

E-Publication on Refund under GST



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FOREWORD

The Government provides certain reliefs and benefits to business houses to boost exports. One such benefit provided under GST laws is refund on Zero Rated Supplies including supplies to Special Economic Zone (SEZ). Additionally, Government has also introduced various export incentive schemes for businesses.

The pre-requisite behind refund in Indirect Taxes is the applicability of doctrine of unjust enrichment which holds good even in the GST regime. The refunds in GST are mainly related to: refund of tax paid on exports, refund of accumulated credit, zero rated, inverted duty structure and refund of wrongly paid tax on fulfillment of certain conditions.

Considering its paramount importance Indirect Taxes Committee of ICAI has come out with this **E-publication on "Refunds under GST"**. This is a guide wherein the provisions of GST related to refund have been dealt with. The various Export incentive schemes are also discussed in detail, which would help the readers in understanding various aspects of export transaction with respect to GST. Surely this guide will be a useful resource material for industry/ professionals as well as revenue officers.

I appreciate the efforts put in by CA. Madhukar N. Hiregange, Chairman, CA. Sushil Kumar Goyal, Vice-Chairman and other members of the Indirect Taxes Committee of ICAI for bringing out E-publication on Refunds under GST.

I am sure this e-publication guide would further facilitate our members in practice as well as in industry to acquire specialized knowledge and equip them to suitably deal with the challenges and complexities relating to the Refunds.

Date: 28.12.2018

Place: New Delhi

CA. Naveen ND Gupta

President, ICAI

PREFACE

Exports of goods and services have been the area of focus in all policy initiatives of the Government for more than 30 years. Every country is attempting to see that taxes do not stick to the cost of goods or services exported out of the country. India is also moving towards making its supplies competitive. However, the large number of indirect taxes like electricity, petrol/ diesel, stamp duty on commercial transactions which add to the cost of products continue in GST. The Government have been trying to make the system of refunds automatic under GST. However, it has not been realized till now due to challenges such as integrated IT platform, matching of ITC, interest of revenue etc.

The exporter has two options either export through Letter of Undertaking (LUT) without payment of taxes on outward supply and claim refund of ITC, alternatively with payment of taxes and claim cash refund of taxes paid on outward supply. Though both these alternatives serve the same purpose but there is difference in ITC benefit under different options. Where the export under LUT reduces the working capital requirement for exporter while with payment of taxes allow the refund of ITC on capital goods.

Considering the above facts, an effort has been made to bring out “**E-publication on Refunds under GST**” which provides analysis of the provision of laws relating to Exports and its associated benefit through refunds or otherwise. The E-publication aims to give a brief of the export incentive schemes, its applicability and impact on the export. It broadly covers aspects related to Registration requirements for exporters, various compliances by exporters like return filing, refund application etc. The publication also briefly covers comparison of refund provisions with earlier law.

We thank CA. Naveen N.D Gupta, President and CA. Prafulla Chhajed, Vice – President, ICAI for giving us the space to deliver and support for this initiative. Special thanks to the untiring effort of CA. Ashu Dalmia, CA. Jatin Harjai, CA. Hiren Pathak, CA Vinamar Gupta, CA. Bishan Shah for drafting and CA. Raja Jindal for reviewing this publication. We also appreciate the dedicated efforts of the entire Secretariat of Indirect Taxes Committee.

Welcome to a professionalized learning experience in GST.

CA. Madhukar Narayan Hiregange

Chairman

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CA. Sushil Kumar Goyal

Vice-Chairman

Indirect Taxes Committee

Date: 28.12.2018

Place: New Delhi

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Background and Concept of Refund

1.1 Concept of Refund

Under taxation parlance, refund means, any amount returned by the Government that was either paid in excess or was not exigible to tax. Refund of tax is the most delightful provision of any Taxation Law. GST was implemented from 1st July 2017 which subsumed all the indirect taxes that businesses earlier paid to the Centre and States separately, with the aim of creating a common market. It involved a complete overhaul of the existing indirect tax system.

GST is broadly an indirect tax imposed on supply of goods and services. It mainly lays emphasis on the smooth flow of funds and compliances. It is based on the concept of one nation one tax. To facilitate such a smooth flow, it is imperative to provide for a hassle-free refund process. There may be different possibilities of accumulation of credits or excess payment of taxes due to mistake and inadvertences. The whole objective of GST would be lost if a service provider is not in a position to claim refund in such type of cases. Hence, the concept of Refund in GST is of utmost importance for successful implementation of GST.

It may be noted that the cash flow and working capital requirements of manufacturers and exporters could be adversely affected if there is lack of smooth refund process in GST. Hence, one of the important aspects in implementation of GST is to ensure that the refund process is smooth and efficient so that manufacturers and exporters do not face issues in claiming the refund. As a result, GST regime aims at streamlining and standardising the procedures pertaining to refunds under GST.

In GST Law, the provisions relating to refund have been provided under Chapter XI of the CGST Act, 2017 (Section 54 to 58) read with Chapter X of CGST Rules, 2017 (Rule 89 to 97A). Similar provisions have been provided under State Acts as well. The process of claiming and sanctioning refund under GST will mainly be online and in a time bound manner.

The claim for refund may arise in the following circumstances:

- Export of goods or services
- Supplies to SEZs units and developers
- Deemed exports
- Refund of taxes on purchases made by UN or embassies etc.
- Refund arising on account of judgement, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
- Refund of accumulated Input Tax Credit on account of inverted duty structure
- Finalisation of provisional assessment
- Refund of pre-deposit
- Excess payment due to mistake
- Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India
- Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied
- Refund of CGST & SGST paid by treating the supply as intra State supply which is subsequently held as inter-State supply and vice versa.

The GST law has provided new refund schemes that was not defined under the previous indirect tax structure such as:

- Refund of wrongly paid taxes
- Refund under Inverted Duty Structure
- Refund for International tourists

However, before going further it is imperative to mention that grant of Refund requires examination of the following aspects:

- refunds must follow a process of inquiry and adjudication
- identifying who has 'paid' the tax and who has 'paid for' the tax
- the rightful person entitled to restitution is identified
- there is a limitation as to how far back one can go to make a claim for excesses
- jurisdiction of every other authority is precluded

Tax refund for International tourists' scheme provides an opportunity to foreign tourists to buy goods manufactured during their stay in any Country and claim the refund of tax suffered by such goods at the time of their exit from the Country. This is an internationally accepted practice by various Countries to encourage the sale of their goods to foreign tourists. In GST regime, this practice is being implemented by the Government to boost the sale of Indian products in International market.

