest or any other amount is paid in cash and

(b) in respect of exports / SEZ supplies/inverted duty rate in the form of input tax.

54.2 Analysis

(i) Refund is available in respect of (a) zero-rated supplies (b) inverted rate supplies and (c) other payments. It is important to note that granting refund requires strict adherence to the requirements of the refund provision. Refer table (discussed below) of various refund entitlements. Care must be taken to satisfy the requirements of 'export' and discussion under section 2(5) and 2(6) provides some additional information in this regard. Reference must also be made to the authority available in *Mafatlal Industries Ltd. & Ors. V. UoI & Ors. 1997 (89) ELT 247 (SC)* for the various principles that must be appreciated for claiming refund.

(ii) This provision states that the application for refund shall be made before the expiry of two years from the relevant date. The definition of relevant date in different circumstances is discussed here. It is important to note that section 54 operates not only as the machinery provision for disbursement of refund arising under provisions such as section 55 of CGST Act, section 16 of IGST Act among others, section 54 is also a substantive provision vesting the Registered Person with the right to claim refund, for example, section 54(3). While it plays these roles, it also effectively bars any other avenue for claiming refund. This bar operates by not listing any residual provision for claiming refund. Conspicuous

by its absence is the provision to claim refund of unutilized credit when registration is being cancelled and where there is still some credit remaining after satisfying the credit reversal requirements under section 29(5). A significant aspect to note is that there is no residual avenue to claim refund in 'any other cases' in section 54.

(iii) In case of a taxable person claiming refund of any balance in the electronic cash ledger, reference of clarification in *Circular No. 166/22/2021-GST dated 17.11.2021* has to be taken into cognizance where it has been clarified that the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in the electronic cash ledger .

(iv) The persons entitled to a refund of tax paid by it on inward supplies of goods or services or both include

(a) A specialized agency of the United Nations Organization or

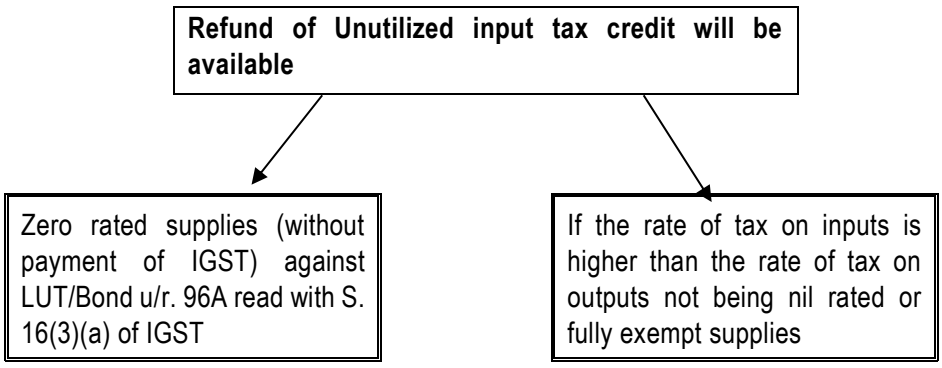
(b) Any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947,

(c) Consulate or Embassy of foreign countries, or

(d) any other person or class of persons as notified under section 55.

Such agencies may make an application for refund, in such specified form and manner as may be prescribed within six months from the end of the quarter in which such supply was received. (Vide *Notification No. 20/2018 – Central Tax dated 28th March, 2018*, the Government has extended the time limit from six months from the end of the quarter to eighteen months from the last date of the quarter in which such supply was received)

(v) Refund of the unutilized input tax credit can be claimed at the end of any tax period in the following cases:



However, refund on zero rated supplies is also not eligible in the following cases:

(a) If the goods exported out of India are subject to export duty;

(b) If the supplier claims refund of output tax paid under IGST Act.

(c) If the supplier avails duty drawback of IGST/CGST on such supplies.

The manner of calculation of refund amount in case of refund of unutilized ITC in cases of zero rated supplies and inverted duty rate is provided in Rule 89(4) and Rule 89(5) and the details are discussed in Para 54.6

Note : In terms of *Circular No. 45/19/2018 dated 30.05.2018*, it has been clarified that in case of a registered persons making zero-rated supply of aluminium products on payment of integrated tax but cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess for the payment of cess on the outward supplies only**, then, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax. However, refund of unutilized credit including compensation cess on coal can be claimed.**

Note: ***Drawback during transition period from 01-07-2017 to 30-09-2017***

In order to ensure smooth transition to the GST regime, the Government allowed the old Duty Drawback scheme to continue for a period of three months, i.e., from 1.7.2017 to 30.9.2017. The exporters could, for exports made during this period, continue to claim the composite rates subject to certain additional conditions. During the transition period, exporters could also claim Brand rate of duty/tax incidence as they had been doing earlier. The conditions imposed for claiming these composite rates are aimed to ensure that the exporters do not claim composite AIRs of duty drawback and **simultaneously avail input tax credit of Central Goods and Services Tax (CGST) or Integrated Goods and Services Tax (IGST) on the export goods or on inputs and input services used in the manufacture of export goods or claim refund of IGST paid on export goods**. Further, an exporter claiming composite rate shall also be barred from carrying forward Cenvat credit on the export goods or on inputs or input services used in the manufacture of export goods in terms of the CGST Act, 2017. The exporters were, however required to give a declaration and certificates at the time of export. Similar checks shall apply while determining the Brand rate of drawback. While a transition period of three months had been allowed, the exporters had an option to claim only the Customs portion of AIRs of duty drawback of the Schedule of AIRs of duty drawback and avail input tax credit of CGST or IGST or refund of IGST paid on exports. [***Circular 22/2017-Customs dated 30-06-2017***]

Note: Drawback allowed for certain duties/taxes

A supplier availing drawback only with respect to basic customs duty shall be eligible for refund of unutilized input tax credit of central tax/State tax/Union territory tax/integrated tax/compensation cess under the said provision. It is further clarified that refund of eligible credit on account of State tax shall be available even if the supplier of goods or services or both has availed drawback in respect of central tax. [***Circular 37/11/2018 dated 15-03-2018 Para 2.1****]*

(vi) After the introduction of the Customs and Central Excise Duties Drawback Rules, 2017 w.e.f. 01.10.2017, drawback was restricted to customs duty. Hence, the condition

connected to drawback in section 54 (3) is not relevant in the current scenario. The application for refund should be accompanied by documents which clearly establish that refund is due to the applicant. These documents are prescribed by Rule 89(2), and details are discussed in Para 54.4

(vii) In case of refund under section 54 (8) (e) of the CGST Act the applicant is required to furnish documents and other evidences to establish that the:

(a) 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 him** or (e.g., Purchase Invoices, Electronic Credit ledger, Returns) **OR**

(b) 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 **paid by him** or (e.g., Sale Invoices, Electronic Cash Ledger, Challans for payment of tax, returns offsetting liability, etc.)

The applicant is also required to establish with the help of documentary and other evidence that the incidence of such tax and interest has not been passed on to any other person.

(viii) Further to the above conditions, if the amount of refund claim is less than rupees 2 lakh, it shall not be necessary for the applicant to furnish any documentary and other evidences but a self-declaration based on documentary and other evidences available with the claimant, certifying that he has not passed on the incidence of such tax and interest would suffice to claim refund.

> As per **section 49(9),** every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him**,** be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.
>
> As per **Explanation (ii) to Rule 89(2)**, 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.

(ix) The refund relating to an application, if found complete in all respects, will be sanctioned within sixty days from the date of receipt of application.

(x) The refund will be sanctioned to the claimant, in the following cases:

- refund of tax paid on export of goods or services or both;
- refund of unutilized input tax credit on inputs or input services used in making
- exports;
- refund of unutilized input tax credit on inputs accumulated on account of inverted duty structure;

- the tax / interest / other amounts paid by the applicant, if he had not passed on the incidence of tax to any other person; or
- 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 which means a registered person who has paid CGST and SGST/UTGST on a transaction considered by him as INTRA-STATE supply but held to be INTER-STATE supply;
- the tax or interest borne by notified class of applicants (done by Central/State Government on the recommendation of the council);

The above categories of refunds shall be paid to the applicant and shall not go to the consumer welfare fund, irrespective of the fact that there is a contrary order in:

(a) Judgment , Decree, Order or direction of Appellate Tribunal or any Court

(b) Provision in the CGST Act

(c) Rule made under CGST Act

(d) Law for the time being in force

Barring the above cases, the refund amount shall be credited to the consumer welfare fund and refund shall not be granted to the applicant. Hence it is important for the applicant to establish that his refund application falls under any of the above categories.

(xi) If refund is claimed on account of zero rated supply of goods and/or services, the proper officer may refund, on provisional basis, ninety percent of the total amount claimed (excluding input tax credit not yet finalized). This refund will be subject to conditions, limitations and safeguards. The remaining 10% may be refunded after due verification of documents furnished by the applicant.

*Note***:** As per **Rule 91**, provisional refund 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 erstwhile law where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

As per Para 46 of **Circular 125/44/2019 dated 18-11-2019**, the facility of export under LUT is available to all exporters in terms of *Notification No. 37/2017- Central Tax dated 4th October, 2017*, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the *Circular No. 8/8/2017-GST dated 4th October, 2017*, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond. It is clarified that this requirement is already satisfied in case of exports under

LUT and asking for self–declaration with every refund claim where the exports have been made under LUT is not warranted.

Further, as per *Circular 40/14/2018-GST dated 06-04-2018*, the amendments in *Circular No. 8/8/2017-GST* made it clear that application for LUT shall be done on the common portal, and it shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application reference number (ARN), is generated online.

Note: 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 is due to the applicant then he 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 (refer para 54.10) i.e. RFD-02.

Note: The proper officer shall also issue a payment advice in FORM GST RFD-05 for the amount sanctioned and the same shall be electronically credited to any bank account of the applicant mentioned in his registration particulars and as specified in the application for refund.

*Note***:** As per ***Circular 125/44/2019-GST dated 18.11.2019***, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in FORM RFD-01 on the common portal.

(xii) In case of claim of refund of accumulated unutilized input tax credit for zero rated supply or inverted duty rate, the refund due will be either withheld or deducted in cases where –

- A person defaults in furnishing any return;
- A person is required to pay any tax, interest or penalty ordered, which is not stayed by Court or Appellate Authority within the last date for filing an appeal under this Act.

(xiii) The deduction from refund due may be tax, interest, penalty, fee or any other amount which remains unpaid under

(a) GST Act or

(b) The erstwhile law.

(xiv) In cases where the refund is a consequence of an order and such order is in –

- appeal; or

- further proceeding; or
- Where any other proceeding under this Act is pending

And the Commissioner is of the opinion that grant of refund would affect the revenue adversely in the appeal or proceeding on account of malfeasance or fraud committed, the Commissioner may withhold the refund till such time as it may be determined. This can be done only after affording the taxable person an opportunity of being heard.[S. 54(11)]

The Government vide *Notification No. 13/2017- Central Tax dated 28-06-2017* has prescribed, on the recommendation of the Council, 6% as the rate of interest for a refund withheld under sub-section (11) of section 54.

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 3rd October, 2019)*

The Central Board of Indirect Taxes and Customs (CBIC) has issued clarifications on the procedure to be followed by a registered person for claiming refund subsequent to a favourable order in appeal or any other forum against the rejection of a refund claim in FORM GST RFD-06.

In this Circular, the CBIC has clarified that "Appeals against the rejection of refund claims are being disposed of offline as the electronic module for the same is yet to be made operational. As per rule 93 of the Central Goods and Services Tax 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 a 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 the following details:

(a) Type of the Order (appeal/any other order),

(b) Order No., Order date and

(c) The Order Issuing Authority.

(d) Copy of the order of Appellate or other Authority.

(e) Copy of the refund rejection order in form GST RFD-06 issued earlier against which appeal was preferred.

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. The proper officer disposing of 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).

(xv) The amount of advance tax deposited by a casual taxable person or a non-resident taxable person at the time of taking registration would be refunded only after furnishing all the returns required under section 39, of the entire period for which the certificate of registration granted to him had remained in force.

*Note***:** As per **Rule 89**, refund of any amount, after adjusting the tax payable by the casual taxable person or non-resident taxable person out of the advance tax deposited by him at the time of registration, shall be claimed in the last return required to be furnished by him.

(xvi) No refund shall be granted or paid to an applicant or the consumer welfare fund, whether it is final refund or provisional refund(provisional refund is granted in cases of refund of unutilized ITC against zero rated supplies) if the amount is less than rupees one thousand. As per Para 60 *of Circular 125/44/2019-GST dated 18.11.2019*, limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger [clarified vide. *Circular No 166/22/2021-GST dated 17.11.2021*]. Officers have been directed to reject claims of refund from the electronic credit ledger for less than one thousand rupees and re-credit such amount by issuing an FORM GST PMT 03.

(xvii) The Government vide *Notification No. 20/2018- Central Tax (Rate) dated 26-07-2018* has allowed for refund of accumulated input tax credit on account of inverted duty structure on fabric variants (10 categories of fabrics) which was earlier restricted and not available for such benefit. This allowance of refund becomes effective from August 1, 2018, with the condition that the balance of accumulated input tax credit lying unutilized up to the month of July 2018 shall lapse. Thus, refund of inverted duty structure is available for the 10 variants of fabrics from August 1, 2018 and hence the Input tax credit on procurements prior to this effective date is to be reversed as refund for such credit was not available. However, Gujarat HC has held that the 'lapse' of (vested) credits is NOT permissible in *Shabnam Petrofils Pvt. Ltd. v. UoI SCA No.16213/2018 (Guj.).*

The Government has clarified that the restriction is applicable only to input tax credit on goods, the said restriction does not apply to input tax credit on input services and capital goods.

Relevant date: The relevant date is crucial for determining the time within which the refund claim has to be filed. If the refund claim is made after the relevant date, the refund claim will be rejected and there is no provision in the Act to condone the delay in filing refund claim and accept delayed refund claims.

The relevant date is identified as follows:

- Refund of tax paid on goods exported or tax paid on inputs/input service
  - If exported by sea or air ->date when the ship or the aircraft leaves India; or
  - If exported by land ->date when such goods pass the Customs frontier; or
  - If exported by post ->date of dispatch of goods by concerned Post Office to a place outside India.
- Deemed exports supply of goods->the date on which the return relating to such deemed export is furnished.
- Refund of tax paid on such services exported itself or tax paid on inputs/input service
  - If the supply of service is completed prior to the receipt of payment–>date of receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the RBI;
  - If payment for the service received in advance prior to the date of issue of invoice –> date of issue of invoice.
- Refund of tax as a consequence of judgment, decree, order or direction of Appellate Authority, Appellate Tribunal or any Court -> date of communication of such judgement/decree/order/ direction.
- Refund of unutilized input tax credit accumulated due to inverted duty rate–due date for furnishing return for the tax period in which such claim for refund arises;
- Provisionally paid tax - the date of adjustment of tax after the final assessment.
- In the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- In any other case, the date of payment of tax.

Circular No. 137/07/2020-GST dated 13.04.2020-

Circular clarifying issues in respect of challenges faced by registered persons in the implementation of the provisions of the GST issued. The circular has been put forward below for ready reference:

Q1. An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before the supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?

A. In case, GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before the supply of service, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to the conditions stated in section 34 of the CGST Act. There is no need to file a separate refund claim.

However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.

Q2. An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or is he required to adjust his tax liability in his returns?

A. In case, GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a "refund voucher" in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules.

The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax".

Q3. Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?

A. In such a case where the goods supplied by a supplier are returned by the recipient and where the tax invoice has been issued, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to the conditions stated in section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.

However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.

To summarise the above:

Situation of Refund	***2 years from the Relevant Date as under***
On account of excess payment	Date of payment of tax
On account of Export of Goods by Sea or Air	Date on which the Ship or Aircraft in which goods are loaded leaves India

On account of Export of Goods by Land	Date on which goods pass the customs frontiers of India
On account of Export of Goods by Post	Date of despatch of goods by post office concerned to a place outside India.
On account of Export of Services before payment	Date of receipt of convertible foreign exchange or Indian rupees, where permitted by RBI.
Export of service against advance payment	Date of issue of invoice
On account of deemed exports	Date of filing return
On account of finalization of provisional assessment	Date of the adjustment of the tax after the final assessment.
In pursuance of an order in favour of the taxpayer by the Appellate Authority/ Appellate Tribunal / Court	Date of communication of the judgement/ order/ direction
On account of accumulated unutilised input tax credit of GST under inverted duty	Due date of furnishing of return for the period in which claim for refund arises
Claim of refund by a person not being a supplier, [e.g. UIN Holder or recipient claiming refund for deemed exports u/r 89(1) clause(a) to 3rd Proviso]	Date of receipt of goods or services by such a person or UIN holder
Claim of refund by a Casual/Non-resident taxable person	The relevant date is the date of payment of tax. But refund to be claimed in last return to be furnished by casual/ non-resident taxable person
Claiming refund under section 77 of the CGST Act, 2017 of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply (or) vice versa under section 19 of the IGST Act, 2017.	The date of **payment of tax** under the correct head.