1.2 Refund - Objective in relation to export promotion

Promoting exports in India has always been noteworthy for the Government and various measures have been adopted for the same from time to time. Grant of refund to exporters is one of the measures to promote exports in India. Exporters generate valuable foreign exchange for our country and therefore, it is necessary to take care of the exporters.

It is also an internationally accepted principle to make sure that exports are not burdened with any of the taxes or duties. For fulfilling this purpose, Government has announced a number of policies giving various options to the exporters to make their exports tax-free.

Under GST regime, money is refunded under the zero-rating principle to promote exports. It has been ensured that the tax refunds are done at the earliest so that the rhythm in export growth is maintained.

1.3 Inverted Duty Structure

There may be a situation where the tax rates on inputs is higher than tax rates paid on outward supplies called "Inverted Duty Structure". Inverted duty structure will generally result in accumulation of excess/unutilized input tax credits.

Since rate of tax on outward supplies is lesser than the rate of tax on inputs, this results in accumulation of unutilized input tax credit and thus there arises a need for refund.

Refund under the Erstwhile Law

2.1 Refund provisions in Service Tax and Excise laws

Refund is the important aspect of any tax law which existed in Service Tax and Excise regime as well. Under the erstwhile indirect tax regime, tax refunds were allowed in various ways.

Under Excise Law, the following refunds were allowable:

- ◆ Tax paid on purchase of goods for export
- ◆ Tax paid on inputs that are used for manufacturing goods for exporting
- ◆ Accumulation of input tax credit because of output supplies being either exports or zero rate sales
- ◆ Unspent advance deposits lying in balance
- ◆ Tax paid by the manufacturer, if he has not passed the incidence of such tax to any other person,
- ◆ Tax paid by the buyer, if he has not passed the incidence of such tax to any other person

Under the Service Tax Law, the following refunds were allowable:

- ◆ Service tax paid in excess
- ◆ Tax paid cannot be adjusted against future tax liabilities that may arise
- ◆ Input tax credit (accumulated) has been used for provision of output services that were exported without paying service tax
- ◆ Refund of unutilized CENVAT Credit to service providers providing services liable under partial reverse charge basis
- ◆ Service tax paid on specified services by exporters of goods
- ◆ Refund of Service tax paid on services received and used for authorised operations by SEZ Unit/ Developer

2.2 Comparison with Erstwhile Law

Tax laws applicable in our country, prescribe duties to be charged on goods and services meant for import and export. Under the erstwhile indirect tax regime, excise duty, service tax, customs duty, VAT were all levied on different value and sometimes lead to cascading. Under the GST regime, all these taxes have been subsumed into a single tax i.e. GST. Customs duty however will be continued to be levied additionally on import of specified goods. In this Chapter, we have highlighted the differences in the tax implications for exports and imports by drawing a comparison between the two regimes.

S. No.	Issues	Erstwhile Regime	GST Regime
1.	Import of Goods	<ul style="list-style-type: none"> • A countervailing duty or CVD at the rate equal to the rate of excise and a special additional duty or SAD at the rate equivalent to VAT is required to be paid on the import of goods. • If the imported goods are used 	<ul style="list-style-type: none"> • Customs duty and IGST are the two taxes payable on goods that are imported (CVD and SAD are replaced by IGST). • A full tax credit can be claimed as a refund of the IGST paid on import of goods, thus full refund

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		<p>for further manufacturing of dutiable goods or provision of taxable services in India then the CVD paid can be availed as input tax credit; in case the importer is merely a trader, input tax credit cannot be availed.</p> <ul style="list-style-type: none"> • SAD may be availed as a refund, conditionally. 	<p>of CVD and SAD can now be claimed on Imports.</p>
2.	Import Services of	<ul style="list-style-type: none"> • Upon importing a service into India, service tax needs to be paid on such service at the applicable rate. Tax credit can be claimed by an importer of services on the service tax so paid. 	<ul style="list-style-type: none"> • Upon importing a service into India, GST needs to be paid on such service at the applicable rate under reverse charge mechanism. (Tax Credit can be claimed)
3.	Exports	<ul style="list-style-type: none"> • Exports of goods and services is zero rated • Tax refund may be claimed by an exporter on any inputs that are used for manufacturing, purchasing or providing the exported goods or services. 	<ul style="list-style-type: none"> • Under GST also tax refund may be claimed by an exporter on any inputs that are used for manufacturing, purchasing or providing the exported goods or services; exporter need not file refund application under various acts thus not resulting into blockage of working capital, wastage of time and ensures smooth flow of input credit.
4	Disallowance of credit on certain items	<ul style="list-style-type: none"> • There are a few non-creditable commodities and services under VAT as well as CENVAT rules 	<ul style="list-style-type: none"> • There are a few non-creditable commodities and services under GST Regime as well which are specified u/s 17(5) of the CGST Act, 2017.
5	Disallowance of inputs or input services utilized in exempted commodities or services	<ul style="list-style-type: none"> • Not permitted. 	<ul style="list-style-type: none"> • Not permitted.
6.	Cascading Effect	<ul style="list-style-type: none"> • Under VAT, credit between service tax and excise duty is available, but there is no set-off against VAT on excise duty. • This Problem arises because credit of CST and many other taxes are not allowed. 	<ul style="list-style-type: none"> • Under GST, credit available on the whole amount of taxes up to retailer.
7	Time limit for	<ul style="list-style-type: none"> • Before the expiry of one year 	<ul style="list-style-type: none"> • Should be filed within a period of

Refund under the Erstwhile Law

	filing application for refund	from the relevant date.	maximum of 2 years from the relevant date.
8.	Minimum amount of refund	<ul style="list-style-type: none">• No Refund if amount is less than Rs. 100	<ul style="list-style-type: none">• No Refund if amount is less than Rs 1000
9.	Payment mode of refund	<ul style="list-style-type: none">• By cheque/direct credit in bank account	<ul style="list-style-type: none">• Credited directly in the bank account

As far as refund is concerned following are the few aspects which differ under GST regime-

1. No requirement for filing refund application under various Acts.
2. Time limit for filing refund application has been increased.
3. Seamless flow of Input Tax Credit across the value chain.

Incentives for Export

3.1 Concessional Tax Rates for Merchant Exporters

Merchant Export Under GST

"Make in India" is the focus of the current government. As a result, to promote the same in export chain, importance of Merchant exporters is quite significant. Merchant export is a common terminology used under EXIM policy. It always relates to export of "goods" and not for export of "services". The person exporting goods without having own manufacturing facility is called a merchant exporter whereas person manufacturing and then exporting is called Manufacturer exporter. As these persons act as a bridge between manufacturers in DTA (Domestic Tariff Area) and foreign importers, their role is vital in foreign exchange earnings for the Country.

It might be possible that due to manufacturing capacity constraints, a manufacturer, to fulfil its export orders, may buy goods from another manufacturer in the DTA. They are called manufacture merchant exporter.

Definition of Merchant Exporter

As per Foreign Trade Policy (2015-20), Para 9.33 "Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods.

In terms of Para 9.32 of FTP, "Manufacturer Exporter" means a person who exports goods manufactured by him or intends to export such goods.

Merchant Exports in Pre-GST regime

Previously under the pre-GST regime Merchant exporters were exporting goods on execution of B-1 bond with Surety before Central Excise Authorities or before the Maritime Commissioners. Then they had to obtain Form C.T-1 certificate from the said authorities for procuring goods from a factory or warehouse without payment of tax for export. The same had to be handed over to the Manufacturer-Supplier with duly signed ARE-1 Form. When goods got ready for despatch the supplier used to submit a copy of the CT-1 certificate along with ARE-1 Form duly counter signed by him to the jurisdictional Central Excise officer. After following verification procedures, the said Central Excise officer used to allow goods for stuffing into container.

Merchant exporter used to arrange proof of export documents and provide to the manufacturer supplier for onward submission to the jurisdictional Deputy / Assistant Commissioner of Central Excise in order to discharge export obligation. With regard to waiver of CST the Merchant exporter used to collect H form, from the Sales Tax department and provided the same to the Manufacturer Supplier for onward submission to the Sales tax authority.

Post - GST regime

In the GST regime, export & import is governed under IGST Act. As per the provisions of IGST Act, 2017, supplies of goods and services for exports, are to be treated as "Zero-rated supplies",

Now Merchant exporter and manufacturer exporter are having equal status under GST regime. With this provision, merchant exporters are required to pay GST to the manufacturers and then apply for refunds. Due to some nuances of GST law and technology driven hiccups, there was delay in getting refunds. As a result, exporters had to suffer working capital crunch and exports in the country got hampered. To overcome the same, the Government exempted the intra-State supply of taxable goods by a registered

supplier to a registered recipient for export and reduced GST rate of 0.1% vide Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017 subject to fulfilment of certain conditions.

Refund of IGST / Un-utilized Input Tax Credit

Exporters have two options either to avail refund of IGST paid on export of goods under Rule 96 of CGST Rules, 2017 or make exports without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the IGST Act, 2017 in case of zero-rated supply of goods or services or both.

Manufacturer exporters have to claim refund of ITC for the goods manufactured and exported, and charge 0.10% IGST on the supplies made by them to Merchant Exporters.

Due to technical development of the refund module on the common portal, the C.B.E. & C vide Circular No.17/17/2017 has prescribed the following conditions and procedures for the manual filing and processing of the refund claims:

1. The registered person may make zero-rated supplies of goods or services or both on payment of integrated tax and claim refund of unutilized input tax credit in relation to such zero-rated supplies.
2. The application for refund of IGST paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services is required to be filed in FORM GST RFD-01A by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional officer along with all necessary documentary evidences as applicable within the time stipulated for filing of such refund under the CGST Act.
3. The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in FORM GST RFD-01A on the common portal and the amount claimed as refund shall get debited in the electronic ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN-Acknowledgement Receipt Number) which would be mentioned in the FORM GST RFD-01A submitted manually, along with the print out of FORM GST RFD-01A to the jurisdictional proper officer, and with all necessary documentary evidences as applicable within the time stipulated for filing of such refund under the CGST Act.
4. The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities.
5. On receipt of a refund application in FORM GST RFD-01A in the office, an entry shall be made in a refund register. Once verification process is completed, an acknowledgement in FORM GST RFD-02 shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register for receipt of refund applications.
6. In case of any deficiency in refund claim, a deficiency memo shall be issued by the proper officer in FORM GST -03 to the claimant manually instead of common portal.
7. The proper officer shall grant provisional refund within 7 days of receipt of refund application and an order shall be issued in FORM GST RFD-04 along with payment advice to be issued in FORM GST RFD-05. The refund amount would be made directly electronically into the claimant's Bank account mentioned in the registration.
8. After the sanction of the provisional refund, final order in FORM GST RFD-06 is to be issued within 60 days after due verification of the documentary evidences and receipt of complete application form.

Pre-audit of the manually processed refund applications is not required to be carried out. The proper officer shall issue the refund order manually. The details of the refund along with taxpayer bank account details shall be manually submitted in PFMS system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to PAO office for release of payment and amount if any will be paid by an order with payment advice in FORM GST RFD-05.

9. The refund application for various taxes i.e. CT/ST/UT/IT/Cess can be filed with any one of the tax authorities and shall be processed by the said authority; however, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Centre or State Government and communicated to the concerned counter-part tax authority within three days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.
10. As per sub-rule (4) of rule 89 of CGST Rules, 2017 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 IGST Act, 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.

Net ITC has been defined to 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".

In a nutshell, the provisions relating to refunds for Merchant export is similar to normal export and enjoys the benefit of Zero-rated supply. Looking at the working capital issues, due to delays in refund, merchant exporter can buy goods, by making payment of GST @ 0.1% only, w.e.f 23.10.2017.

3.2 Exemption for Ocean Freight

As per notifications no. 2/2018 central tax (rate) & 14/2018, Services by way of transportation of goods by an aircraft or vessel from customs station of clearance in India to a place outside India had been exempted for the benefit of exporters till 30.09.2019. Meaning thereby to resolve working capital issue of the exporters the exemption is granted with a sunset clause.

3.3 Merchandise Exports from India Scheme

The Government of India has introduced Merchandise Exports from India Scheme (MEIS) through the Foreign Trade Policy (FTP) 2015-20 w.e.f. April 1, 2015. It seeks to promote export of notified goods manufactured/ produced in India. MEIS is a major export promotion scheme of GOI implemented by the Ministry of Commerce and Industry.

It is a step towards major consolidation and simplification; previously there were different schemes for rewarding merchandise exports with different kinds of duty scrips; now all these schemes have been merged into a single scheme, namely Merchandise Exports from India Scheme (MEIS). The Major object of introduction of MEIS scheme is to offset the infrastructural inefficiencies faced by exporters of specified goods and provide a level playing field.