54.3 Manner and Timing of Refund

Rule 89(1) facilitates a taxable person to claim refund in the following manner under various circumstances

S.No.	Scenarios	Manner to claim refund
1	Refund of any tax, interest, penalty, fees or any other amount paid	File an application electronically in FORM GST RFD-01 through the common portal.
2	Refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49	Such a refund may be made through the return furnished for the relevant tax period in FORM GSTR-3 or FORM GSTR-4 or FORM GSTR-6 or FORM GSTR-7

Note: In terms of *Notification No. 55/2017 – Central Tax dated 15th November 2017*, Rule 97A has been inserted in the Central Goods and Service Tax Rules, 2017 providing for manual filing of refund application and its processing. As per Rule 97A, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.

In other words, the refunds may be filed manually and the processing of refund with respect to any notice, reply or order, among others, can also be issued / filed manually. (Not relevant in the present online Eco-System)

Note:

Frequency of filing refund application

In Para 2 of the *Circular No. 135/05/2020-GST dated 31.03.2020,* it has been clarified 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. Registered persons having aggregate turnover of up to ₹ 1.5 crore in the preceding financial year or the current financial year opting to file FORM GSTR-1 on a quarterly basis, can only apply for refund on a quarterly basis or by clubbing successive quarters. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier.

In the case of a casual taxable person and non-resident taxable person, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him at the time of registration, shall be claimed in the last return required to be furnished by him. Hence, a casual taxable person or non-resident taxable person need not file monthly or quarterly refunds and has to file refund only in their last return.

As per *Circular 37/2018 dated 15-03-2018*, Para 11.2:

(a) An exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters

(b) The calendar month(s) / quarter(s) for which refund claim is filed, however, cannot be spread across different financial years

However, w.r.t circular mentioned above, 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. {vide Circular No.135/05/2020 – GST}

Refund to be claimed after filing of returns applicable to the claimant

As per *Circular 24/2017 dated 21-12-17* [Para 2], refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

However, In terms of *Circular No. 125/44/2019-GST dated 18.11.2019*, Para 6, it has been clarified that for an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, the return as filed by them in terms of the rules applicable to them, i.e., FORM GSTR-4 for a composition taxpayer, FORM GSTR-6 for an ISD and FORM GSTR-5 for a non-resident taxable person shall be sufficient, instead of filing of the details in FORM GSTR 1 & FORM GSTR 3B.

Refund for supplies to SEZ to be filed after being endorsed for authorized operation

In respect of supply of goods to SEZ Unit/Developer, application for refund shall be filed after such goods have been admitted in full in SEZ for authorized operations. An endorsement by the specified officer of the SEZ is required as evidence of admission of goods in full for authorized operations. Refer www.sezindia.nic.in for the list of services pre-approved for being entered into authorized operations.

In respect of supply of services to SEZ Unit/Developer application for refund shall be filed after evidence regarding receipt of services for authorised operations has been endorsed by the specified officer of the SEZ.

Note:

The above discussion does not include:

(a) The manner of filing refund application for the refund of IGST paid on zero rated supplies, which are discussed in Para 54.7

(b) The manner of filing refund application by a person covered by section 55, which is discussed in Para 55.

Refund Application of IGST for supplies to SEZ to be filed only after matching of tax payment between GSTR 3B and GSTR-1

While filing the return in **FORM GSTR-3B** for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of **FORM GSTR-3B** whilst they have shown the correct details in Table 6A or 6B of **FORM GSTR-1** for the relevant tax period and duly discharged their tax liabilities. Such registered persons are unable to file the refund application in **FORM GST RFD-01** for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricts the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of **FORM GSTR-3B** (zero rated supplies) filed for the corresponding tax period. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2021, 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.] *Para 3 of the Circular No. 125/44/2019 – GST dated 18.11.2019.*

54.4 Documentary Evidence:

As per section 54(4)(a), application for refund should be accompanied by documentary evidence to establish that refund is due to the applicant. The documents in this regard are prescribed in Rule 89(2). As per Rule 89(2), the above application(s) shall be accompanied by following documentary evidences to establish that refund is due to the applicant:

S.No.	Scenarios	Documents
1	Refund of Pre-deposit as per sub-section (6) of section 107 and sub-section (8) of section 112 [Pre deposit is made for entertaining the appeal against the order]	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 **OR** Reference number of the payment of the pre-deposit amount.
2	Refund on account of export of goods	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. *Note*: Insistence on the proof of realization of export proceeds for processing refund

		claims related to export of goods has not been envisaged in the law and should not be insisted upon [Para 12 of *Circular 37/11/2018-GST dated 15-03-2018*]
3	Refund on account of export of services	A statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates
4	Refund on account of supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer	A statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement by the specified officer of the Zone 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
5	Refund on account of supply of Service made to a Special Economic Zone unit or a Special Economic Zone developer	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 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

<table>
<tr>
<td>6</td>
<td>Refund on account of deemed exports (where refund is claimed by the Supplier)</td>
<td>A statement containing the number and date of invoices along with the following documents notified under Notification No. 49/2017 – Central Tax dated 18th October, 2017:
(a) Proof of receipt of Goods by the Eligible Recipient:
<table>
<tr><th>In case of Supply to</th><th>Document required</th></tr>
<tr><td>Advance Authorisation Holder or EPCG Holder</td><td>Acknowledgment that the Holder has received the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,</td></tr>
<tr><td>EOUs</td><td>Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it</td></tr>
</table>
(b) Undertaking from the Recipient of the Deemed Export that the Recipient has not taken Input Tax Credit of the GST paid by the Supplier
(c) Undertaking from the Recipient of the Deemed Export that they shall not claim the refund of the GST paid by the Supplier.</td>
</tr>
<tr>
<td>7</td>
<td>Refund on account of deemed exports (where the refund is</td>
<td>A statement containing the number and date of invoices along with further documents as may be notified.</td>
</tr>
</table>

	claimed by the Recipient of Deemed Exports)	However, no document has been notified by the Government when the Recipient is claiming the Refund. It may be prudent for the Recipient to obtain an undertaking from the Supplier that he has not claimed refund of the GST paid on the Deemed Exports.
8	Refund 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	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
9	Refund arises on account of the finalisation of provisional assessment	The reference number of the final assessment order and a copy of the said order
10	Refund as per Section 77 (tax wrongly collected and paid to the Central or state government)	A statement showing the details of transactions considered as intra-State supply but which are subsequently held to be inter-State supply
11	Refund claimed does not exceed two lakh rupees (tax paid but the incidence has not been passed on to the other person)	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
12	Refund claimed exceeds two lakh rupees (tax paid but the incidence has not been passed on to the other person)	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
Self-Declaration or CA Certificate for non-passing of incidence of tax, interest or any other amount is not required in the following cases: 1. Refund of tax paid on account of export of goods or services 2. Refund of unutilized ITC for export of goods or inverted duty rate structure. 3. Refund of tax paid on a supply which has not been provided. 4. Refund of CGST and SGST held to be IGST or vice versa 5. Refund of Tax or Interest borne by the notified applicants.		

Circular No. 166/22/2021-GST dt. 17th Nov, 2021

Q. Whether certification/ declaration under Rule 89(2)(l) or 89(2)(m) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?

A. No, furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases.

54.5 Refund Amount to be debited to Electronic Credit Ledger

As per Rule 89(3), where the application relates to the refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed. As per **Circular *125/44/2019-GST dated 18.11.2019* [Guidelines for refunds of unutilized Input Tax Credit]**, the amount to be debited to the electronic credit ledger is the least of the following:

(a) Amount calculated as per Rule 89(4) or 89(5)

(b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and

(c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

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 claimant in the following order:

(a) Integrated tax, to the extent of balance available;

(b) Central tax and State tax/Union Territory tax, 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, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

The procedure 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 filed after the date of issue of this Circular. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01 is generated. Further, it may be noted that the refund application can be filed only after the electronic credit ledger has been debited in the manner specified above, and the ARN is generated on the common portal.

54.6 Formula for computation of refund

Refund options and limitations:

Inward Supplies					Outward Supplies					Rule reference
Description	GST paid on Inward Supplies				Zero-rated supply (without payment of IGST)			Inverted Rate on Outward Supplies (of goods or services)	Zero-rated supply (with payment of IGST)	
	48/2017-CT	40/2017-CT(R) & 41/2017-Int.(R)	78/2017-Cus. & 79/2017-Cus.	No benefit availed (full tax paid)	Exports		SEZ			
					Goods	Services				
Capital goods	×	×	×	✓	×	×	×	×	✓	96(10)
Inputs	×	×	×	✓	✓	✓	✓	×	✓	89(4)
Input Services	×	×	×	✓	✓	✓	✓	×	✓	
Inputs	×	×	×	✓	✓	✓	✓	×	×	89(4A)
Input Services	×	×	×	✓	✓	✓	✓	×	×	
Inputs	×	✓	✓	✓	✓	×	×	×	×	89(4B)
Input Services	×	×	×	✓	✓	×	×	×	×	
Inputs	✓	×	×	✓	×	×	×	✓	×	89(5)

Computation of Refund of Unutilized ITC on Export

Rule 89(4) & Rule 89(5) of the CGST Act provide that:

(a) In the case of zero-rated supply of goods or services or both **without payment of tax under bond or letter of undertaking**, 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

(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;

Note: ITC on capital goods shall not qualify as Net ITC

(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;

(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 sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

excluding-

(i) the value of exempt supplies other than zero-rated supplies; and

(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

Note: Turnover of zero rated supply of services on which tax has been paid has been excluded from the definition of adjusted turnover by Notification 39/2018-Central Tax dated 04-09-2018. Zero rated supply of service without payment of tax and non-zero rated supply of service, however, shall form part of the adjusted turnover.

(F) "Relevant period" means the period for which the claim has been filed

Calculation of Adjusted Total Turnover: Clarification by *Circular No. 147/2021 dated 12th March 2021*

It has been 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 the same as being determined as per the amended definition of "Turnover of zero-rated supply of goods" in the said sub-rule. The same has been explained by the following illustration where 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:

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 below:

Net admissible ITC = ₹ 270

All values in ₹.

Outward Supply	Value per unit	No of units supplied	Turnover	Turnover as per amended definition
Local (Quantity 5)	200	5	1000	1000
Export (Quantity 5)	350	5	1750	1500 (1.5*5*200)
Total			**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 the amended definition) = ₹ 1500

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

Net ITC = ₹ 270

Refund Amount = ₹ $\frac{1500*270}{2500}$ = ₹ 162

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

Computation of Refund in case of Inverted Duty Structure

(b) In the case of refund on account of **inverted duty structure**, refund 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.

(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
(b)	Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4).

Note: In terms of *Notification No. 21/2018 – Central Tax dated 18th April, 2018*

(i) Maximum refund amount to be computed after taking into consideration the ITC availed on inputs only. No refund shall be allowed on inputs services in case of refunds under inverted duty rate. Before amendment by Notification 21/2018, the definition of Net ITC as applicable under Rule 89(4) was applicable to inverted duty rated refunds, which included ITC on inputs as well as input services.

(ii) Further, Refund shall be allowed on turnover of goods as well as services. Before amendment by Notification 21/2018, the formula provided for refund in respect of turnover of inverted duty rated goods only.

Notification No. 26/2018 dated 13-06-2018, further reiterated the above amendments in formula for inverted duty rated refunds and also made it applicable retrospectively w.e.f. 01-07-2017.

*Note***:** *Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017* (as modified by *NN 29/2017-Central Tax(Rate) dated 22-09-2017 and 44/2017-Central Tax (Rate) dated 14-11-2017*) specifies the goods in respect of which refund of unutilized input tax credit (ITC)

on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. It includes fabric items and items related to railways. However, in case of fabric processors (Job worker), the output supply is the supply of job work services and not of goods (fabrics). Hence, *Circular No. 48/22/2018* clarifies that the fabric processors (Job Worker) shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under *Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.*

Note: *Notification 20/2018-Central Tax (Rate) dated 26-07-2018*, has further amended notification 5/2017-Central Tax (Rate) dated 28-06-2017 to provide that nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of fabrics. The notification further provides that the accumulated input tax credit lying unutilized in balance, after payment of tax for and up to the month of July 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse. *Circular 56/30/2018 dated 24-08-2018* has been issued to clarify doubts relating to the lapse of input tax credit accumulated on account of inverted duty structure on fabrics for the period up to 31-07-2018.As per the circular for calculation of input tax credit to lapse on 31-07-2018, the amount calculated for 01-07-2017 to 31-07-2018, as per formula provided in Rule 89(5) shall lapse subject to modifications that ITC in respect of inputs in stock on 31-07-2018 shall be excluded from calculation of net ITC. Calculation of value of inputs shall be made as per the format provided in Table 7 of ITC-01. ITC on input services and capital goods shall also not lapse. The amount of credit to lapse shall also not impact the amount of credit refundable of zero rated supplies under Rule 89(4).The amount of credit to lapse shall be provided in column 4B(2) of GSTR-3B return for August 2018. Verification of the amount that will lapse shall be done at the time of filing the first refund on account of inverted duty rated refund on fabric. A detailed calculation sheet shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.

Note: *Notification 15/2017-CT dated 28-6-17* has specified that the construction of complex, building , civil structure service where the entire consideration has not been received after issuance of completion certificate as service, refund will not be allowed under inverted duty rate.

(c) In the case of zero-rated supply of goods or services or both on payment of IGST, refund of the entire amount of IGST shall be available (refer para 54.7)

(d) In the case of supplies received on which the supplier has availed the benefit of *Notification No. 48/2017-Central Tax dated the 18th October, 2017* (deemed exports), 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 (Rule 89(4A))

(e) In the case of supplies received on which the supplier of the person claiming refund of unutilized ITC on account of zero rated supplies without payment of tax has availed the benefit of *Notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017* (concessional rate of tax at 0.05% on intra-State supply of taxable goods by a registered supplier to a registered recipient for export) or *Notification No. 41/2017 Integrated Tax (Rate) dated the 23rd October, 2017* (concessional rate of tax at 0.1% on inter-State supply of taxable goods by a registered supplier to a registered recipient for export) **OR** a person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax himself has availed the benefit of Notification No. 78/2017-Customs dated the 13th October, 2017 (goods imported by EOUs) or Notification No. 79/2017-Customs dated the 13th October, 2017 (import of goods under Advanced authorization/EPCG schemes) , 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 (Rule 89(4B))

54.7 Rule 96 provides for Refund of integrated tax paid on goods or services exported out of India

It is interesting to note that although Rule 96 reads "Refund of integrated tax paid on goods or services exported out of India", refund of integrated tax paid on the services exported out of India shall be dealt with in accordance with the provisions of rule 89 and the application for refund shall be filed in FORM GST RFD-01. [Rule 96(9)]

Shipping Bill Deemed to be application

The shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India.

When refund application shall be deemed to have been filed

Such application shall be deemed to have been filed only when

- the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; and
- the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR- 3B, as the case may be;

Note: Filing of export manifest is a must for treating shipping bill or bill of export as refund claim. Export report is filed in case of export by land and Export manifest is filed in case of export by air or sea. Export manifest is required to be filed u/s 41 and 42 of the Customs Act before departure of conveyance carrying goods. Commissioners have to ensure that export report/EGM is filed within the prescribed time limits [Instruction No. 15/2017-Customs dated 09-10-17]

Transmission of export data to Customs designated portal

The details of the relevant export invoices in respect of export of goods 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. Details of export invoices are available at the ICEGATE portal.

Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended, then in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the details of 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:

Note that the Table 6A has to be furnished only after filing of Form GSTR-3B under the respective tax period.

Cautions to ensure transmission of Data to Customs designated Portal

Data Matching

To ensure that the GST System transmits the export invoice data in case of export of goods with payment of IGST to ICEGATE for refund, Exporters need to provide complete and correct data while filing Table 6A of GSTR-1 as under:

- Invoice No. and Date (Tax invoice and not commercial invoice).
- Select from drop down list (WPAY- with payment of tax/WOPAY-without payment of tax).
- Shipping Bill No. and Date.
- While using offline tool for GSTR 1, the date format is dd-mm-yyyy, e.g., 15th July, 2017 will be written as 15-Jul-2017 and not like 15/07/2017.
- Six Digit Port Code should be mentioned correctly.
- Invoice Value: It is the total value of export goods covered by the invoice including tax and other charges, if any.
- Taxable Value: It is the value of goods, on which tax is paid. (Value net of tax).
- Tax Paid IGST, only in cases where the export is done on payment of IGST.