Rewards under MEIS are payable as a 2, 3, 4 or 5% of realized FOB value of covered exports, by way of MEIS duty credit scrip. The scrip can be transferred or used for payment of a number of duties/taxes including the customs / excise duty / service tax. Scrips and inputs imported under the scrips are fully transferable. This has provided much flexibility to exporters. Earlier schemes had many conditions attached with the scrips about their usage and importability of items. All scrips issued under MEIS and the goods imported against these scrips are fully transferable. It is also pertinent to note that the incentives under MEIS are available to units located in SEZs also. As per the said scheme the scrips cannot be used to make payments of GST but can be used for payment of Customs Duty.

3.4 Service Exports from India Scheme (SEIS)

As per Foreign Trade Policy of India 2015-2020, Service Providers of notified services, located in India, shall be rewarded under SEIS, subject to conditions as may be notified. Only Services rendered in the manner as per Para 9.51(i) and Para 9.51(ii) of this policy shall be eligible for benefits under this scheme.

The various services eligible to claim benefits under the SEIS are enumerated in the following paragraphs.

1. *Business Services*

A. Professional services

Legal services, Accounting, auditing and bookkeeping services, Taxation services, Architectural services, Engineering services, Integrated engineering services, Urban planning and landscape architectural services, Medical and dental services, Veterinary services, Services provided by midwives, nurses, physiotherapists and paramedical personnel.

B. Research and development services

R&D services on natural sciences, R&D services on social sciences and humanities, Interdisciplinary R&D services.

C. Rental/Leasing services without operators

Relating to ships, aircraft, other transport equipment, and other machinery and equipment

D. Other business services eligible

Advertising services, Market research and public opinion polling services Management consulting service, Services related to management consulting, Technical testing and analysis services, Services incidental to agricultural, hunting and forestry, Services incidental to fishing, Services incidental to mining, Services incidental to manufacturing, Services incidental to energy distribution, Placement and supply services of personnel, Investigation and security, Related scientific and technical consulting services, Maintenance and repair of equipment (excluding maritime vessels, aircraft or other transport equipment), Building cleaning services, Photographic services, Packaging services, Printing, publishing and Convention services.

2. *Communication services*

Audio visual services: Motion picture and video tape production and distribution service, Motion picture projection service, Radio and television services, Radio and television transmission services, Sound recording

3. *Construction and related engineering services*

General Construction work for building, General Construction work for Civil Engineering, Installation and assembly work, Building completion and finishing work

4. *Educational services (SEIS benefits not available to Capitation fee)*

Primary education services, Secondary education services, Higher education services, Adult education.

5. *Environmental services*

Sewage services, Refuse disposal services, Sanitation and similar services

6. *Health-related and social services.*

Hospital services

7. *Tourism and travel-related services.*

- A. Hotels and Restaurants (including catering)
- B. Travel agencies and tour operator's services
- C. Tourist guides services

8. Recreational, cultural and sporting services (other than audio visual services)

Entertainment services (including theatre, live bands and circus services), News agency services, Libraries, archives, museums and other cultural services, Sporting and other recreational services.

9. Transport services (Operations from India by Indian Flag Carriers only is allowed under Maritime transport services)

A. Maritime Transport Services

Passenger transportation (Operations from India by Indian Flag Carriers only is allowed under Maritime transport services), Freight transportation (Operations from India by Indian Flag Carriers only is allowed under Maritime transport services), Rental of vessels with crew (Operations from India by Indian Flag Carriers only is allowed under Maritime transport services), Maintenance and repair of vessels, Pushing and towing services, Supporting services for maritime transport.

B. Air transport services

Rental of aircraft with crew, Maintenance and repair of aircraft, Airport Operations and ground handling.

C. Road Transport Services

Passenger transportation, Freight transportation, Rental of Commercial vehicles with operator, Maintenance and repair of road transport equipment, supporting services for road transport services.

D. Services Auxiliary to All Modes of Transport

Cargo-handling services, Storage and warehouse services, Freight transport agency services.

Benefit allowed under this scheme is 3% to 5% as per nature of services supplied but the same cannot be used for the payment of GST as per trade notice no. 11/2017 dated 30th June 2017 issued by DGFT.

Summary

Merchandise Exports from India Scheme (MEIS) is a reward computed on the FOB value of exports realized in free foreign exchange and the percentage of this reward is specified in Appendix 3B of the Foreign Trade Policy 2015-20.

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

Criteria	MEIS	SEIS
Eligible exports	Notified products to notified countries	Notified services 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 Scrips eligible for duty drawback
- Duty Credit Scrips are valid for 18 months and revalidation will not be permitted

Effect of GST

Duty credit scrips are classified under HSN 4907 and they are exempted from the whole of GST by an amendment to *Notification 2/2017-CT (R) dated 28th June 2018* by notification 35/2017CT (R) dated on 13 October 2017. It is important to note that duty credit scrips are held to be 'goods' for the purposes of GST.

3.5 Advance Authorization

Post implementation of GST i.e. from 01.07. 2017 the benefits under the Advance Authorization (AA) scheme shall be restricted to BCD, Safeguard Duty, Transitional Product Specific safeguard duty and Anti-dumping duty in respect of goods liable to IGST and for the specified items. As a result, the benefit is not available for the payment of GST.

Due to this severe working capital crunch was created amongst the exporters fraternity. To prevent such cash blockage of exporters as they were paying upfront GST, the GST council at its 22nd Meeting held that for immediate relief to the exporters the Advance Authorization (AA) scheme is being extended to source inputs etc. from abroad as well as indigenously. Now, exporters will be able to procure their inputs both domestically and from abroad with exemption from paying GST. Domestic supplies to holders of Advance Authorization (AA) would be treated as Deemed Exports under section 147 of CGST/SGST Act and refund of tax paid on supplies will be made to suppliers.

3.6 Duty Free Import Authorization under Export Promotion Capital Goods

When GST was introduced, only basic customs duty was exempted on imports made under EPCG authorisation and Importer/Exporter had to pay IGST on imports and take ITC of the same. But as explained above there was acute working capital blockage of exporters. As a result, in the 22nd meeting the GST council decided to source capital goods by holders of authorisations under EPCG without payment of IGST. Moreover, domestic supplies to holders of EPCG will be treated as deemed exports under section 147 of CGST/SGST Act and refund of tax paid on such supplies given to the suppliers.