Value Differences

Where the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The value recorded in the GST invoice should normally be the transaction value as determined under 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 sanctioned as refund. *[Para 9, 9.1 of Circular 37/11/2018 dated 15-03-2018]*

IGST Paid Differences GSTR-1 and 3B

It is one of validation check by GSTN that aggregate IGST paid amount claimed in Table 6A of GSTR-1 is not higher than the IGST paid amount indicated in Table under column 3.1(b) of GSTR-3B of the corresponding month. To ensure that the GST System transmits the export invoice data , in case of export of goods with payment of IGST to ICEGATE for refund, Exporters should make payment of Tax and File Return as under:

i) File Form GSTR-3B of the corresponding period.

ii) In case of export of goods, the IGST amount paid should be shown in Table 3.1(b) of GSTR-3B and amount must be equal to or greater than the total IGST amount shown in Table 6A, and Table 6B, of GSTR-1 for the corresponding tax period.

As the return in **FORM GSTR-3B** does not contain provisions for reporting of differential figures for past month(s), the said figures may be reported on net basis along with the values for the current month itself in appropriate tables, i.e., Table No. 3.1, 3.2, 4 and 5, as the case may be. It may be noted that while making adjustment in the output tax liability or input tax credit, there can be no negative entries in the FORM GSTR-3B. The amount remaining for adjustment, if any, may be adjusted in the return(s) in FORM GSTR3B of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed. Where adjustments have been made in FORM GSTR-3B of multiple months, corresponding adjustments in FORM GSTR-1 should also preferably be made in the corresponding months**.** [Para 4 of Circular 26/26/2017 dated 29-12-17]

Auto Drafting of GSTR-1

As and when the Form auto-drafted in FORM GSTR-1 or is furnished for the said tax period, then details of exports will be auto-drafted from the Table 6A referred above. The procedure is as follows:

(a) File GSTR-3B for a Tax Period

(b) Fill Table 6A of Form GSTR-1 available on the Common Portal. Refund will be processed based on this Table 6A

(c) As and when Form GSTR-1 is filed, the data relating to exports will be auto-populated from Table 6A

Processing of IGST Refund Claim

Upon the receipt of 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 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.

As per **Instruction No.15/2017-Customs dated 9-10-17**, the amount of refund of IGST paid on export of goods shall be credited to the account of exporter registered with Customs even if it is different from the bank account mentioned in the registration particulars.

Withholding of Refund of integrated tax paid on exports

- The claim for refund shall be withheld where
  - a request has been received from the jurisdictional Commissioner of Central tax, State tax or Union territory tax to withhold the payment of refund because the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54 or the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.
  - 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
  - the proper officer of Central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part B of FORM GST RFD-07
  - Where the applicant becomes entitled to refund of the amount withheld, the concerned jurisdictional officer of Central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount after passing an order in FORM Part A of GST RFD-06.

Refund of IGST to the Government of Bhutan in lieu of Exporter

For notified goods, the Central government may pay refund to the government of Bhutan and not to the exporter. The exporter shall not be allowed any refund of IGST on export of goods to Bhutan.

Restriction on grant of IGST Refund on Exports [Rule 96(10)]

Present Rule 96(10) imposing restrictions on grant of refund of IGST on Exports was first introduced as Rule 96(9) by *Notification 75/2017-CT dated 29-12.17* retrospectively from 23-10-17. Then it was re-numbered to 96(10) and further amended vide Notification 3/2018 dated 23-01-18 again retrospectively w.e.f. 23-10-17. Then it was re-modified vide Notification No. 39/2018, dt. 04.09.2018. w.e.f. 23-10-17. Notification 53/2018 dated 9-10-18 has modified Rule. 96(10) from 23-10-17 and notification 54/2018 dated 9-10-18 has amended this Rule prospectively w.e.f. 9-10-18. The impact of changes has been explained in *Circular No. 70/44/218-GST dated 26-10-18.*

From 23-10-17 to 8-10-2018

An exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs [Import by EOU] and 79/2017-Customs(import of goods under Advanced authorization/EPCG schemes) [both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports.

However, if the benefit of the above notifications has been obtained by the supplier of exporter, then exporter shall not be eligible to claim refund of IGST paid on exports. Further, if the supplier of exporter has availed benefit of 40/2017-CTR or 41/2017-CTR [Concessional rate of tax @ 0.05%/0.1% respectively] or 48/2017 [Deemed exports], then also the exporter shall not be eligible to claim refund of IGST paid on exports.

From 9-10-2018 and onwards

Exporters who are importing goods in terms of *Notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017* would not be eligible for refund of IGST paid on exports

However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions.

Further, if the person claiming the refund of IGST paid on export of goods or services has availed the benefit of 40/2017-CTR or 41/2017-CTR [Concessional rate of tax @ 0.05%/0.1% respectively] or 48/2017 [Deemed exports], then also he shall not be eligible to claim refund of IGST paid on exports.

54.8 Rule 96A provides for Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking

- Any registered person availing the option to supply goods and/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 (vide *Circular no 2/2/2017-GST* the power has been delegated to Deputy/Assistant Commissioner).

Conditions of LUT

- The registered person shall bind himself to pay the tax due along with the interest specified under sub-section (1) of section 50 (18%) within a period of
  - (a) fifteen days after the expiry of three months, 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

The Government has clarified and emphasized that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis, keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services. (*Circular No. 37/11/2018-GSTdated 15th March, 2018*)

- If the goods are not exported within the time specified above and the registered person fails to pay the IGST amount, 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.
- The export as allowed under bond or Letter of Undertaking withdrawn shall be restored immediately after the registered person pays the amount due.

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.

LUT/Bond not required for exempt supplies

- In terms of *Circular No. 45/19/2018 dated 30.05.2018*, it has been clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax, LUT/bond is not required. A registered person exporting **non-GST goods** shall comply with the requirements prescribed under the erstwhile law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.

Note: The Government vide *Notification No. 16/2017 – Central Tax dated 07.07.2017* has specified the following conditions for a registered person to be eligible for submission of Letter of Undertaking in place of a bond.

(a) a status holder as specified in paragraph 5 of the Foreign Trade Policy ("FTP") 2015-2020; or

(b) one who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees in the preceding financial year.

Further, the registered person has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the erstwhile laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

However, the above requirement has been relaxed with effect from 04th October, 2017.

The Government vide *Notification No. 37/2017 – Central Tax dated 04.10.2017* has extended the facility of Letter of Undertaking to all registered tax payers.

However, the following persons shall not be eligible to furnish LUT:

1) A registered person prosecuted for any offence under GST or any erstwhile laws in force with tax evaded exceeding ₹ 2.5 crores

2) A registered person who fails to pay tax due along with interest within

   - 15 days after the expiry of 3 months from the date of issue of the invoice for export, if the goods are not exported out of India; or
   - 15 days after the expiry of 1 year, or such further period as may be allowed by the Commissioner, from the date of issue of invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

   However, the disqualification in respect of point 2 above will cease on payment of tax along with interest.

A self-declaration by the exporter that he has not been prosecuted is sufficient for the purposes of Notification No. 37/2017- Central Tax dated 4th October, 2017. The Department may verify the claim after acceptance of the LUT, unless the Department has any specific information otherwise, regarding the prosecution. (*Circular No. 8/8/2017-GST dated 04.10.2017*)

Bond

A registered person who is not eligible to furnish LUT for reasons discussed above shall execute a Bond. It shall be accompanied by a Bank Guarantee for 15% of the Bond amount. Bond shall be furnished on non-judicial stamp paper of the value as applicable in the state in which the bond is being furnished. 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 falls within the bond amount. In case the bond amount is insufficient to cover the said 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.

(*Circular No. 8/8/2017-GST dated 04.10.2017*).

The LUT facility is also extended to Supplies made to SEZ.

LUT to be submitted on portal

Further, 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. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish the LUT

in place of bond as per *Notification No. 37/2017-Central Tax*, then the exporter's LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio. No document needs to be physically submitted to the jurisdictional office for acceptance of the LUT. (*Circular No. 40/14/2018-GST dated 06.04.2018*)

Jurisdictional officer for acceptance of LUT

The LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

LUT for supplies to Nepal and Bhutan

Acceptance of the LUT for supplies of goods to Nepal or Bhutan 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. It may also be noted that the supply of services to SEZ developer or SEZ unit under the LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange. [Circular 8/8/2017 dated 4-10-17]. Supply of services having a place of supply in Nepal or Bhutan against payment in Indian rupees is exempt under Notification No. 9/2017-IGST inserted vide Notification No. 42/2017-Integrated Tax (Rate), dated 27-10-2017.

54.9 Refund in case of Deemed Exports

Deemed Exports are defined as "Supplies" as may be notified under Section 147 of the CGST Act.

The Central Government vide Notification No. 48/2017 – Central Tax dated 18.10.2017 has notified the following items as "Deemed Exports"

- Supply of goods by a registered person against Advance Authorisation
- Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation (EPCG)
- Supply of goods by a registered person to an Export Oriented Unit (EOU) and includes:
  - ✓ Electronic Hardware Technology Park Unit (EHTP) or
  - ✓ Software Technology Park Unit (STP) or
  - ✓ Bio-Technology Park Unit (BTP).
- Supply of gold by a bank or Public Sector Undertaking specified in the Notification No. 50/2017-Customs, dated the 30.06.2017 (as amended) against Advance Authorisation.

Analysis

The FTP (2015-2020) in terms of Para 7.02 has provided a list of Supplies which are Deemed Exports under FTP.

However, only the aforesaid four supplies have been covered under Deemed Export under GST. Therefore, other Deemed Export under FTP but not specified in Notification No. 48/2017 – Central Tax dated 18.10.2017 shall not be classified as Deemed Exports. The recipient of deemed exports will be eligible to take Input Tax Credit of the tax paid by the supplier subject to restrictions / blocking of credits under Sections 16, 17 of the CGST Act and rules thereunder.

It is to be noted that only supply of goods and not supply of services can be classified as Deemed Exports.

Person claiming refund

The Application of refund may be filed by the Recipient of the Goods.

However, the Supplier may also file the refund application if

a) The recipient does not avail the ITC and

b) The supplier furnishes a declaration from the recipient that he has not availed Input Tax Credit on such deemed exports.

Special Procedures with Respect to Supply of Goods to EOUs

The Government vide *Circular No. 14/14 /2017 – GST dated 06.11.2017* has issued detailed guidelines on the procedure to be adopted for the supply of goods to EOU, EHTP, STP and BTP (hereinafter collectively referred to as "EOU")

Procedure to be adopted by the EOU:

Steps	Particulars	Form No, if any / Due Date	Explanation
Step 1	Issuance of Prior Intimation	Form-A	The EOU shall give prior intimation of goods to be procured from the Supplier in Form-A. The Intimation must be serially numbered and prepared in Triplicate and sent to: (1) the Registered Supplier undertaking the Supply (2) the jurisdictional GST Officer in charge of the Supplier (3) the jurisdictional GST Officer in charge of the EOU

Step 2	Supply of goods by the Supplier		The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
Step 3	Endorsement of Invoice by EOU on receipt of goods		On receipt of such supplies, the EOU shall endorse the tax invoice and send a copy of the endorsed tax invoice to – (1) the Registered Supplier undertaking the Supply (2) the jurisdictional GST Officer in charge of the Supplier. (3) the jurisdictional GST Officer in charge of the EOU. Such endorsement is the Proof of Deemed Export Supplies by a registered person to the EOU
Step 4	EOU shall maintain records for receipt, use and removal of Goods	Form-B	EOU shall maintain the record of Receipt, use and Removal of Goods in Form-B The data is required to be maintained in Digital form. The Record must be updated immediately and accurately and open for Verification by the Proper office
Step 5	Monthly submission of Form-B to the GST Officer	Due date - 10th of the Following month	A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month in a CD or Pen drive, as convenient to the said unit.

Documentary Evidence to be furnished by the supplier for claiming refund on account of deemed exports:

A statement containing the number and date of invoices along with the following documents notified under *Notification No. 49/2017 – Central Tax dated 18th October, 2017*:

(a) Proof of receipt of Goods by the Eligible Recipient viz:	
Supply to	Document required
Advance Authorisation Holder or EPCG Holder	Acknowledgement that the holder has received the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,

EOUs	Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit, that said deemed export supplies have been received by it
(b) Undertaking from the recipient of the Deemed Export that the Recipient has not taken Input Tax Credit of the GST paid by the Supplier	
(c) Undertaking from the recipient of the Deemed Export that they shall not claim the refund of the GST paid by the Supplier.	

Recipient of deemed export supply claiming refund – Availment of Input Tax Credit Circular No. 125/2019 modified by Circular No. 147/2021 dated 12th March, 2021

When a refund application is filed by a recipient of deemed export supply to the extent of refund claimed, ITC is debited from the electronic credit ledger. This means that ITC must be availed by the recipient of deemed export supply to avoid loss of ITC.

Taking this into consideration, para 41 of *Circular No. 125/2019* has made the following amendment: " that he has not availed input tax credit on such invoices" has been replaced with "the amount does not exceed the amount of input tax credit availed in the valid return filed for the said tax period."

This amendment removes the restriction on availment of ITC placed by *Circular 125/2019* and enables refund application with debit to electronic credit ledger by the recipient of deemed export supply.

Circular No. 166/22/2021-GST dt. 17th Nov, 2021

Q. Whether relevant date for the refund of tax paid on supplies regarded as deemed export by recipient is to be determined as per clause (b) of Explanation (2) under section 54 of the CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining the relevant date for such refunds?

A. Clause (b) of Explanation (2) under Section 54 of the CGST Act reads as under:

"(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*;"

On perusal of the above, it is clear that clause (b) of Explanation (2) under section 54 of the CGST Act is applicable for determining the relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.

Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, the relevant date for the purpose of filing of refund claim for refund of tax

paid on such supplies would be the date of filing of return, related to such supplies, by the supplier

54.10 Rule 90 - Acknowledgement and Deficiency memo

(a) **Acknowledgment where application relates to a claim for refund from the electronic cash ledger:** on receipt of the application for refund, 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 of 60 days for passing an order by proper officer shall be counted from such date of filing.

(b) **Acknowledgment where the application for refund, other than claim for refund from electronic cash ledger:** such applications 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, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically/manually, clearly indicating the date of filing of the claim for refund and the time period 60 days for passing an order by proper officer shall be counted from such date of filing.

(c) **Deficiency Memo**: Where any deficiencies are noticed, the proper officer shall communicate them to the applicant in FORM GST RFD-03 through the common portal electronically/manually, requiring him to file a fresh refund application after rectification of such deficiencies, within 15 days from the date of receipt of application. The older application shall lapse, once the deficiency notice is given in RFD-03.

(d) While calculating the two year time limit for refund as mentioned in Section 54(1), the time period between the date of filing refund claim in FORM GST RFD-01 till the date of communication of deficiencies in FORM GST RFD-03 shall be excluded.

(e) If deficiencies have been communicated in FORM GST RFD-03 under the State Goods and Service Tax Rules, 2017, the same shall also be deemed to have been communicated under the CGST Act also.

*Note***:** A clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the CGST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. **It is therefore, clarified that there can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application**, in **FORM GST RFD-01 online.** . It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, 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 memo remain uncertified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

Circular No. 125/44/2019-GST dated 18.11.2019 regarding actions to be taken regarding deficiency memo:

(a) Deficiency to be communicated in RFD-03

(b) Amount claimed to be re credited

(c) Fresh Refund application to be filed within two years of the relevant date, as defined in the explanation of section 54.

(d) No Show cause notice to be issued

A refund application which is re-submitted after the issuance of a deficiency memo shall have to be treated as a fresh application. No order in FORM GST RFD-04/06 can be issued in respect of an application against which a deficiency memo has been issued and which has not been resubmitted subsequently.

54.11 Rule 92 provides for Order sanctioning refund-

Rule No.	Scenarios	Procedures
92(1)	When entire refund is payable	➢ 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
Proviso to 92(1)	In cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any erstwhile law	➢ the proper officer shall pass an order giving details of the adjustment, which shall be issued in Part A of FORM GST RFD-07.
92(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) [when the applicant is required to pay tax, interest or penalty which has not been stayed by any court] or ➢ sub-section (11) of section	➢ the proper officer shall pass an order in Part B of FORM GST RFD-07 informing him the reasons for withholding such refund

	54 [when any matter of appeal is pending and refund shall affect the revenue	
92(3)	Where the proper officer is satisfied that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant	➢ the proper officer shall issue a notice in FORM GST RFD-08 to the applicant; ➢ the Applicant shall 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, the proper officer shall 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 ➢ Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.
92(4)	Refund credited to the account of the applicant	➢ Where the proper officer is satisfied that the amount is payable to the applicant, he shall make an order in FORM GST RFD-06, then he shall issue a payment advice in FORM GST RFD-05 for refund and the same shall be electronically credited to any bank account of the applicant mentioned in his registration and as specified in the application for refund.
92(5)	Refund credited to the Consumer Welfare Fund	➢ Where the proper officer is satisfied that the amount refundable 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 an advice in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund

Note: As per *Notification No. 39/2017-Central Tax* and further modified by *Notification No. 10/2018-Central Tax dated 23-01-2018*, state tax officers have been authorized to act as proper officer for the purpose of section 54 and 55 for the sanction of refund. Regarding the refund of IGST paid on exports, State GST officers have been authorized to deal with IGST on export of services but not with IGST refund on export of goods. All other types of refunds can be dealt by State tax officer for the purpose of Section 54 & 55 of the CGST Act.

Disbursal of Refund Amount

*Circular No. 59/2018 dated 04-09-18***:** A few cases have come to notice where a tax authority, after receiving a sanction order from the counterpart tax authority (Centre or State), has refused to disburse the relevant sanctioned amount calling into question the validity of the sanction order on certain grounds. E.g., a tax officer of one administration has sanctioned, on a provisional basis, 90 per cent of the amount claimed in a refund application for unutilized ITC on account of exports. On receipt of the provisional sanction order, the tax officer of the counterpart administration has observed that the provisional refund of input tax credit has been incorrectly sanctioned for ineligible input tax credit and has, therefore, refused to disburse the tax amount pertaining to the same. It is clarified that the remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order and not in withholding of the disbursement of the sanctioned amount. If any discrepancy is noticed by the disbursing authority, the same should be brought to the notice of the counterpart refund sanctioning authority, the concerned counterpart reviewing authority and the nodal officer, but the disbursal of the refund should not be withheld. It is hereby clarified that neither the State nor the Central tax authorities shall refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except under sub-section (11) of section 54 of the CGST Act. It is further clarified that any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.

Note: Refer *Notification No. 55/2017–Central Tax dated 15.11.2017*, mentioned above.

However, CBIC vide. *Circular No. 125/44/2019 – GST dated 18.11.2019* in PARA 27 clarified that 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 only by the Central tax officer. Similarly, for refund applications assigned to a State/UT tax officer, both the sanction order (FORM GST RFD04/06) and the corresponding payment order (FORM GST RFD-05) for the sanctioned refund amount, under all tax heads, shall be issued only by the State/UT tax officer.

54.12 Rule 93 provides for the Credit of the amount of rejected refund claim

Where any amount claimed as refund is rejected under rule 92, 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. 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. Also, where any deficiencies have been communicated in FORM GST RFD-03, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.

*Note***:** Re credit of Electronic Credit Ledger in case of Rejection of Refund claim []

(a) In case of rejection of refund claim of unutilized/accumulated ITC due to ineligibility of the input tax credit under any provisions of the Act and rules made thereunder, the proper officer shall have to issue a show cause notice in FORM GST RFD-08, under section 54 read with section 73 or 74, requiring the applicant to show cause as to why

- the refund amount corresponding to the ineligible ITC should not be rejected as per the relevant provisions of the law; and
- 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.

(b) 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 read with section 73 or section 74 of the Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, 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.

(c) 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.

(d) Before re-crediting, an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection be obtained. If the claimant files an appeal, re-credit to be done only after the appeal is finally decided against the claimant.

54.13 Issues and Concerns

I. Can a registered person exporting non-taxable goods (say, motor spirit) claim refund of inputs and input services utilised in the manufacture of such non-taxable goods?

Although this is a debatable issue, some experts believe that the law does not place restriction on claiming refund of taxes paid on inward supplies used in effecting such export of non-taxable goods. This could be argued on the following grounds:

- Zero rated supply includes within its ambit, inter alia, export of goods
- Motor spirit, although non-taxable, would fall within the meaning of goods, as defined in section 2(52) of the CGST Act
- Section 17(2) of the CGST Act states that a supplier shall be entitled to avail input tax credit to the extent of input tax as is attributable to taxable supplies including zero rated supplies.
- Section 16(2) of the IGST Act states that input tax credit may be availed for making zero rated supplies notwithstanding the fact that such supply may be an exempt supply subject to restrictions on ITC in Section 17(5).

- Exempt supply has been defined in Section 2(47) of the CGST Act to include non-taxable supply.
- Section 54(3) of the CGST Act specifies that refund of unutilised input tax credit shall be allowed in case of zero rated supplies effected without payment of tax unless such exports are subjected to export duty. Thus, refund on export of non-taxable goods may be sought by the registered person.

This position is clarified by the CBIC wherein it is stated that as per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempted supply. It is also categorically stated that the requirement of Bond/LUT cannot be insisted upon in such cases. (Para 49 of the Circular No 125/44/2019 GST dated 18.11.2019)

Can a registered person being an exporter claim refund of unutilised input tax credit being transitional credit carried forward from the pre-GST regime?

Under the GST law, there is no provision specifically providing for refund of transitional credit. Section 54(3) pertains to refund of unutilised input tax credit.

Section 2(63) of the CGST Act defines "input tax credit" to broadly refer to CGST, SGST, UTGST and IGST charged on the supply of goods or services. Thus, it is clear that taxes paid under pre-GST regime do not fulfil the criteria for being classified as input tax credit, as given in Section 54(3).

However, Explanation (1) to Section 54(14) of the CGST Act defines "refund" to include, inter alia, refund of tax paid on zero rated supplies. **Thus, it is advisable that the exporter opts to export goods or services on payment of tax, utilise such transitional credit for payment of output tax on exports and then apply for refund of the tax paid on exports**.

II. Refund in respect of tax paid on capital goods used by a registered person for effecting exports.

It is interesting to note that Explanation (1) to Section 54(14) of the CGST Act defines "refund" to include, inter alia, inputs and input services used in making zero rated supplies. On the same lines, "NET ITC" as defined under Rule 89(4) of the CGST Rules refers to merely **input tax credit availed on inputs and input services**. Thus conspicuous by its absence is the fact that refund of unutilised input tax credit on account of zero rated supplies is not available in respect of capital goods.

Such a scenario may be countered by the exporter by choosing to export on payment of tax. As was the case in (II) above, the exporter who opts to export goods or services on payment of tax can utilise input tax credit accumulated on capital goods towards payment of output tax on exports and subsequently apply for refund of taxes paid on exports.

From the above scenarios, it is interesting to note that a registered person should wisely exercise his option to either effect zero-rated supplies on payment of tax or without payment of tax based on the facts of the case and there can be no general rule that can be applied to one and all.

III. Determination of Authorised Operations in respect of supplies made to a SEZ developer or SEZ unit.

The Second proviso to Rule 89 of the CGST Rules, states that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the supplier of goods or services can apply for refund if such supplies are being used for authorised operations. The question which arises is, who determines the authorised operations and who is the specified officer referred to in the said Rule.

'Authorised Operations' has been defined under Section 2(c) of the SEZ Act to mean:

- For a SEZ Developer – The Board of Approval may authorise the Developer such operations which the Central Government may authorise
- For a SEZ Unit – Operations as authorised by the Development Commissioner in the Letter of Approval.

'Specified officer' has been defined in the SEZ Rules to mean a Joint or Deputy or Assistant Commissioner of Customs for the time being posted in the SEZ.

Thus, the terms as defined above may be adopted for the purpose of Rule 89 of the GST Rules.

54.16. Recent Clarifications

I. Certain registered persons had to reverse the credits to be lapsed (as per *Notification No..20/2018-CTR dated 26.07.2018*) while claiming accumulated ITC on account of Inverted tax Structure, and they were not able to claim refund to the permissible extent because of validation check on the common portal.

Government noticed that this issue was faced by a large number of taxpayers. So it issued a *Circular 94/13/2019-GST dated 28.03.2019* which states possible solutions and procedures for the same.

II. Process of claiming of Refund by a Merchant Exporter where he had received supplies from suppliers who had availed benefit of *Notf. No. 40/2017 CT(R) dated 23.10.2017*.

Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted.

This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category "any other" instead of under the category "refund of unutilized ITC on account of exports without payment of tax" in FORM GST RFD-01 and shall be accompanied by all supporting documents required for substantiating the refund claim under the category "refund of unutilized ITC on account of exports without payment of tax". After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.

III. Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange.

It has been recognized that international airports house retail shops of two types – "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 (hereinafter referred to as the "Customs Act") and duty paid indigenous goods and "Duty Paid Shops" (hereinafter referred to as "DPS") retailing duty paid indigenous goods.

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 as per the procedure explained in succeeding paragraphs [Circular No. 106/25/2019-GST dated 29-06-2019].

IV. Processing of refund applications in FORM GST RFD-01 submitted by taxpayers wrongly mapped on the common portal.

As per *Circular No. 104/23/2019- GST dated 28-06-2019*, it is clarified that in such cases, where reassignment of refund applications to the correct jurisdictional tax authority is not possible on the common portal, the processing of the refund claim should not be held up and it should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal. After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably on the common portal so that all subsequent refund applications are transferred to the correct jurisdictional tax authority.

V. Disbursement of Refunds by a Single Authority.

Refunds issued under Section 54 of the CGST Act, 2017 has been amended by inserting sub-section 8A vide Section 103 of the Finance (No. 2) Act, 2019 and the amendment has come into force w.e.f. 1st September, 2019.

The effect of the amendment is that the CGST Officer can now sanction and disburse both CGST & SGST. Earlier, the Central Tax officer was allowed to sanction only CGST but not allowed to disburse SGST which was creating unnecessary delay and hurdles in the process of refunds..

VI. Mechanism to verify the IGST payments for goods exported out of India in certain cases

The procedure for claiming IGST refunds is fully automated as provided under Instruction 15/2017-Cus dated 09.10.2017. It has come to the notice of the Board that instances of taking of IGST refund using fraudulent ITC claims by some exporters have been observed by various authorities.[Circular No.16/2019-Customs dated 17.06.2019]

- DG (Systems) shall work out the suitable criteria to identify risky exporters at the national level and forward the list of the said risky exporters to Risk Management Centre for Customs (RMCC) and respective Chief Commissioners of Central Tax. DG (Systems) shall inform the respective Chief Commissioner of Central Tax about the past IGST refunds granted to such risky exporters (along with details of bank accounts in which such refund has been disbursed).
- RMCC shall insert alerts for all such risky exporters and make mandatory 100% examination of export consignments relating to those risky exporters. Also, alert shall be placed to suspend IGST refunds in such cases.

Further on 19.06.2019, a Press Release was issued stating the status of the exports. The extract is reproduced for reference:

"*The CBIC has recently instructed its Customs and GST formations to verify the correct availment of input tax credit (ITC) by few exporters who are perceived as "risky" on the basis of pre-defined risk parameters. Only 5,106 risky exporters have been identified so far as against about 1.42 lakh total exporters. Thus the risky exporters are only 3.5% of the total exporters. Further, in the last two days i.e. 17.06.2019 and 18.06.2019 only 1,436 Shipping Bills filed by total 925 exporters have been interdicted. Considering that about 20,000 Shipping Bills are filed by roughly 9,000 exporters on a daily basis, the intervention is negligible. Even for these risky exporters, the exports are allowed immediately. However, the refund would be released after verification of ITC within a maximum of 30 days*."

VII. A registered person who has filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a given period, under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following two conditions:

(a) The registered person must have filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a certain period under a particular category; and

(b) No refund claims in FORM GST RFD-01A/RFD-01 must have been filed by the registered person under the same category for any subsequent period.

It may be noted that condition (b) shall apply only for refund claims falling under the following categories:

(i) Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;

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

(iii) Refund of unutilized ITC on account of accumulation due to inverted tax structure;

In all other cases, registered persons shall be allowed to re-apply even if the condition (b) is not satisfied

VIII. Any 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 an order in FORM GST RFD-06 for the amount refundable in cash and FORM GST PMT-03 to re-credit the amount attributable to credit as ITC in the electronic credit ledger.(Clarified vide *Circular No.135/05/2020 – GST dt.31.03.2020*)

IX. After the 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 had 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. However, this will not 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. (Clarified vide *Circular No. 139/09/2020 - GST*) The term "subsequently held" in section 77 of the CGST Act and section 19 of the IGST Act, 2017 covers both the cases where the inter-State or intra-State supply made by a taxpayer is either subsequently found by taxpayer himself as intra-State or inter-State respectively or where the inter-State or intra-State supply made by a taxpayer is subsequently found/ held as intra-State or inter-State respectively by the tax officer in any proceeding. Accordingly, refund claim under the said sections can be claimed by the taxpayer in both the above mentioned situations, provided the taxpayer pays the required amount of tax in the correct head. Further, the refund under the above referred sections can be claimed before the expiry of two years from the date of payment of tax under the correct head, i.e., integrated tax paid in respect of subsequently held inter-State supply, or central and state tax in respect of subsequently held intra-State supply, as the case may be. However, in cases, where the taxpayer has made the payment in the correct head before the date of issuance of *Notification No.35/2021-Central Tax dated 24.09.2021*, the refund application under section 77 of the CGST Act/ section 19 of the IGST Act can be filed before the expiry of two years from the date of

issuance of the said notification. i.e., from 24.09.2021. (clarified vide *Circular No. 162/18/2021-GST* dt. 25.09.2021 which provides detailed clarification in respect of refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act)

FTP – Benefits to Exporters

Under the aegis of Foreign Trade (Development and Regulation) Act, 1992, the Government announces its 'policy statement' for five years. It is comprised of (i) Foreign Trade Policy (ii) Handbook of Procedures and (iii) Industry Trade Classification – Harmonised System (ITC-HS). All three form one integral policy and implementation plan for the promotion of exports, curtailment of import of undesirable articles and overall regulation of cross-border trade.

The Policy does not impose any statutory levies. In order to make exports (earning forex) competitive, it strives to ensure that domestic taxes and duties are not exported by being loaded in the price of export product (goods or services). With the introduction of the GST, *ab initio* exemptions have been done away with for exporters. All duties must be paid and after completion of export, they will be paid back via the zero-rated benefits.

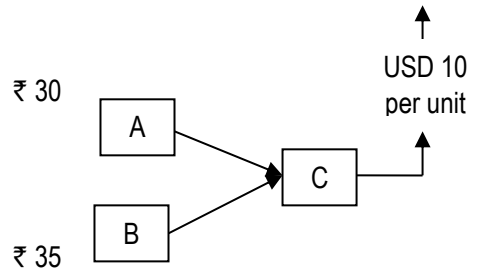
The Policy takes this to the next level in the form of:

- Recognizing 'free trade zones' and 'export oriented undertakings' that are export-focussed and enjoy variety for customs duty concessions and procedural relaxations. Customs duty exemption is allowed vide notification 50/2017-Cus. dated 30 Jun 2017 in respect of basic customs duty and IGST under the Customs Tariff Act;
- Prescribing 'duty free' procurement license/authorization on pre-export or post-export (for input replenishment) basis;
- Capital goods 'duty free' procurement license with associated export obligation is also allowed';
- Additional incentive in the form of 'tradable' license for service / merchandise exports.

Duty free import license / authorization – illustration of the working model

Neutralizing the effect of Indian trade taxes / duties is one of the ways of promoting exports without causing price disparity domestically for those products.

The illustration is as follows:



- A and B are used to produce C

- ₹ 30 and ₹ 35 are the import duties applicable to A and B respectively
- USD 10 is the per unit rate at which C is exported
- Additional data:
  - If duties are paid on A and B, price competitiveness of C is less by ₹ 65 per unit of export product
  - Exporter has secured an export order for exporting 1 million units of C and has been allowed 4 months to produce and supply. The time permitted under the contract is adequate to procure A and B, produce C and export it to the foreign customer
- Instead of paying duties on A and B, the exporter can apply for a license that allows him to (a) import A and B duty free and (b) export C within a certain time period and realize the foreign exchange.

This may be allowed in the form of a pre-export duty free procurement license. This type of license ought to have the following further conditions:

- Export order must be a 'firm contract'
- Value of foreign exchange to be earned from exports to be higher than the import payments
- Undertaking to be provided that export will be completed within a specified duration
- Undertaking to be provided that export proceeds will be received into India within a specified duration
- Variation in import prices is not to adversely affect the overall 'net' forex earnings
- Limit prescribed on the quantity of A and B permitted to be imported duty-free

This kind of pre-export license is essentially the feature of an Advance Authorization. This license is issued based on annual export forecast.