Basic Legal Provisions relating to Refund

4.1 What is Refund?

Generally, Tax Refund means a refund of taxes when the tax liability is less than the taxes paid. In GST, need for Refund arises when a supplier has accumulated input tax credit but there is no corresponding liability to pay tax, as he is making Zero rated supply. Alternatively, he is discharging liability which in fact he is not required to and consequently claiming back GST already paid.

Provision for Refund contains in section 54 of CGST Act. The Explanation below this section provides that "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) of section 54.

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

- any tax (which was excess paid);
- interest paid on such tax;
- any other amount paid (which was not required to be paid);
- input tax relating to goods and/or services that are exported out of India;
- tax on inputs or input services "used" in the goods and/or services exported out of India including zero rated supply;
- tax on the supply of goods regarded as deemed exports;
- unutilized input tax credit at the end of tax period in cases of:
 - exports, except when goods are subjected to export duty or the supplier avails drawback of central tax or claims refund of integrated tax paid on such supplies;
 - input tax rate being higher than output tax rate, other than NIL rated or fully exempted.

This section provides for conditions and procedures for claiming refund without specifying all the circumstances in which an applicant will be eligible for refund. Thus, it can be inferred that refund is possible only when tax, interest or any other amounts are paid in cash and in respect of exports / deemed exports in the form of input tax.

4.2 What is Export of Goods?

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

Export of goods will be treated as 'zero-rated supplies' as defined under section 2(23) of IGST Act. Hence, even if no tax would be payable on such Zero-rated supplies, the exporter will be eligible to claim the corresponding input tax credits. It is relevant to note that the input tax credits would be available to an exporter even if the supplies were exempt supplies so long as the eligibility of the input taxes is established.

Following aspects need to be noted:

Unlike export of services which requires fulfilment of certain conditions for a supply to qualify as 'export of services' like the nature of currency in which payment is required to be made, location of the exporter etc., export of goods doesn't require fulfilment of any such condition. In the case of export of goods, the movement of goods alone is a relevant factor and not the location of the exporter/ importer.

The exporter may utilize such credits for discharge of other output taxes or alternatively, the exporter may claim refund of such taxes.

The exporter will be eligible to claim refund under the following situations:

- (i) He may export the goods under a Letter of Undertaking, without payment of IGST and claim refund of unutilized input tax credit.
- (ii) He may export the goods upon payment of IGST and claim refund of such tax paid.

As per proviso to Rule 46 of CGST Rules, Invoice for exporting goods or services, shall carry an endorsement – “SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX or – SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX”, as the case may be, and shall, in lieu of the details specified in clause (e) of Rule 46 of CGST Rules, contain the following details, namely,- (i) name and address of the recipient; (ii) address of delivery; and (iii) name of the country of destination.

Some of the export mode as given in FTP 2015-20 are as under:

Export of Samples

Exports of *bona fide* trade and technical samples of freely exportable items shall be allowed without any limit. An application for export of samples/exhibits, which are restricted for export, may be made to DGFT.

Export of Gifts

Goods including edible items, of value not exceeding Rs.5,00,000/- in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an Authorization.

For export of gifts, indigenous / imported warranty spares and replacement goods in excess of ceiling / period prescribed for exports of Gifts, export of Spares and export of replacement goods in FTP, an application may be made to DGFT.

Export of Passenger Baggage

Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorization. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption. The Provisions of the Para shall be subject to Baggage Rules issued under Customs Act, 1962.

Samples of such items that are otherwise freely exportable under FTP may also be exported as part of passenger baggage without an Authorization.

Import for Export

- I. (a) Goods imported, in accordance with FTP, may be exported in the same or substantially same form without an Authorisation provided that the item to be imported or exported is not in the restricted for import or export in ITC (HS).
- (b) Goods, including capital goods (both new and second hand), may be imported for export provided the :
 - i. Importer clears goods under Customs Bond;
 - ii. Goods are freely exportable, i.e., are not “Restricted”/ “Prohibited”/ subject to “exclusive

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trading through State Trading Enterprises" or any conditionality/ requirement as may be required under Schedule 2 – Export Policy of the ITC (HS);

- iii. Export is against freely convertible currency.
 - (c) Goods in (b) above will include 'Restricted' goods for import (except 'Prohibited' items).
 - (d) Capital goods, which are freely importable and freely exportable, may be imported for export on execution of LUT/BG with Customs Authority.
 - (e) Notwithstanding the above, goods which are freely importable may be re-exported except items as in the Prohibited or SCOMET List of exports, in the same or substantially same form even though such goods are under "restricted list" for export, subject to the following conditions:
 - (i) Goods are not of Indian Origin;
 - (ii) Goods imported shall be kept in bonded warehouse under supervision of Customs;
 - (iii) Goods to be exported have never been cleared for home consumption;
 - (iv) Export of goods shall be subjected to Section 69 of Customs Act, 1962.
- II. (a) Goods imported against payment in freely convertible currency would be permitted for export only against payment in freely convertible currency, unless otherwise notified by DGFT.
- (b) Export of such goods to the notified countries (presently only Iran) would be permitted against payment in Indian Rupees, subject to minimum 15% value addition.
 - (c) However, re-export of food, medicine and medical equipment, namely, items covered under ITC(HS) Chapters 2 to 4, 7 to 11, 15 to 21, 23, 30 and items under headings 9018, 9019, 9020, 9021 & 9022 of Chapter-90 of ITC(HS) will not be subject to minimum value addition requirement for export to Iran. Exports of these items to Iran shall, however, be subject to all other conditions of FTP 2015-20 and ITC (HS) 2017, as applicable. Bird's eggs covered under ITC (HS) 0407 & 0408 and Rice covered under ITC (HS) 1006 are not covered under this dispensation, as at II (a) above.
 - (d) Exports under this dispensation, as at I (e) and II (a), (b) and (c) above shall not be eligible for any export incentives.

Export through Courier Service

Exports through a registered courier service is permitted as per Notification issued by DoR. However, exportability of such items shall be regulated in accordance with FTP/ ITC (HS), 2017.

However, all goods are allowed to be exported through courier except

- (a) Goods attracting any duty on exports
- (b) Goods exported under export promotion schemes
- (c) Goods where the value of the consignment is above Rs.25,000/- and transactions in which foreign exchange is involved

The Authorized Courier should file Courier Shipping Bills with the proper officer of Customs at the airport or Land Custom Station (LCS) before departure of the flight or other mode of transport, as the case may be. Different Forms have been prescribed for export of documents and other goods. The Authorized Courier is required to present the exported goods to the proper officer for inspection, examination and assessment.

Export of Replacement Goods

Goods or parts thereof on being exported and found defective/damaged or otherwise unfit for use may be replaced free of charge by the exporter and such goods shall be allowed for export by Customs authorities, provided that replacement goods are not mentioned as restricted/SCOMET items for exports in ITC (HS). If the export item is 'restricted'/ under SCOMET, the exporter shall require an export license for replacement.

Export of Repaired Goods

Goods or parts thereof, except restricted under ITC (HS), on being exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without an Authorisation and in accordance with customs notification. To that extent the exporter shall return the benefits /incentive availed on the returned goods. If the item is 'restricted' for import, the exporter shall require an import license.

However, re-export of such defective parts/spares by the Companies/firms and Original Equipment Manufacturers shall not be mandatory if they are imported exclusively for undertaking root cause analysis, testing and evaluation purpose."

Export of Spares

Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods [except those restricted under ITC (HS)] may be exported along with main equipment or subsequently but within contracted warranty period of such goods, subject to approval of RBI.

Private Bonded Warehouses for Export

- (a) Private bonded warehouses exclusively for exports may be set up in DTA as per terms and conditions of notifications issued by DoR.
- (b) Such warehouses shall be entitled to procure goods from domestic manufacturers without payment of duty. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange.

Sale on High Seas

Transactions taking place before filing of bill of entry are termed as "high sea sale" transactions under common trade practice where the original importer sells the goods to a third person before the goods are entered for customs clearance. This supply is covered within definition of inter-State supply.

Provisions of sub-section (12) of section 3 of Customs Tariff Act, 1975 in as much as in respect of imported goods provides that all duties, taxes, cess' etc. shall be collected at the time of importation i.e. when the import declarations are filed before the customs authorities for the customs clearance purposes. High sea sale transactions, though regarded as supply in the course of inter-State trade or commerce, are not subject to levy of IGST as the supply takes place before filing of Bill of entry and IGST in case of importation of goods can be levied at the time of filing of Bill of Entry. Hence, IGST on high sea sale(s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time.

Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance. The importer (last buyer in the chain) would be required to furnish the entire chain of documents, such as original Invoice, high-seas-sales-contract, details of service charges/ commission paid etc., to establish a link between the first contracted price of the goods and the last transaction. In the above example, supply by Nasik company to recipient of Pune is high sea sale transaction and is not subject to levy of IGST. When Pune recipient files bill of entry, IGST has to be paid on the assessable value which shall include the margin charged by Nasik supplier also.

4.3 What is Export of Service

Section 2 (6) of IGST Act defines "export of services" to mean the supply of any service when,—

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;

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- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8 of IGST Act.

The concept of export of services is broadly borrowed from the provisions of the erstwhile Service Tax law.

Under the GST regime, export of service will be treated as 'zero-rated supplies'. Accordingly, while no tax would be payable on such supplies, the exporter will be eligible to claim the corresponding input tax credits. It is relevant to note that the input tax credits would be available to an exporter even if supplies were exempt supplies as long as the eligibility of the input taxes as input tax credits is established.

The exporter may utilize such credits for discharge of other output taxes or alternatively, the exporter may claim a refund of such taxes.

The exporter will be eligible to claim refund under the following situations:

- (a) He may export the services under a Letter of Undertaking, without payment of IGST and claim refund of unutilized input tax credit; or
- (b) He may export the services upon payment of IGST and claim refund of such tax paid.

The following aspects need to be noted:

- The requirement under the Service Tax law was that the supplier should be located in the taxable territory i.e. India, excluding Jammu and Kashmir. Under the GST law, the requirement is that the supplier is located in India (which includes Jammu and Kashmir) as GST has been made applicable in the State of J&K also.
- Although overseas establishment of a person who is situated in India is treated as a distinct person for purposes of levy of integrated tax, as regards export of services, this overseas establishment must demonstrate substance in its activities to qualify as recipient of the export of the services from India and establish itself as more than just a mere establishment of the person.
- Establishments will be treated as establishment of distinct persons under the following situations:

Situation	Location of one establishment	Location of the other establishment
I	India	Outside India
II	State or Union Territory	Outside State or Union Territory
III	State or Union Territory	Business vertical registered in that State or Union Territory

Therefore, where both the establishments are located in a State/ Union Territory under the same GSTIN, the establishments will not be considered as distinct persons.

4.4 Zero Rated Supply

As per section 16 of IGST Act, "zero rated supply" means any of the following supplies of goods or services or both, namely: --

- (a) Export of goods or services or both; or
- (b) Supply of goods, services, or both to a Special Economic Zone developer or a Special Economic Zone unit.

(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely: ---

- (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
- (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

4.5 Exports against LUT/Bond [u/s 16(3)(a)]

See para 5.1.2

4.6 Exports against Payment of IGST [u/s 16(3)(b)]

See para 5.1.3

4.7 Deemed Exports

The Proviso to Rule 89 of CGST Rules deals with Refund in respect of supply regarded as Deemed export. As per section 2(39) of CGST Act, "deemed exports" means such supplies of goods as may be notified under section 147 of CGST Act even though goods do not leave India.

As per *Notification No. 48/2017 – central tax dated 18th October 2017*, supply of goods listed below will be treated as deemed export:

Sr No.	Description of supply
1	Supply of goods by a registered person against Advance Authorization "Advance Authorization" means an authorization issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports.
2	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization. Export Promotion Capital Goods Authorization means an authorization issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015- 20 for import of capital goods for physical exports.
3	Supply of goods by a registered person to Export Oriented Unit. "Export Oriented Unit" means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.
4	Supply of gold by a bank or Public Sector Undertaking specified in <i>Notification No. 50/2017- Customs, dated the 30th June, 2017</i> (as amended) against Advance Authorization.

Procedures and safeguards are prescribed for supplies to EOU / EHTP / STP / BTP units vide *Circular no. 14/14/2017 - GST dated 6th November 2017*.

It is imperative to state here that, The Foreign Trade Policy (2015-2020) in terms of Para 7.02 has provided a list of Supplies which are Deemed Supplies under the FTP. However, only the aforesaid four supplies have been covered under Deemed Export under GST. Further, the recipient is eligible to take Input Tax Credit of the tax paid by the Supplier subject to restrictions.

Procedure for claim and grant of refund of IGST paid on goods exported out of India

In terms of Rule 96 of the CGST Rules, shipping bill filed by an exporter shall be deemed to be an application for refund of IGST tax paid on the goods exported out of India, when

- (a) the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering no. and date of shipping bills or bills of export; and
- (b) the applicant has furnished a valid return in FORM GSTR- 3B.