Now, if the export order is non-recurring, then the exporter may not like to import A and B, so he may be permitted to sell the license without any export obligation or sell A and B after importing them. This is the feature of Duty Free Import Authorization scheme which is allowed on post-export basis.

Further, the export order has to be fulfilled immediately and sufficient inventory of C is available with the exporter, then applying and obtaining Advance Authorization may not be possible. For this purpose, a post-export license may be allowed with the following further conditions:

- Input-output ratio is clearly known and notified (Standard Input Output Norms or SION)
- Inventory of C is not attached with any export obligations already

This kind of post-export license is a feature of Duty Free Import Authorization scheme. Key aspects of these licenses are:

Criteria	Advance Authorization	Duty Free Import Authorization
Pre-export	Yes	No
Post-export	No	Yes
Input-output ratio needed	Yes	Yes
Issued to manufacturer-exporter	Yes	Yes
Issued to merchant-exporter	Yes	No
For direct exports	Yes	Yes
For deemed exports	Yes	No
Against actual export orders	No	Yes
Against export projections	Yes	No
Minimum Value Addition condition	Yes (15%)	Yes (20%)
License transferable (post-exports)	No	Yes
Imported goods transferable (post-exports)	No	Yes

Benefits to 'supporting manufacturing' for such license/authorization holders:

Indigenous suppliers of articles required by Duty Exemption license-holders are also allowed the facility to import inputs required to manufacture these import-substitutes. Such indigenous manufacturers do not have any exports. But the Duty Exemption license-holders to whom the supplies are made will export and realize foreign exchange.

Based on this inter-relationship, indigenous suppliers are issued a domestic-sourcing- license by invalidation of inputs from within the SION of the Duty Exemption license-holders as these indigenous suppliers are supplying import-substitutes.

Various forms of this license issued to indigenous suppliers are:

- Advance Authorization or DFIA for intermediate supplies – permits indigenous suppliers to import their inputs on duty free basis to manufacture and supply to actual exporters (holding Duty Exemption license)
- Advance Release Order – permits indigenous suppliers to supply on duty-free basis the import-substitutes to actual exporters (holding Duty Exemption license)
- Back to back inland Letter of Credit – permits LCs to be issued by banks based on export contract of actual exporters (holding Duty Exemption license)
- Other key aspects to consider are:
    - Advance Release Order (ARO) may be issued along with respective Duty Exemption license or separately.
    - SION and other conditions *mutatis mutandis* apply in respect of Advance Authorization or DFIA for intermediate supplies

- No foreign exchange earning is required.
- Time limit allowed to be co-terminus with actual exporters (holding Duty Exemption license)

➢ Deemed Exports

Transactions where the goods do not leave the country, payment is received in Indian Rupees or in free foreign exchange and [Supply of goods as specified in Paragraph 7.02 of Foreign Trade Policy 2015-2020 shall be regarded as "Deemed Exports" provided goods are manufactured in India.] are regarded for limited purposes of FTP to be similar to exports. This is a fiction that cannot be extended beyond the purview of FTP.

Specified supplies are treated as 'deemed' exports and are eligible for certain benefits:

Supply by Manufacturer	*Supply by Contractor / Sub-contractor*
Sale of excisable goods to license holders (Advance Authorization or DFIA)	Supply to projects funded by notified Agencies / Funds (i) on duty-free supply terms of tender (ii) involving imported goods on 'delivered duty-paid' terms (iii) under international competitive bidding basis (iv) to specified agencies in App.7A
Sale of excisable goods to EOUs (all types)	Supply to projects (i) eligible to zero-duty supply u/n 12/2012-Cus. (ii) mega power projects u/n 12/2012-Cus. (iii) mega power projects on tariff based competitive bidding
Sale of capital goods to EPCG license holders	Supply to UN organization u/n 108/95-CE
	Supply to nuclear power projects (i) as per list 33/511 for setting-up u/n 12/2012 (ii) of >440 MW capacity (iii) certified by DoAE (iv) under national or international competitive bidding process

Benefits available are as follows:

- Advance authorization or DFIA
- Deemed export drawback
- Terminal excise duty refund (on applicable goods).

With the introduction of GST, except for the list of articles that continue to be liable to Central Excise duty, deemed export benefits have been realigned to be in harmony with incentives/duty neutralization measures in GST. Deemed exports as defined in FTP are not exactly the same as deemed exports notified under section 147 of the CGST Act (refer 48/2017-CT dated 18 October, 2017). Pursuant to this notification, various concessions have been allowed, namely:

Notification	Nature of GST Concession	Condition
48/2017-CT	Notifies deemed exports	Supplier to claim refund due to 'rate inversion' in his hands. As no refundable taxes paid by deemed-exporter, no refund remains to be availed
40/2017-CT (R)	Specifies CGST of 0.05% on supply to deemed exports	
41/2017-Int. (R)	Specifies IGST of 0.1% on supply to deemed exports	
78/2017-Cus.	Exempts IGST on imports	No refund since no IGST paid
79/2017-Cus.	Exempts IGST on imports	

Where the rate of GST has been reduced to 0.05% CGST for supplies by any Supplier where the Recipient and the Supply is included as a deemed export under GST. With this measure, the Supplier would be liable to charge 0.1% IGST or 0.05%+0.05% CGST-SGST though much higher rate of tax may have been paid on this Supplier's inputs. This results in an 'inverted rate' situation for the Supplier who is entitled to claim refund under section 54(3) of the CGST Act. Please note that this reduced rate of GST paid by the Recipient will be available as credit albeit for the nominal amount paid (refer para 13.2 of *Circular 37/11/2018-GST dated 15 March, 2018*).

Capital goods (export promotion) license:

Capital goods required for manufacture of export goods is also eligible to be procured at 'zero' duty. Under this scheme, imports of capital goods are permitted at 'zero' rate of duty for the manufacture of resultant export product specified in the EPCG Authorization. The export obligation (EO) is the equivalent value of 6 times of the duty saved to be fulfilled in 6 years.

Zero duty EPCG Authorization is valid for 18 months. Imports are permitted with the actual user condition attached. Performance monitoring is done closely and periodically to ensure there are no delinquencies which will attract demand of duty foregone with interest and penalty for such delinquency.

The Scheme applies to manufacture-exporters, merchant-exporters with supporting manufacturers attached and service-exporters certified by the DGFT as Common Service Provider.

EO can be fulfilled by export of goods / services of license-holder and exports under other duty free licenses will also be counted towards fulfilment of EO against EPCG license. If more than 75 per cent of EO is fulfilled in half the time permitted, then remaining EO will be condoned. Where there is shortfall in EO fulfilment, up to 5 per cent shortfall can be waived.

EPCG license-holder can source capital goods from indigenous sources and EO will be reduced by 25 per cent. Suppliers to EPCG license-holders will also be entitled to deemed export benefits. ARO will be issued in favour of local suppliers.

EOUs converting to DTA unit or SEZs relocating outside the zone may apply for such conversion with EPCG benefit so that no duties need be paid on the WDV of capital goods provided exports are expected to continue after such conversion / relocation.

Other key aspects:

- EPCG license to be registered at a single port for import endorsement. Exports can be from any port
- Exports to be against realization in freely convertible foreign exchange
- Names of supporting-manufacturer and merchant-exporter to be indicated on export documents
- Proof of export will be admitted based on agreement for export, invoice and GR/equivalent
- EO may be fulfilled block-wise – 50% within first four years and balance in the next two years. Block-wise EO fulfilment entails 2 per cent composition fee on duty relatable to shortfall in each block
- EO extension will be allowed on payment of 2 per cent composition fee on duty relatable to shortfall
- Suo moto exit from EPCG will be allowed on payment of proportionate duty and interest
- In case of more than one EPCG authorization, clubbing is permitted for ease of monitoring

Post export EPCG duty credit scrips are also available to exporters who import capital goods on payment of full duty. Incentive being allowed as duty credit (freely transferable) of the basic customs duty paid on the capital goods. EO would be 15 per cent lesser than under the duty-free EPCG license.

Specified Green Technology products are allowed EPCG authorization with 75 per cent of EO.

Incentive scheme for service / merchandise exports:

Exporters are granted a 'reward' to offset infrastructural inefficiencies and associated costs involved, under two schemes. Nature of this reward is grant of 'duty credit scrip' that may be used for payment of Customs Duty and Central Excise Duty (where applicable) on freely transferable basis. These scrips are not eligible for payment of GST (refer Q7 in FAQs issued by DGFT on GST changes, see link http://dgftcom.nic.in/exim/2000/DGFT-GST-FAQ.pdf)

Merchandise Exports from India Scheme (MEIS) is a reward computed on the FOB value of exports realized in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in freely convertible foreign currencies, whichever is less, unless otherwise specified and the percentage of this reward is specified in Appendix 3B of FTP 2015-20.

Service Exports from India Scheme (SEIS) is a reward computed on the basis of the 'net' free foreign exchange realized and the percentage of this reward is specified in Appendix 3D of FTP 2015-20.

Criteria	MEIS	SEIS
Eligible exports	Notified products to notified countries as per Appx. 3B	Notified services as per Appx. 3D above $ 15,000
Ineligible exports	Supplies to EOU, SEZ, deemed exports, products with minimum export price or export duty and other excluded exports	Foreign exchange received for other purposes like equity, debt, donation, loan repayment, etc. are excluded

Other key aspects to consider are:

- Duty paid by utilization of Duty Credit Scrip eligible for duty drawback.
- Duty Credit Scrips are valid for 18 months and revalidation is not permitted.

Care should be taken to avoid claiming SEIS scrip in cases that do not fall within Appendix 3D. It has been noticed that all service-exporters are making a beeline to claim SEIS scrip. Any benefit claimed under FTP is open for recovery if improper claim is discovered through an investigation. It must be ensured that the description of the service exported under other trade laws is in alignment with the description in Appendix 3D.

Duty credit scrips are classified under HSN 4907 and they are exempted from the whole of GST by an amendment to *Notification No. 2/2017-CT (R) dated 28th June, 2018* by *Notification No. 35/2017-CT (R) dated 13th October, 2017*. It is important to note that duty credit scrips are held to be 'goods' for the purposes of GST.

Note-

Scheme to support 'export oriented' undertakings

Export Oriented Units (EOU) is a scheme introduced more than 30 years ago in Chapter 6 of the FTP issued from time to time under the aegis of the Foreign Trade (Development & Regulation) Act, 1992.

Background discussion on Project Imports and Concessional Procurement Rules will help gain some understanding about the operational method of EOU. In case of an EOU, there is an oversight authority that reviews and approves the unit and all its imports-exports. Customs authorities examine compliance with the Customs Act in matters associated with imports-exports of such EOUs based on the 'in principle' approval granted by the oversight-authority. Development Commissioner is the oversight-authority for EOUs, Software Technology Parks of India (STTP) is for IT/ITES units and so on.

EOUs are permitted to undertake various kinds of activities, including making of gold/silver/platinum jewellery and articles thereof, and agricultural activities including agro-processing, aquaculture, animal husbandry, bio-technology, floriculture, horticulture, pisciculture, viticulture, poultry, sericulture and granites. EOUs are permitted to procure (import / domestic) goods required for the export product without payment of duties provided the condition of minimum foreign exchange earnings from exports is satisfied.

Exemption from duties is allowed *vide notification 52/2003-Cus. dated 31 March, 2003*. This notification grants exemption 'subject to conditions' without any requirement of 'warehousing'. EOUs have been delicensed since 13 August, 2016 and made liable to 'condition' of safe-keeping in the premises. End-use of exempt goods is validated at first by the oversight-authority and any movement or disposal thereafter is with the approval by Customs authorities. Finished goods manufactured by EOUs are permitted to be exported outside India, transferred to other EOUs or sold in DTA (units in Domestic Tariff Area). There is no incidence of duty on export and underlying obligation of duty foregone is passed on to a transferee-EOU. But in case of DTA sales, along with payment of GST (Central Excise in case of select goods still liable to CE duty) the finished goods will entail reversal of duties foregone on the inputs used in their manufacture (based on SION).

The products are exported directly from the EOU and there is no duty incidence on the export-product during the entire process from procurement-to-conversion-to-export. This is a highly efficient manner of operations. The only administrative activity is the 'two-tier approach' of approval and documentation: from the oversight-authority and from Customs.

EOUs are permitted to get some part of their operations sub-contracted through units that are not EOUs themselves or DTA units. Strict control is required to be exercised in documentation of removal from EOU, processing in DTA and return of processed material with wastage.

EOUs permitted to sell their finished product in DTA are monitored, based on their overall export earnings position such that it meets the minimum norms for the given industry. Since EOUs operate under a 'special condition' and not as a 'warehouse', provisions of section 65 do not apply in respect of DTA sales by EOUs, finished goods sold in DTA will be liable to GST along with reversal of exemptions availed.

Capital goods are permitted to be supplied to the customers of the EOU as required for their projects. Capital goods can be sent to sub-contractors also for use in processing materials for the EOU. All goods can be sent out of the EOU for test, repair, calibration, etc., with necessary approval (two-tier approach). And surplus goods (capital goods or raw materials) may be exported to a supplier, sold to other EOUs or de-bonded and removed from EOU. Local sale of capital goods as being put to use will be on payment of import duties that were earlier foregone but based on (a) the current duty rate as per section 15 and 46 and (b) the depreciated value of the goods at specified rates of depreciation.

Warehousing provisions recast in 2016 are:

- Warehouse (Custody and Handling of Goods) Regulations, 2016
- Special Warehouse Licensing Regulations, 2016
- Special Warehouse (Custody and Handling of Goods) Regulations, 2016
- Private Warehouse Licensing Regulations, 2016
- Public Warehouse Licensing Regulations, 2016
- Warehoused Goods (Removal) Regulations, 2016

Duty exemptions to EOUs are as follows:

Duty	Capital Goods	Inputs	Input Services
Basic customs duty	Exempt	Exempt	Exempt
Customs surcharge	Exempt	Exempt	Exempt
Additional customs duty*	Exempt	Exempt	Exempt
IGST and Cess*	Exempt	Exempt	Exempt

** exemption to expire on 1 October, 2018 vide 33/2018-Cus. dated 23 March, 2018*

In order to 'ease' doing business in India, 44/2016-Cus. dated 26 July, 2016 has brought about the following changes:

- Warehousing discontinued
- Duty exemptions continued
- Control through 'condition' monitoring

As a result, EOUs no longer have the levy 'suspended' but 'deferred'. This is a very significant change that has been brought about in relation to operation of EOUs. *Circular 35/2016-Cus.* dated 26th July, 2016 explains the nature of this change. With this change, EOUs are now a location within the *terra firma* of India and transactions with EOUs will entail GST.

Industry specific provisions are also in place. For example, Gem/Jewellery units, Service units, etc. Goods procured from DTA are regarded as 'deemed export' under the FTP (not in Customs Act) for those DTA suppliers who qualify for various duty-neutralisation benefits on their production and supply.

Periodic reporting requirements are involved to monitor imports, the extent of duty free facility availed, exports, foreign exchange earned, employment generated, etc. Any unit found deficit will be closely monitored or mentored out of the EOU scheme.

With permission of the oversight-authority and the customs department, EOUs can close down their operations after accounting and dealing with the goods (capital goods, raw material and finished goods) in the manner permitted.

Note-

1. Applicability of Foreign Trade Policy 2015-2020 and Hand Book of Procedures 2015-2020 has been extended till 31.03.2021.
2. Scheme for Rebate of State and Central Taxes and Levies (RoSCTL) notified by the Ministry of Textiles was adopted in foreign trade policy on 29th March, 2019 by inserting sub para (c) in para 4.1

   The Hon'ble Finance Minister, in budget speech 2020, has proposed a new scheme called "Remission of Duties and Taxes on Exported Products" (RoDTEP) which is expected to

be WTO compliant and allow for remission of incidence of duties and taxes on exported products. The scheme introduced covers the following:

- State Taxes under this scheme are
  - VAT on transportation fuel
  - Captive Power
  - Mandi Tax
  - Electricity Duty
  - Stamp Duty on all the Export Documents
  - SGST on inputs of production of cotton (raw) like fertilizers, pesticides, etc.
  - Taxes paid on purchases from unregistered dealers (non-creditable type taxes)
  - Inputs for Transport Sector
  - Coal used in production.
- Central Taxes and Levies under this scheme are:
  - Central Excise Duty on Transportation Fuel
  - CGST on all kinds of paid inputs like pesticides, fertilizers, etc.
  - Taxes paid on purchases from unregistered dealers (non-creditable type taxes)
  - Inputs for Transport Sector
  - CGST and Compensation Cess on Coal which is used for generation of electricity.
- Objective
  - To make Indian exports cost competitive and to create a level playing field for exporters in the International market;
  - To boost better employment opportunities in export oriented manufacturing industries

3. The refund would be claimed as a percentage of the Freight on Board (FOB) value of exports. In other words, benefits under such schemes will be allowed as a 'per cent' of the value of outward supplies.

54.17 FAQs

Q1. Is there a time limit to file a refund claim?

Ans. Generally, yes. The refund claim has to be filed within two years from the relevant date. However, if the tax or interest thereon or amount claimed as refund is paid under protest, the time limit is not applicable.

Q2. Whether there is any provision for condoning delay in filing refund claims beyond two years from the relevant date (where tax/interest/amount is not paid under protest)?

Ans. No. There is no provision to condone the delay and the refund claim will be rejected without getting into the merits of the refund claim.

Q3. Whether there is any procedure to pay tax/interest/amount under protest?

Ans. There is no mechanism or procedure set out in the GST Act. As per the practice prevailing under the erstwhile central indirect tax laws, a letter expressing the fact that the tax/interest/amount is being paid under protest setting out the reason may be sufficient to consider that the payment is made under protest.

Q4. What is the time limit for sanctioning a refund?

Ans. The refund has to be sanctioned within 60 days from the receipt of duly completed application containing all the prescribed information/documents.

Q5. What happens if the incidence of duty/tax has been passed on by the person claiming the refund?

Ans. The refund claimed and eligible will be credited to Consumer Welfare Fund.

Q6. Is there a minimum amount specified below which no refund can be claimed?

Ans. Yes. The minimum amount of refund payable should be rupees 1000.

Q7. Whether refund of unutilized credit at the end of tax period be claimed by a supplier who does not have any exports.

Ans. Yes. It is available in cases where the accumulation of credit is for the reason of tax rate on inputs and input services being higher than the rate of tax on outputs other than NIL rated or fully exempted outward supply.

Q8. Can the refund of Kerala Flood Cess be taken?

Ans. No. The refund of Kerala Flood Cess is not allowed.

54.18 MCQs

Q1. In case of refund claim on account of export of goods and/or services made by such category of registered taxable persons as may be notified in this behalf, what percent would be granted as refund on a provisional basis?

(a) 70%

(b) 65%

(c) 80%

(d) 90%

Ans. (d) 90%

Q2. What is the relevant date for refund on account of excess payment of GST due to mistake or inadvertence?

(a) Date of payment of GST

(b) Last day of the financial year

(c) Date of providing of service

(d) None of the above

Ans. (a) Date of payment of GST

Q3. Refund of accumulated input tax of inputs credit at the end of any tax period is eligible in cases of?

(a) Purchase of huge stocks

(b) Credit cannot be used for any reason.

(c) Exports and input tax rate of inputs is higher than the output tax rate

(d) Due to Exports only.

Ans. (c) Exports and input tax rate of inputs is higher than the output tax rate

Q4. The relevant date for computing time limit to claim refund in case of deemed exports supply of goods is the date

(a) of filing returns relating to such deemed exports;

(b) of goods leaving India;

(c) of payment of Tax;

(d) of receipt of consideration in Foreign Exchange;

Ans. (a) Date of filing returns relating to such deemed exports

Statutory Provisions

55. Refund in certain cases

The Government may, on the recommendation of the Council, by a notification, specify 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 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 of the CGST Rules, 2017

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* [58]*[or otherwise], 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.* [59]*[~~prepared on the basis of the statement of the outward supplies furnished by the corresponding suppliers in FORM GSTR-1~~.]*

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* [60]*[~~and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any~~]*

   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.*

Related Provisions of the Statute

Section or Rule	Description
Section 54	Refund of Tax
Rule 92	Order sanctioning refund

55.1 Introduction

This section deals with refund of taxes paid on notified supplies of goods or services or both received by certain specified agencies notified by the Government on the recommendation of the Council.

[58] Inserted vide *Notf no. 75/2017-CT dt 29.12.2017*
[59] Omitted vide *Notf no. 75/2017-CT dt 29.12.2017*
[60] Omitted vide *Notf no. 75/2017-CT dt 29.12.2017* and effective from 01.07.2017 vide *Notf no. 26/2018-CT dt.13.06.2018*

55.2 Analysis

This section provides that

(i) The Government is vested with powers to notify certain agencies on the recommendation of the Council, to be entitled to claim refund.

(ii) The agencies that can be notified are

  (a) any specialized agency of the United Nations Organization or

  (b) any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947,

  (c) any other person or class of persons as may be specified.

(iii) In addition to the above, Consulate or Embassy of a foreign country would also be eligible for a refund.

(iv) The agencies mentioned above would be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them. The refund claim is subject to such conditions and restrictions as may be prescribed,

55.3 Procedure for refund of tax

The Government vide *Circular No. 36/10/2018-GST dated 13.03.2018*, *Circular No. 43/17/2018-GST dated 13.04.2018, Circular No 60/34/2018 dated 04-09-2018 and Circular No. 63/37/2018-GST dated 14-09-2018* has clarified some of the issues to ensure uniformity which are as under:

(a) The 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.

(b) All the entities claiming refund shall submit the duly filled FORM RFD-10 in physical copy to the jurisdictional Central Tax Commissionerate. All refund claims shall be processed and sanctioned by the respective Central Tax offices. In order to facilitate processing of refund claims of UIN entities, a nodal officer has been designated in each State. Application for refund claim may be submitted to the designated Central Tax nodal officers in the State in which the UIN has been obtained.

(c) 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 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.

(d) The recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers / vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.

(e) Refunds can be claimed by UIN entities only or those inward supplies which are in accordance with the reciprocity letter issued by MEA.

(f) UIN entities should submit hard copies of invoices where UIN is not mentioned. One-time waiver is hereby given from recording the UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April 2018 to March 2019, subject to the condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer

(g) UIN entities must submit a copy of the 'Prior Permission letter' and mention the same in the covering letter while applying for GST refund on purchase of vehicles.

(h) The eligibility of refund for the personnel and officials posted in the Embassy/Mission/Consulate shall be determined based on the principle of reciprocity.UIN entities should give declaration as per Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts.

(i) The CSD are required to apply for refund on a quarterly basis. Till the time the online utility for filing the refund claim is made available on the common portal, the CSD shall apply for refund by filing an application in FORM GST RFD-10A (Annexure-A to this Circular) manually to the jurisdictional tax office. The said form shall be accompanied with the following documents:

  (i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD;

  (ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed;

  (iii) Copies of the valid return filed in FORM GSTR-3B by the CSD for the period covered in the refund claim;

  (iv) 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;

  (v) Details of the bank account in which the refund amount is to be credited.

  The procedure for issue of acknowledgment in RFD-02 and deficiency memo in RFD-03 is same as in case of other refunds.

  The amount of sanctioned refund in respect of central tax/integrated tax along with the bank account details of the CSD shall be manually submitted in the PFMS system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to the PAO for release of the said amount.

Checklist for processing UIN refunds

(a) Covering letter for each quarterly refund

(b) Final copy of **FORM GST RFD-10** with Application Reference Number (ARN)

(c) Final copy of **FORM GSTR-11**

(d) Statement of invoices as per Annexure D

(e) Certificate in case of goods that the goods have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts

(f) Undertaking in case of services that the services have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts

(g) Copy of the letter issued by the Protocol Division of the Ministry of External Affairs based on the principle of reciprocity

(h) Photocopies of only those invoices where UIN has not been recorded on the invoices by the supplier.

(i) A cancelled cheque of the bank account as mentioned in **FORM GST RFD-10** (to be submitted with only the first refund claim filed)

Note: In terms of Notification No. 55/2017 – Central Tax dated 15th November, 2017, Rule 97A has been inserted in the Central Goods and Service Tax Rules, 2017.

In terms of Rule 97A, refunds may be permitted to be filed manually and the processing of refund with respect to any notice, reply or order, among others, can also be issued / filed manually.

55.4 FAQs

1. Name the agencies that can be notified to be eligible to claim refund of taxes under Section 55 of the CGST Act.

Ans. 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 and any other person or class of persons as may be specified in this behalf, are the agencies that can be notified.

2. On what supplies, the agencies specified above are entitled to claim refund under this section?

Ans. The agencies specified above are entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.

55.5 MCQ

Q1. Who is empowered to notify the agencies that are entitled to claim refund under this section?

(a) The Government on the recommendations of the GST Council

(b) Board

(c) GST Council

(d) None of the above

Ans. (a) The Government on the recommendations of the GST Council

Statutory Provisions

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 an 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 purpose of this section, where any order of refund is made by an Appellate Authority, 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 of the CGST Rules, 2017

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 [61][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.

[61] Substituted vide *Notf no. 31/2019 – CT dt. 28.06.2019* with effect from a date to be notified later

56.1. Introduction

This section provides for payment of interest on delayed refunds beyond the period of sixty days from the date of receipt of application to avoid delays in sanctioning or granting of refund.

56.2. Analysis

(i) The section provides that interest is payable if –

- Tax paid becomes refundable under section 54(5) to the applicant; and
- It is not refunded within 60 days from the date of receipt of application for refund of tax under Section 54(1)

(ii) Interest is liable to be paid from the date immediately after the expiry of sixty days from the date of receipt of an application till the date of sanction or grant of refund.

(iii) For the above delay, the Government has specified 6% as the rate of interest vide *Notification No.13 /2017 – Central Tax dated 28.06.2017*.

Illustration:

A Ltd. filed a refund claim of excess tax paid with all the documents and records on 19.08.2017. The department sanctioned the refund on 30.11.2017. In such a case, interest has to be paid for the period from 19.10.2017 to 30.11.2017.

(iv) Explanation to the section provides that in cases where the orders of Appellate Authority / Tribunal / Court sanctions refund in an appeal, against the order of refund sanctioning authority, the order of Appellate Authority / Tribunal / Court will be considered as order passed by refund sanctioning authority. In other words, by virtue of such order, the refund has become due and the interest will then be computed from the date of completion of 60 days from the date of original refund claim made. For all such claims the Government has specified 9% as the rate of interest vide *Notification No.13 /2017 – Central Tax dated 28.06.2017*.

Illustration:

A Ltd filed a refund claim of excess tax paid with all the documents and records on 19.08.2017. It was rejected by the refund sanctioning authority. On appeal, the Appellate Authority passed the order for refund based on which the department sanctioned the refund on 30.09.2018. In this case, interest has to be paid for the period from 18.10.2017 to 30.09.2018.

(v) **Rule 94 provides for 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 advice in FORM GST RFD-05, specifying the following:

(a) Amount of refund which is delayed,

(b) the period of delay for which interest is payable and

(c) the amount of interest payable,

and such amount of interest shall be electronically credited to any bank account of the applicant.

56.3. Comparative review

The refund provisions under the GST regime are in line with the refund provisions envisaged in the erstwhile regime under Central Excise law under section 11BB of the Central Excise Act, 1944.

56.4. FAQs

Q1. Whether interest is payable only on the delayed sanction of refund of tax?

Ans. Yes. The provision for payment of interest is only with respect to delayed payment of refund of tax only and not on any other amount sanctioned as refund.

Q2. What would be the rate of interest on the delayed sanctioning of refund?

Ans. The government has specified 6% as the rate of interest for delay in refund under Section 54(5) and 9% for the delay of refund arising from an order passed by an adjudicating authority vide. *Notification No. 13 /2017 – Central Tax dated June 28, 2017*.

Q3. Whether interest is payable on delayed refund of unutilized input tax credit.

Ans. The provision only refers to refund claim under Section 48(1) relating to tax paid and not Section 54(3). Therefore, there is no provision for payment of interest on delayed refund of unutilized input tax credit.

56.5. MCQs

Q1. Interest u/s 56 is applicable on delayed payment of refunds issued under?

(a) Section 54

(b) Section 44

(c) Section 41

(d) Section 45

Ans. (a) Section 54

Q2. Interest U/s 56 has to be paid on delayed refunds, if the refund is not granted within…….

(a) 90 days

(b) 3 months

(c) 60 days

(d) None of the above

Ans. (c) 60 days

Statutory Provisions

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.

Extract of the CGST Rules, 2017

[62]**[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 subsection (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.

[63][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.]

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.

[62] Substituted vide *Notf no. 21/2018-CT dt. 18.04.2018* for Consumer Welfare Fund
[63] Inserted vide *Notf no. 26/2018-CT dt. 13.06.2018*

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;

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.

[64][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].

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);

e) [65]~~[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]~~.

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;*

[64] Inserted w.e.f 01.07.2017 vide *Notf no. 49/2019-CT dt. 09.10.2019*
[65] Omitted w.e.f. 01.07.2017 vide *Notf no. 49/2019-CT dt. 09.10.2019*

(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;

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]

Related Provisions of the Statute

Section or Rule	Description
Section 54	Refund of Tax
Section 58	Utilisation of Fund

57.1 Introduction

If the applicant is unable to prove that the incidence was not actually passed on to any other person then the refund amount is credited to the Consumer Welfare Fund.

The overall objective of the Consumer Welfare Fund is to provide financial assistance to promote and protect the welfare of the consumers and strengthen the consumer movement in the country.

57.2 Analysis

The following amounts will be credited to the Fund in such manner as may be prescribed, -

- All amounts of duty/central tax/ integrated tax /Union territory tax/cess
- income from investment along with other monies specified in section 12C(2) of the Central Excise Act, 1944.

However, in case of integrated tax and compensation cess as determined under Section 54(5), an amount equal to fifty percent of such sum shall be deposited in the Fund.

In case of any amount that has been credited to the Fund that is now ordered or directed to be to be paid to a claimant by the proper officer, Appellate Authority or Court, then, the same shall be paid from the Fund.

57.3 Audit of the Accounts of the Fund

Rule 97(3) provides that the accounts of the Fund shall be maintained by the Central Government and subject to audit by Comptroller and Auditor General of India.

57.4 Constitution of the Committee

Rule 97 of the CGST Rules provides that the Government shall 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 Committee shall meet as and when necessary, generally four times in a year.

57.5 Meeting of the Committee

Rule 97(5) provides that the committee shall be required to comply with the following with regard to its meetings:

- The committee shall meet as and when necessary, generally four times a year.
- The committee shall meet at such time and place as the Chairman, or in his absence, the Vice Chairman may deem fit.
- The meetings of the Committee shall be presided over by the Chairman, or in his absence by the Vice Chairman of the Committee
- A committee meeting shall be called after giving a minimum ten days' notice in writing to every member.

- The notice of the meeting of the Committee is required to specify the place, date and hour of the meeting along with a statement of business to be transacted thereat.
- A meeting shall not be valid, unless it is presided over by the Chairman, or in his absence, the Vice Chairman and attended by a minimum of three other members.

57.6 Powers of the Committee

The Committee shall have the following powers:

- To require any applicant to get registered with any Authority as the Central Government may specify;
- 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;
- 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;
- to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;
- 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;
- to recover any sum due from any applicant in accordance with the provisions of the Act;
- to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of their grant;
- to reject an application placed before it on account of factual inconsistency or inaccuracy in material particulars;
- 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;
- to identify beneficial and safe sectors, where investments may be made out of the Fund, and make recommendations, accordingly;
- to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;
- to make guidelines for the management and administration of the Fund.

57.7 Utilisation of funds by the Committee

Rule 97 of the CGST Rules also provides that 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.

The Rule also clearly lays down the manner in which the proceedings of the Committee are to be regulated, the powers that may be exercised and recommendations that may be made by such Committee

57.8 Comparative review

These provisions are broadly similar to the provisions contained in erstwhile Central Indirect Tax laws.

57.9 MCQs

Q1. In cases where the application of refund is found to be in order, the refund amount shall be credited to the…….

(a) Investor Protection and Education Fund

(b) Consumer Protection Fund

(c) Consumer Welfare Fund

(d) Refund Claim Fund

Ans. (c) Consumer Welfare Fund

Q2. The overall objective of the Consumer Welfare Fund is

(a) To facilitate a simplified refund mechanism.

(b) to promote and protect the welfare of the consumers and strengthen the consumer movement in the country.

(c) To boost the overall growth of the economy

(d) Both (a) and (c)

Ans. (b) to promote and protect the welfare of the consumers and strengthen the consumer movement in the country

Statutory Provisions

58. Utilization 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.

Related Provisions of the Statute

Section or Rule	Description
Section 54	Refund of Tax
Section 57	Consumer Welfare Fund

58.1 Introduction

The monies credited to the Consumer Welfare Fund are meant to provide financial assistance to promote and protect the welfare of the consumers and strengthen the consumer movement in the country.