In this regard, the details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs ("Custom System") and the said system will revert the confirmation of export of goods. In case where, date of furnishing FORM GSTR-1 for a tax period has been extended, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 (auto-drafted for the said tax period) after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically to Custom System. [Refer Notification No. 51/2017 – Central Tax dated 28.10.2017]

Upon receipt of the information regarding the furnishing of a valid return in FORM GSTR- 3B, the Custom System shall process the claim for refund and an amount equal to the IGST 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

Moreover, the Central Government vide Circular No. 37/11/2018-GST dated 15th March,2018 has clarified issues in relation to processing of claims for refund under GST. [These instructions shall apply to exports made on or after 1st July, 2017]

4.8 Export to Nepal and Bhutan

As mentioned earlier, in case of goods exported to Nepal and Bhutan, once goods move out of India that is to Nepal and Bhutan, it is termed as Export of goods.

But unlike export of goods, supply of services shall be termed as Export of services only when payment is received in convertible foreign currency. Tricky situations were arising when services were provided to Nepal and Bhutan but amounts were not received in convertible foreign currency; such supplies will not be termed as Export of service. Generally, this situation arises in transit cargo to Nepal and Bhutan.

To overcome this situation, Notification No. 42/2017- Integrated tax (Rate) dated 27th October 2017 was issued to amend Notification No. 9/2017- Integrated Tax (Rate), dated the 28th June 2017 whereby a new entry has been inserted in the exemption notification, namely, Supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees. Thus, export of services got exemption where place of supply is in Nepal and Bhutan. Even ITC Reversal considering this service as exempt would not be required as per *Notification 55/2017 – Central Tax dated 15th November 2017*.

4.9 Place of Supply in case of Export

We are discussing Refund in case of Zero rated supplies. Zero-rated supplies as discussed earlier will be supplies to SEZ or Export.

To treat a supply as Zero-rated supply, the Place of supply should be outside India. Let's discuss what will be the place of supply in case of Export.

Place of supply in case of Goods

Section 11 of IGST Act defines place of supply outside India in cases where goods are exported from India. It is easy to find out the place of supply in case of goods but one should carefully examine what is the place of supply in case of service and whether it really turned out to be zero rated supply or not to claim refund.

Place of supply in case of Services

Section 13 of IGST Act deals with the place of supply when location of the supplier or location of the recipient is outside India. This is a general rule.

As per section 13(2), The place of supply of service except the services specified in sub-sections (3) to (13), shall be the location of the recipient of services which are specific rules.

Section 13 (3): Performance based service

In respect of Services that are 'in respect of' goods made available 'TO' the recipient 'BY' the supplier or persons representing supplier for performance of those services, the place of supply of the service will be the location where the services are actually performed. It is worthwhile to note here that the goods must be made available only to the recipient and not his representative whereas a person by whom it is made available could be the supplier or his representative. It is also noteworthy that the services to which this provision is to apply are not expressly listed here and left to the application of "made available for performance" test to determine its applicability. In respect of Services that are supplied by remotely accessing the goods, the place of supply will be the location of the goods, without prejudice to goods that are imported for 'repair and return'. In cases where services are supplied at multiple locations, including a location in the taxable territory, the PoS will be the location in the taxable territory. Further, the rule of proportion is to be applied in case the services are carried out in different States.

Section 13 (4): Services directly in relation to Immovable property

In respect of Services 'directly in relation to' immovable property the Place of Supply will be the location of such property. The expression 'in relation to' encompasses a wide range of services that have a proximate nexus with the immovable property. Such property may be a hotel, inn, guest house, homestay, club or campsite including houseboat. The end-use will not alter the applicability of this provision but the proximity of the property vis-à-vis the services. Services that are ancillary to such services would also be covered by this provision.

In cases where services are supplied at multiple locations, including a location in the taxable territory, the place of supply is the location in the taxable territory. The rule of proportion is to be applied in case the services are rendered in different States. Services required in construction activity which are received before being assigned to any particular site will not be determined by this provision but by the general provision. For example, lease of construction equipment sent to a central warehouse before being deployed to any specific site.

Section 13(5): Services in relation to admission or organization of events

In respect of Services of admission to a venue the place of supply will be the location of the venue. The event that is organized may be cultural, artistic, sporting, scientific, education or entertainment or an amusement park including ancillary services. Services referred to here are admission or organizing the event at the venue. In cases where services are supplied at multiple locations, including a location in the taxable territory, the Place of Supply is the location in the taxable territory. Further, the rule of proportion is to be applied in case the services are carried out in different States.

Section 13(8): Instances where Location of supplier is place of supply

In respect of Services rendered in the following three cases instead of the 'destination' principle the place of supply will be the location of the supplier:

- Services of a banking company or a financial institution or NBFC –reference to 'services of' indicate that this specific provision will encompass all activities by such a service provider performed in their capacity as such.
- Intermediary services – defined in section 2(13) provide for a broad set of activities. It is important to examine whether the role of an intermediary is limited in any manner to marketing (proliferation of

information to potential customers), pre-sale (submitting quotations) and post-sale (assisting in delivery, installation and after-sales support).

- Hiring of transport for a period up to one month – all services attendant to securing such limited duration. This excludes aircraft and vessel other than yacht.

Section 13(9): Place of supply in case of Transportation of goods

In respect of Services of transportation of goods, the PoS will be the destination of the goods. Transportation of goods may be by any mode but not mail or courier.

Section 13(10): Place of supply in case of passenger transport service

The place of supply in respect of Services of transportation of passenger will be the location where the passenger embarks for the journey.

Section 13(11): Place of supply in case of on-board a conveyance

In respect of Services supplied on-board a conveyance, the PoS will be the first scheduled point of departure. Services are to be supplied during the journey and substantially consumed on-board. Any deviation from this condition will result in the service getting classified under the general rule.

Section 13(12): Place of supply in case of online information database access or retrieval services

The place of supply of Services of online information and database access or retrieval will be location of the recipient. Further, such recipient will be considered as situated in a taxable territory if any two of the following conditions are fulfilled:

- Address of recipient in taxable territory
- Card of recipient that is used to pay for the services is issued in taxable territory
- Billing address is in taxable territory
- Internet protocol address in taxable territory
- Bank of recipient in taxable territory
- Country code of SIM card is of taxable territory
- Fixed line used by recipient is in taxable territory

Where there is any occasion for double taxation or non-taxation, the Central Government is empowered to notify the place of supply with respect to service of any specific description, wherein the place of supply will be the place of effective use and enjoyment of a service.