58.2 Analysis

(i) It should be ensured that the monies credited to the Fund shall be utilized to provide assistance to protect the welfare of consumers as per the rules made by the Government

(ii) The Government shall maintain proper and separate records in relation to the Fund in consultation with the Comptroller and Auditor-General of India.

58.3 Comparative review

These provisions are broadly similar to the erstwhile provisions contained in Section 12D of the Central Excise Act, 1944.

58.4 FAQ

Q1. How can it be traced whether the amount in the fund is utilised for the welfare of the consumers?

Ans. The Government 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. From these records, it can be ascertained if the amount taken from the Fund have been utilised for the welfare of the consumers.

58.5 MCQ

Q1. Proper and separate account and other relevant records in relation to the Fund in prescribed form in consultation with the Comptroller and Auditor-General of India shall be maintained by ……

(a) the Government

(b) the authority specified by the Government

(c) the assessee who is claiming refund

(d) (a) or (b)

Ans. (d) (a) or (b)

Circular No. 125/44/2019 - GST

CBEC-20/16/04/18-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 18th November, 2019

To

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All) / The Principal Director Generals/ Director Generals (All) The Principal Chief Controller of Accounts (CBIC)

Madam/Sir,

Subject: Fully electronic refund process through FORM GST RFD-01 and single disbursement – regarding

After the roll out of GST w.e.f. 01.07.2017, on account of the unavailability of electronic refund module on the common portal, a temporary mechanism had to be devised and implemented wherein applicants were required to file the refund application in FORM GST RFD-01A on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of these refund applications, i.e., issuance of acknowledgement of the refund application, issuance of deficiency memo, passing of provisional/final order, payment advice etc. was also being done manually. In order to make the process of submission of the refund application electronic, Circular No. 79/53/2018-GST dated 31.12.2018 was issued wherein it was specified that the refund application in FORM GST RFD-01A, along with all the supporting documents, shall be submitted electronically. However, various post submission stages of processing of the refund application continued to be manual.

2. The necessary capabilities for making the refund procedure fully electronic, in which all steps of submission and processing shall be undertaken electronically, have been deployed on the common portal with effect from 26.09.2019. Accordingly, the Circulars issued earlier laying down guidelines for the manual submission and processing of refund claims need to be suitably modified and a fresh set of guidelines needs to be issued for electronic submission and processing of refund claims. With this objective and in order to ensure uniformity in the implementation of the provisions of law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), hereby lays down the procedure for electronic submission and processing of refund applications in supersession of earlier Circulars viz. Circular No. 17/17/2017-GST dated 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum

dated 18.07.2019), 59/33/2018-GST dated 04.09.2018, 70/44/2018-GST dated 26.10.2018, 79/53/2018-GST dated 31.12.2018 and 94/13/2019-GST dated 28.03.2019. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually as prior to the deployment of the new system.

Filing of refund applications in FORM GST RFD-01

3. 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:

(a) Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;

(b) Refund of tax paid on export of services with payment of tax;

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

(d) Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;

(e) Refund of unutilized ITC on account of accumulation due to inverted tax structure;

(f) Refund to the supplier of tax paid on deemed export supplies;

(g) Refund to the recipient of tax paid on deemed export supplies;

(h) Refund of excess balance in the electronic cash ledger;

(i) Refund of excess payment of tax;

(j) Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;

(k) Refund on account of assessment/provisional assessment/appeal/any other order;

(l) Refund on account of "any other" ground or reason.

4. The following modalities shall be followed for all refund applications filed in FORM GST RFD-01 on the common portal with effect from 26.09.2019:

(a) FORM GST RFD-01 shall be filled on the common portal by an applicant seeking refund under any of the categories mentioned above. This shall entail filing of statements/declarations/undertakings which are part of FORM GST RFD-01 itself, and also uploading of other documents/invoices which shall be required to be provided by the applicant for processing the refund claim. A comprehensive list of such documents is provided at Annexure-A and it is clarified that no other document needs to be provided by the applicant at the stage of filing the refund application. The facility of uploading these other documents/invoices shall be available on the common portal where four documents, each of maximum 5MB,

may be uploaded along with the refund application. 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.

(b) 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.

(c) As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the proper jurisdictional officer who shall be able to view it on the system. The application shall be deemed to have been filed under sub-rule (2) of rule 90 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 submitting 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 so received from the common portal.

(d) 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.

(e) 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.

5. The refund application in **FORM GST RFD-01** filed by all taxpayers, who have already been assigned to the Centre or 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. 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. 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 process. 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.

6. 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 being filed. However, in cases of a claim for refund filed by a composition taxpayer, a non-resident taxable person, or an Input Service Distributor (ISD) furnishing of returns in **FORM GSTR-1** and **FORM GSTR-3B** is not required. Instead, the applicant should have furnished returns in **FORM GSTR-4** (along with **FORM GST CMP-08**), **FORM GSTR-5 or FORM GSTR-6,** as the case may be, which were due to be furnished on or before the date on which the refund application is being filed.

7. Since the functionality of furnishing of **FORM GSTR-2** and **FORM GSTR-3** remains unimplemented, it has been decided by the GST Council to sanction refund of provisionally accepted input tax credit. However, the applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of section 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking has to be submitted electronically along with the refund claim.

8. The applicant may opt to file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund is filed, however, cannot spread across different financial years. Registered persons having aggregate turnover of up to ₹ 1.5 crore in the preceding financial year or the current financial year opting to file **FORM GSTR-1** on quarterly basis can only apply for refund on a quarterly basis or by clubbing successive quarters, as aforesaid. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier.

Deficiency Memos

9. It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in **FORM GST RFD-02 s**hould be issued within 15 days of the filing of the refund application. The date of generation of ARN for **FORM GST RFD-01** is to be considered as the date of filing of the refund application. Sub-rule (3) of rule 90 of the CGST Rules provides for communication of deficiencies in **FORM GST RFD-03** where deficiencies are noticed within the aforesaid period of 15 days. It is clarified that either an acknowledgement or a deficiency memo should be issued within the aforesaid period of 15 days starting from the date of generation of ARN. 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.

10. After a deficiency memo has been issued, the refund application would not be further processed and a fresh application has to be filed. Any amount of input tax credit/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 deficiency memo and file a fresh refund application electronically in FORM GST RFD-01 for the same period, and this application would have a new and distinct ARN.

11. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, 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.

12. It is also clarified that since a refund application filed after correction of deficiency is treated as a fresh refund application, such a rectified refund application, submitted after correction of deficiencies, shall also have to be submitted within two years of the relevant date, as defined in the explanation after sub-section (14) of section 54 of the CGST Act.

Provisional Refund

13. Doubts might arise as to whether provisional refund would be given even in those cases where the proper officer prima-facie has sufficient reasons to believe that there are irregularities in the refund application which would result in rejection of the whole or part of the refund amount claimed. It is clarified that in such cases, the proper officer shall refund on a provisional basis ninety percent of the refundable amount of the claim (amount of refund claim less than the inadmissible portion of refund so found) in accordance with the provisions of rule 91 of the CGST Rules. Final sanction of the refund shall be made in accordance with the provisions of rule 92 of the CGST Rules.

14. It is further clarified that there is no prohibition under the law preventing a proper officer from sanctioning the entire amount within 7 days of the issuance of acknowledgement through issuance of **FORM GST RFD-06,** instead of granting provisional refund of 90 per cent 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 the acknowledgement. In such cases, the issuance of a provisional refund order in **FORM GST RFD-04** will not be necessary.

15. Further, there are doubts regarding the procedure to be followed in situations where the final refund amount to be sanctioned in **FORM GST RFD-06** is less than the amount of refund sanctioned provisionally through **FORM GST RFD-04.** For example, in a situation where an applicant files a refund claim of ₹ 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, 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 74 of the CGST Act, requiring the applicant to show cause as to why:

(a) the claimed amount 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.

16. The proper officer for adjudicating the above case shall be the same as the proper officer for sanctioning refund under section 54 of the CGST Act. 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) above, then an amount of ₹ 70 will have to be sanctioned in **FORM GST RFD-06,** and an amount of ₹ 20 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**. Further, if the application pertains to refund of unutilized/accumulated ITC, then ₹ 30, i.e., the amount rejected, shall have to be re-credited to the electronic credit ledger of the applicant through **FORM GST PMT-03.** However, this re-credit shall be done 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 will finally be decided against the applicant. In such cases, it may be noted that **FORM GST RFD-08** and **FORM GST RFD-06** are to be considered as show cause notice and adjudication order respectively under both section 54 (for rejection of refund) and sections 73/74 of the CGST Act as the case may be (for recovery of erroneous refund).

17. It is further clarified that no adjustment or withholding of refund, as provided under sub-sections (10) and (11) of section 54 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

18. In case of refund claim on account of export of goods without payment of tax, the Shipping bill details shall be checked by the proper officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in the 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 consideration. wherever applicable. In this regard, Circular No. 26/26/2017–GST dated 29.12.2017 may be referred, wherein 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,** the proper officer shall refer to the said Circular and process the refund application accordingly.

19. Detailed guidelines laid down in subsequent paragraphs of this Circular covering various types of refund claims may also be followed while scrutinizing refund claims for completeness and eligibility.

Re-crediting of electronic credit ledger on account of rejection of refund claim

20. In case of rejection of refund claim of unutilized/accumulated ITC due to ineligibility of the input tax credit 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 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.

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

22. In case of rejection of a claim for refund, on account of any reason other than the ineligibility of credit, the process described in **para 20 and 21** above shall be followed with the only difference that there shall be no proceedings for the recovery of ineligible ITC under section 73 or section 74, as the case may be.

23. Consider an example where against a refund claim of unutilized/accumulated ITC of ₹ 100/-, only ₹ 80/- is sanctioned (₹ 15/- is rejected on account of ineligible ITC and ₹ 5/- is rejected 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 the refund claim amounting to ₹ 20/-should not be rejected under the relevant provisions of the law and why 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**. 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.

24. Continuing with the above example, assume that the applicant files an appeal against this order and the Appellate Authority decides wholly in the applicant's favour. It is hereby clarified 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".

25. It has been represented that while filing the return in **FORM GSTR-3B** for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero-rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of **FORM GSTR-3B** whilst they have shown the correct details in Table 6A or 6B of **FORM GSTR-1** for the relevant tax period and duly discharged their tax liabilities. Such registered persons were earlier unable to file the refund application in **FORM GST RFD-01A** for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricted the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of **FORM GSTR-3B** (zero rated supplies) filed for the corresponding tax period.

26. In this regard, it is clarified 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.

Disbursal of refunds

27. 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 of such 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 GSTRFD-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.

28. The sanctioned refund amounts, as entered in the payment orders issued by the Central and State/UT tax officers, shall be disbursed through the Public Financial Management System (PFMS) of the Controller General of Accounts (CGA), Ministry of Finance, Government of India. On filing 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 (a combination of GSTIN + validated bank account number) for the applicant. This unique assessee 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 is 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 GSTIN + new bank account) will be generated by PFMS after validation of the said bank account.

29. 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, an 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**

30. 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.

31. 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, it is possible that in some exceptional cases, a validation error might occur after issuance of the payment order. In such cases, the said 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 in **paras 29 and 30** 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.

32. 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 time of registration in **FORM GST REG-01**, or subsequently through filing a non-core amendment in **FORM GST REG-14.** 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.

33. 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.

34. 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 per cent (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. 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.

35. 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, sub-clause (b) of sub-section (6), sub-clause (a) of sub-section (7), sub-clause (a) of sub-section (8) and sub-clause (a) of sub-section (9) of Section 142 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 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.

Guidelines for refunds of unutilized Input Tax Credit

36. Applicants of refunds of unutilized ITC, i.e., refunds pertaining to items listed at (a), (c) and (e) in para 3 above, 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 claimed. The proper officer shall rely upon **FORM GSTR-2A** as an evidence of the accountability of the supply by the corresponding supplier(s) in relation to which the input tax credit has been availed by the applicant. Such applicants shall also upload the details of all the invoices on the basis of which input tax credit has been availed during the relevant period for which the refund is being claimed, in the format enclosed as Annexure-B along with the application for refund claim. Such availment of ITC will be subject to restriction imposed under sub-rule (4) in rule 36 of the CGST rules inserted vide Notification No. 49/2019-CT dated 09.10.2019. The applicant shall also declare the eligibility or otherwise of the input tax credit 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 – B, but which are not populated in FORM GSTR-2A, shall be uploaded by the applicant along with the application in **FORM GST RFD 01**. 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.

37. In case of refunds pertaining to items listed at (a), (c) and (e) in para 3 above, the common portal calculates the refundable amount as the least of the following amounts:

a) 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];

b) 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

c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

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:

a) Integrated tax, to the extent of balance available;

b) Central tax and State tax/Union Territory tax, 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, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

38. 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. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in **FORM GST RFD-01** is generated.

39. 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 entirely debited from the balance of compensation cess available in the electronic credit ledger.

40. The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails drawback in respect of Central tax. It is clarified that if a supplier avails drawback in respect of duties rebated under the Customs and Central Excise Duties Drawback Rules, 2017, he shall be eligible for refund of unutilized input tax credit of Central tax/ State tax/ Union Territory tax / Integrated tax/ 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 drawback in respect of Central tax.

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 ~~that he has not availed input tax credit on such invoices~~ [the amount does not exceed the amount of input tax credit availed in the valid return filed for the said tax period.] *Amended by Circular No. 147/2021*. 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 06.11.2017 needs to be complied with.

Guidelines for claims of refund of Compensation Cess

42. Doubts have been raised whether a registered person is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the zero-rated final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminium products, whereas cess is not levied on aluminium products. In this context, attention is invited to section 16(2) of the Integrated Goods and Services Tax Act, 2017 (hereafter referred to as the "IGST Act") which states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making

zero rated supplies. Further, section 16 of the IGST Act has been mutatis mutandis made applicable to inter-State supplies under the Cess Act vide section 11 (2) of the Cess Act. Thus, it implies that input tax credit of Compensation Cess may be availed for making zero-rated supplies. Further, by virtue of section 54(3) of the CGST Act, the refund of such unutilized ITC shall be available. Accordingly, it is clarified that a registered person making zero rated supply of aluminium products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal. Such registered persons may also make zero-rated supply of aluminium products on payment of Integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of Integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies.

43. Regarding issues related to the refund of accumulated input tax credit of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking on which clarifications have been sought since GST roll out, the same have been examined and are clarified as below:

a) **Issue:** A registered person uses inputs on which compensation cess is leviable (e.g. coal) to export goods on which there is no levy of compensation cess (e.g. aluminium). For the period July 2017 to May 2018, no ITC is availed of the compensation cess paid on the inputs received during this period. ITC is only availed of the Central tax, State tax/Union Territory tax or Integrated tax charged on the invoices for these inputs. This ITC is utilized for payment of Integrated tax on export of goods. Vide Circular No. 45/19/2018-GST dated 30.05.2018, it was clarified that refund of accumulated ITC of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking is available even if the exported product is not subject to levy of cess. After the issuance of this Circular, the registered person decides to start exporting under bond/LUT without payment of tax. He also decides to avail (through the return in FORM GSTR-3B) the ITC of compensation cess, paid on the inputs used in the months of July 2017 to May 2018, in the month of July 2018. The registered person then goes on to file a refund claim for ITC accumulated on account of exports for the month of July 2018 and includes the said accumulated ITC for the month of July 2018. How should the amount of compensation cess to be refunded calculated?

Clarification: In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of Central tax/State tax/Union Territory tax/Integrated tax was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. However, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be

admissible in respect of consignments exported on payment of Integrated tax. This process would be applicable for application(s) for refund of compensation cess (not claimed earlier) in respect of the past period.

b) **Issue:** A registered person uses coal for the captive generation of electricity which is further used for the manufacture of goods (say aluminium) which are exported under Bond/Letter of Undertaking without payment of duty. Refund claim is filed for accumulated Input Tax Credit of compensation cess paid on coal. Can the said refund claim be rejected on the ground that coal is used for the generation of electricity which is an intermediate product and not the final product which is exported, and since electricity is exempt from GST, the ITC of the tax paid on coal for generation of electricity is not available?

Clarification: There is no distinction between intermediate goods or services and final goods or services under GST. Inputs have been clearly defined to include any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Since coal is an input used in the production of aluminium, albeit indirectly through the captive generation of electricity, which is directly connected with the business of the registered person, input tax credit in relation to the same cannot be denied.

c) **Issue:** A registered person avails ITC of compensation cess (say, of ₹ 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e., ₹ 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the FORM GSTR-3B filed for the month as a result of which an amount of ₹ 50/- only is credited in the electronic credit ledger. The reversed amount (₹ 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares ₹ 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be ₹ 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the balance in the electronic credit ledger at the time of filing the refund claim is ₹ 50/- (assuming that no other debits/credits have happened), the common portal will proceed to debit ₹ 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction ₹ 50/- as the refund amount or ₹ 25/- (i.e.. half of the ITC availed after adjusting for reversals)?

Clarification: ITC which is reversed cannot be held to have been 'availed' in the relevant period. Therefore, the same cannot be part of refund of unutilized ITC on account of zero-rated supplies. Moreover, the reversed ITC has been accounted as a cost which would have reduced the income tax liability of the applicant. Therefore, the same amount cannot, at the same time, be refunded to him/her in the ratio of export turnover to total turnover. However, if the said reversed amount is again availed in a later tax period, subject to the restriction under section 16(4) of the CGST Act, it can be refunded in the ratio of export turnover to total turnover in that tax period in the same manner as detailed

in para 37 above. This is subject to the restriction that the accounting entry showing the said ITC as cost is also reversed.

Clarifications on issues related to zero-rated supplies

44. Export of goods or services can be made without payment of Integrated tax under the provisions of rule 96A of the CGST Rules. Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has been specified vide *Circular No. 8/8/2017–GST dated 4.10.2017*. It has been brought to the notice of the Board that in some cases, such zero-rated supplies were made before filing the LUT and refund claims for unutilized input tax credit got filed. In this regard, it is emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing a LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

45. Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of Integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months 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. The time period in case of services is 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. It has been reported that the exporters have been asked to pay Integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, payment of Integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

46. It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the applicant has not been prosecuted. The facility of export under LUT is available to all exporters in terms of *Notification No. 37/2017- Central Tax dated 04.10.2017*, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the *Circular No. 8/8/2017-GST dated 04.10.2017*, states that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under a bond. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self–declaration with every refund claim where the exports have been made under LUT is not warranted.

47. It has also been brought to the notice of the Board that in certain cases where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero-rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are meant for export and the same is done 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 determined under 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.

48. It is clarified that the realization of consideration in convertible foreign exchange, or in Indian rupees wherever permitted by the Reserve Bank of India, is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas in case of export of goods 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 is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

49. As per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. In terms of section 2 (47) of the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of Integrated tax. However, in the case of zero-rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of Integrated tax, LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e., the Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, the exporter would be eligible for refund of unutilized input tax credit of the Central tax, State tax, Union Territory tax, Integrated tax and compensation cess in such cases.

Refund of transitional credit

50. Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section

(3) of section 54 of the CGST Act. These are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "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". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under the Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus cannot be treated as part of 'Net ITC' and thus no refund of such unutilized transitional credit is admissible.

Restrictions imposed by sub-rule (10) of rule 96 of the CGST Rules

51. Sub-rule (10) of rule 96 of the CGST Rules restricted exporters from availing the facility of claiming refund of Integrated tax paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations were received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the Integrated tax paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 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 – Central Tax dated the 9th October, 2018 was issued to carry out the changes recommended by the GST Council. In addition, notification No. 39/2018-Central Tax dated 4th September, 2018 was rescinded vide *Notification No. 53/2018 – Central Tax dated the 9th October, 2018.*

52. The net effect of these changes is that any exporter who imported any inputs/capital goods in terms of *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 in terms of *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 in terms of notification No. 79/2017-Customs dated 13.10. 2017 or through domestic procurement in terms of *Notification No. 48/2017-Central Tax, 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.

Clarification on calculation of refund amount for claim of refund of accumulated ITC on account of inverted tax structure

53. 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 or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, 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 input tax credit. It is clarified 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 input tax credit accumulated on account of inverted tax structure.

54. There have been instances where while processing the refund of unutilized ITC on account of inverted tax structure, some of the tax authorities denied the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

(a) 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 paying 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.

(b) 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:

   i. 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).

   ii. 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.

   iii. 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/-.

   iv. 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/- (₹ 25/- and ₹ 360/- on Input A and Input B respectively).

v. 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/-.

vi. 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/-.

Refund of TDS/TCS deposited in excess

55. Tax deducted in accordance with the provisions of section 51 of the CGST Act or tax collected in accordance with the provisions of section 52 of the CGST Act is required to be paid while discharging the liability in **FORM GSTR 7** or **FORM GSTR 8,** as the case may be, by the deductor or the collector, as the case may be.

Circular No. 166/22/2021-GST dt. 17th Nov, 2021

Q. Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51 /52 of the CGST Act can be refunded as excess balance in the cash ledger?

A. The amount deducted/collected as TDS/TCS by TDS/ TCS deductors under the provisions of section 51 /52 of the CGST Act, as the case may be, and credited to the electronic cash ledger of the registered person, is equivalent to cash deposited in the electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose of discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers.

Any amount, which remains unutilized in the electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in the electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of the CGST Act.

56. It has been reported that, there are instances 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/State tax), thereby creating excess balance in the cash ledger of the deductor or the collector as the case may be. Doubts have been raised about the fate of this excess balance of TDS/TCS in the cash ledger of the deductor or the collector. It is clarified that such excess balance may be claimed by the tax deductor or the collector as the excess balance in the electronic cash ledger. In this case, the common portal would debit the amount so claimed as refund. However, in case where tax deducted or collected in excess is also 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, the deductee can adjust the same while discharging his output liability or he can claim refund of the same under the category "refund of excess balance in the electronic cash ledger".

Debit of electronic credit ledger using FORM GST DRC-03

57. Various representations have been received seeking clarifications on certain refund related issues, the solutions to which involve debiting the electronic credit ledger using **FORM GST DRC-03.** These issues are clarified as under:

Sl. No.	Issue	Clarification
1	Certain registered persons have reversed, through return in FORM GSTR-3B filed for the month of August 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 read with *Circular No. 56/30/2018-GST dated 24.08.2018* (hereinafter referred to as the "said notification"). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of **FORM GST RFD-01A** from being higher than the amount of ITC availed in **FORM GSTR-3B** of the relevant period minus the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?	a) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required (to be lapsed in terms of the said notification, is to be claimed under the category "any other" instead of under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure" in **FORM GST RFD-01A**. It is emphasized that this application for refund should relate to the same tax period in which such reversal has been made. b) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a "refund claim of unutilized ITC on account of accumulation due to inverted tax structure". On receiving the said application, the proper officer shall himself calculate the refund amount admissible as per rule 89(5) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), in the manner detailed in para 37 above. After calculating the admissible refund amount, as described above, and scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the

Sl. No.	Issue	Clarification
		whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03.** Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in **FORM GST RFD-05.** c) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in **FORM GST RFD-01** under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure".
2	The clarification at Sl. No. 1 above applies to registered persons who have already reversed the ITC required to be lapsed in terms of the said notification through return in FORM GSTR-3B. What about those registered persons who are yet to perform this reversal?	It is hereby clarified that all those registered persons required to make the reversal in terms of the said notification and who have not yet done so, may reverse the said amount through **FORM GST DRC-03** instead of through **FORM GSTR-3B.**
3	What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms of the said notification, through the return in FORM GSTR-3B for any month subsequent to August 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018?	a) As the registered person has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for a month subsequent to the month of August 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August 2018, he shall be liable to pay interest under sub-section (1) of section 50 of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in

Sl. No.	Issue	Clarification
		FORM GSTR-3B for the month of August 2018 till the date of reversal of said amount through **FORM GSTR-3B** or through **FORM GST DRC-03**, as the case may be. b) The registered person who has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for any month subsequent to August 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f. 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed, either through **FORM GSTR-3B** or **FORM GST DRC-03,** along with payment of interest, as applicable.
4	How should a merchant exporter claim refund of input tax credit availed on 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 23rd 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 23rd October, 2017 or notification No. 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 (hereinafter	a) Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted. b) This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category "any other" instead of under the category "refund of unutilized ITC on account of

Sl. No.	Issue	Clarification
	referred to as the "said notifications")?	exports without payment of tax" in **FORM GST RFD-01** and shall be accompanied by all supporting documents required for substantiating the refund claim under the category "refund of unutilized ITC on account of exports without payment of tax". After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03.** Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05.**

Refund of Integrated Tax paid on Exports

58. The refund of Integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter is deemed to be an application for refund in such cases, but the same is deemed to have been filed only when the export manifest or export report is filed and the applicant has filed the return in **FORM GSTR-3B** for the relevant period duly indicating the integrated tax paid on goods exported in Table 3.1(b) of **FORM-GSTR-3B**. In addition, the exporter is expected to furnish the details of the exported goods in Table 6A of **FORM GSTR-1** of the relevant period. Only where the common portal is able to validate the consistency of the details so entered by the applicant, the relevant information regarding the refund claim is forwarded to the Customs Systems. Upon receipt of the information from the common portal regarding the furnishing of these details, the Customs Systems processes the claim for refund and an amount equal to the Integrated tax paid in respect of such export is electronically credited to the bank account of the applicant.

Clarifications on other issues

59. *Notification No. 40/2017 – Central Tax (Rate)* and *Notification No. 41/2017 – Integrated Tax (Rate) both dated 23.10.2017* provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications. It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and

the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate. It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of 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. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of Integrated tax.

60. Sub-section (14) of section 54 of the CGST Act provides that no refund under subsection (5) or sub-section (6) of section 54 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.

61. Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self-declaration basis in FORM GSTR-3B for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2018, may be declared in the **FORM GSTR-3B** filed for a subsequent month, say September 2018. This is inevitable in cases where the supplier raises an invoice, say in August 2018, and the goods reach the recipient's premises in September 2018. Since GST law mandates that ITC can be availed only after the goods have been received, the recipient can only avail the ITC on such goods in the **FORM GSTR-3B** filed for the month of September 2018. However, it has been reported that tax authorities are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September 2018. In this regard, it is clarified that "Net ITC" as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been "availed" when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in **FORM GSTR-3B**. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August 2019 but "availed" in September 2019 cannot be excluded from the calculation of the refund amount for the month of September 2019.

62. It has been represented that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and, therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the applicant. It is clarified that the ITC of the GST paid on inputs, including inward supplies of stores and spares, packing materials etc., shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies and the ITC for such inputs is not

restricted under section 17(5) of the CGST Act. Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

Annexure-A

List of statements/declarations/undertakings/certificates and other supporting documents to be provided along with the refund application

Sl. No.	Type of Refund	Declaration/Statement/Undertaking/ Certificates to be filled online	Supporting documents to be additionally uploaded
1	Refund of unutilized ITC on account of exports without payment of tax	Declaration under second and third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Statement of invoices (Annexure-B)
		Statement 3 under rule 89(2)(b) and rule 89(2)(c)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Statement 3A under rule 89(4)	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
2	Refund of tax paid on export of services made with payment of tax	Declaration under second and third proviso to section 54(3)	BRC/FIRC /any other document indicating the receipt of sale proceeds of services
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Copy of GSTR-2A of the relevant period
		Statement 2 under rule 89(2)(c)	Statement of invoices (Annexure-B)
			Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period
			Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
3	Refund of unutilized ITC on account of Supplies made to	Declaration under third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Statement 5 under rule 89(2)(d) and rule 89(2)(e)	Statement of invoices (Annexure-B)

Sl. No.	Type of Refund	Declaration/Statement/Undertaking/ Certificates to be filled online	Supporting documents to be additionally uploaded
	SEZ units/developer without payment of tax	Statement 5A under rule 89(4)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Declaration under rule 89(2)(f)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)
		Undertaking in relation to sections 16(2)(c) and section 42(2) Self-declaration under rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
4	Refund of tax paid on supplies made to SEZ	Declaration under second and third proviso to section 54(3)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under the second proviso to rule 89(1)
	units/developer with payment of tax	Declaration under rule 89(2)(f)	Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period
		Statement 4 under rule 89(2)(d) and rule 89(2)(e)	Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
	Refund of ITC	Declaration under second and	Copy of GSTR-2A of the relevant

Sl. No.	Type of Refund	Declaration/Statement/Undertaking/ Certificates to be filled online	Supporting documents to be additionally uploaded
5	unutilized on account of accumulation due to inverted tax structure	third proviso to section 54(3)	period
		Declaration under section 54(3)(ii)	Statement of invoices (Annexure-B)
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Statement 1 under rule 89(5)	
		Statement 1A under rule 89(2)(h)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
6	Refund to supplier of tax paid on deemed export supplies	Statement 5(B) under rule 89(2)(g)	Documents required under Notification No. 49/2017-Central Tax dated 18.10.2017 and Circular No. 14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
7	Refund to the recipient of the tax paid on deemed export supplies	Statement 5(B) under rule 89(2)(g)	Documents required under Circular No. 14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l)	

Sl. No.	Type of Refund	Declaration/Statement/Undertaking/ Certificates to be filled online	Supporting documents to be additionally uploaded
		if the amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
8	Refund of excess payment of tax	Statement 7 under rule 89(2)(k)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
9	Refund of tax paid on intra-state supply which is subsequently held to be an inter-state supply and vice versa	Statement 6 under rule 89(2)(j)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
10	Refund on account of assessment / provisional assessment / appeal / any other order	Undertaking in relation to sections 16(2)(c) and section 42(2)	Reference number of the order and a copy of the Assessment / Provisional Assessment / Appeal / Any Other Order
		Self-declaration under rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	Reference number/proof of payment of pre- deposit made earlier for which refund is being claimed
11	Refund on account of any other ground or reason	Undertaking in relation to sections 16(2)(c) and section 42(2)	Documents in support of the claim
		Self-declaration under rule 89(2)(l) if the amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	

Annexure-B

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	Integrated Tax	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	**Date**	**Value**	Inputs/Input Services/capital goods	HSN/SAC					Yes/No/Partially	
1	2	3	4	5	6	7	8	9	10	11	12	13	14

NOTE:

Modifications in *Circular No. 125/44/2019-GST* (vide *Circular No.135/05/2020 – GST dated 31/03/2020*):

1. Bunching of refund claims across Financial Years:

Restriction on the clubbing of tax periods across financial years for claiming refund vide Paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 has been examined and it has been decided to remove the restriction on clubbing of tax periods across Financial Years.

2. Guidelines for refunds of Input Tax Credit under Section 54(3):

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 the 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 being reflected in the FORM GSTR-2A of the applicant.

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 reflected in the FORM GSTR-2A of the applicant. Accordingly, para 36 of *Circular No. 125/44/2019-GST, dated 18.11.2019* stands modified to that extent.

Further, CBIC *vide Circular No. 139/09/2020-GST dated 10-06-2020* has clarified that treatment of refund of ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will continue to be same as it was before the issuance of Circular No. 135/05/2020- GST, dated 31-03-2020.

3. Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate:

Refund of accumulated ITC in terms of 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. Where 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 output supplies are the same.

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

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.

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Clarification in respect of refund claim by recipient of Deemed Export Supply

Para 41 of *Circular No. 125/44/2019 – GST dated 18/11/2019* has placed a condition that the recipient of deemed export supplies for obtaining the refund of tax paid on such supplies shall submit an undertaking that he has not availed ITC on invoices for which refund has been claimed. It was clarified that there is no restriction under the 3rd proviso to Rule 89(1) of the CGST Rules, 2017 on the recipient of deemed export supply to claim refund of tax paid on such deemed export supply, and on availment of ITC on the tax paid on such supply.

Refund of Tax wrongfully collected and paid to Central Government or State Government

The term "subsequently held" in section 77 of CGST Act, 2017 or under section 19 of IGST Act, 2017 covers both the cases where the inter-State or intra-State supply made by a taxpayer, is either subsequently found by taxpayer himself as intra-State or inter-State respectively or where the inter-State or intra-State supply made by a taxpayer is subsequently found/ held as intra-State or inter-State respectively by the tax officer in any proceeding. Accordingly, refund claim under the said sections can be claimed by the taxpayer in both the above mentioned situations, provided the taxpayer pays the required amount of tax in the correct head.

An amendment in rule 89 of CGST Rules, 2017 clarifies that the refund under section 77 of CGST Act/ Section 19 of IGST Act, 2017 can be claimed before the expiry of two years from the date of payment of tax under the correct head, i.e., integrated tax paid in respect of subsequently held inter-State supply, or central and state tax in respect of subsequently held intra-State supply, as the case may be. However, in cases where the taxpayer has made the payment in the correct head before the date of issuance of *Notification No.35/2021-Central Tax dated 24.09.2021*, the refund application under section 77 of the CGST Act/ section 19 of the IGST Act can be filed before the expiry of two years from the date of issuance of the said notification. i.e., from 24.09.2021.