4.10 Registration Requirement for Exporters

Section 24 of CGST Act:

Notwithstanding anything contained in sub-section (1) of section 22 of the CGST Act the following categories of persons shall be required to be registered under this Act, --

- (i) persons making any inter-State taxable supply;
- (ii)
- (iii)

Section 7 (5) of IGST Act:

Supply of goods or services or both, --

- (a) when the supplier is located in India and the place of supply is outside India;
- (b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or

(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

As per section 24 of the CGST Act, person making inter-state supply of taxable goods has to compulsory register himself. Zero rated supply is termed as Inter-state supply by section 7(5) of IGST Act. Accordingly, a harmonious reading of these sections mandate the person involved in Zero rated supply to register himself from first sale transaction itself.

To overcome this situation, Notification 10/2017 – Integrated Tax, dated 13th October 2017 has been issued whereby exemption has been provided to the person having aggregate turnover below 20 Lakh rupees and making inter-state supply of taxable services from obtaining compulsory registration under section 24 of CGST Act. As Export is considered to be Inter-state supply, Exporters are not required to take compulsory Registration with effect from 13th October where their aggregate turnover is below the threshold limit. This notification not only gives benefit to exporters but also to such other persons whose aggregate turnover is below threshold but who are engaged in inter-state supply.

4.11 Information to be provided in Returns

Person making Zero-rated supply with payment of tax needs to provide the following information in the return:

(i) In GSTR-3B Table no. 3.1 (b) outward taxable supplies (Zero rated)

3.1 Tax on outward and reverse charge inward supplies

<i>Nature of Supplies</i>	<i>Total Taxable Value</i>	<i>Integrated Tax</i>	<i>Central Tax</i>	<i>State/UT Tax</i>	<i>Cess</i>

(ii) In GSTR-1 Table-6A details of export to be provided

<i>No. of Records</i>	<i>Total Invoice value</i>	<i>Total Taxable value</i>	<i>Total Integrated Tax</i>

(iii) In case, Taxpayer has furnished incorrect information in the above table in GSTR-1, then he has an option to again provide correct information in GSTR-1 in Table-9A Amended Export Invoice. However, such amended information is required to be reported latest by September month of next financial year or before the filling of Annual return, whichever is earlier.

In GSTR-1 Table-9A details of Amended Export Invoice to be provided

<i>No. of Records</i>	<i>Total Invoice value</i>	<i>Total Taxable value</i>	<i>Total Integrated Tax</i>

(iv) Please note that the amount as mentioned in GSTR-3B must match with GSTR-1, then only refund of IGST paid on Zero rated supply would be allowed.

In case, there is difference in amount as reported in GSTR-3B and amount as reported in GSTR-1, then Customs Dept. has issued circular No.12/2018- custom dated 29th May 2018 giving detailed procedure to claim refund in such case.

4.12 Refund not allowable in certain cases

Goods

Unutilized input tax credit shall be allowed as per section 54 of CGST Act but no refund of unutilized input

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tax credit is allowable in case of the following supplies of goods as per Notification No. 5/2017-Central Tax (Rate) dated 28th June 2017 as amended by Notification No. 29/2017- Central Tax (Rate) dated 22nd September 2017, Notification NO.4/2017- Central Tax (Rate) dated 14th November 2017, Notification No 5/2017-Integrated Tax (Rate) dated 28th June 2017, 29/2017- Integrated Tax (Rate) dated 22nd September 2017 and Notification No.46/2017- Integrated Tax (Rate) dated 14th November 2017:

Sr No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
1	5007	Woven fabrics of silk or of silk waste
2	5111 to 5113	Woven fabrics of wool or of animal hair
3	5208 to 5212	Woven fabrics of cotton
4	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5	5407, 5408	Woven fabrics of manmade textile materials
6	5512 to 5516	Woven fabrics of manmade staple fibres
6A	5608	Knotted netting of twine, cordage or rope; made up of fishing nets and other made up nets of textile materials
6B	5801	Corduroy Fabrics
6C	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)
7	60	Woven fabrics of manmade staple fibres
8	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9	8602	Rail locomotives powered from an external source of electricity or by electric accumulators
10	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track liners, testing coaches and track inspection vehicles)
12	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
13	8606	Railway or tramway goods vans and wagons, not self-propelled
14	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
15	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing

However, the following proviso has been added to principal notification 5/2017-CTR by notification 20/2018-CTR dated 26-7-18:

“Provided that, -

- (i) 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 goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and
- (ii) in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse.

Circular No. 56/30/2018 dated 24-08-2018, clarifies the notification 20/2018 relating to provision for lapsing of input tax credit accumulated on account of inverted duty rate structure on fabrics for the period up to 31-07-2018.

Further, the person involved in Zero rated supply can claim refund of unutilized input tax credit on input allowed as per circular no. 18/18/2017 – GST dated 16th November 2017. This Circular clarified that as regards export of fabrics, subject to the provisions of sub-section (10) of the section 54 of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

Service

Construction of complex, building, civil structure or a part thereof including a complex or building intended for sale to a buyer, wholly or partly except where the entire consideration has been received after issuance of completion certificate where required by the competent authority or after its first occupation, whichever is earlier, will be considered supply of services as per Schedule-II of the CGST Act. Notification No. 15/2017-Central Tax (Rate) and Notification No.12/2017-Integrated Tax (Rate) dated 28th June 2017 restrict refund of unutilized input tax credit with regard to this service as per Para 5(b) of Schedule II of the CGST Act, 2017.

4.13 Withholding of Refund in Certain Cases and Power to Recover Dues

As per section 54 (10) of CGST Act, if a registered person has not filled return or who has not paid tax, interest or penalty which was not stayed by any court, then the proper officer may

- withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty
- recover tax, interest, penalty, fee or any other amount which the taxpayer is liable to pay but remains unpaid by deducting such amount from refund due.

As per section 54(11) of CGST Act, if an order of refund is the subject matter of appeal or further proceeding or where any other proceeding under this act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the Revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may withhold the refund till such time as he may determine, after giving the taxable person an opportunity of being heard.

4.14 Manner of Granting Refund

Provision for granting provisional refund

As per Rule 91 of CGST Rules the 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

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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.

Granting of Provisional Refund

After scrutiny of the claim and evidence submitted and on being *prima facie* satisfied that amount claimed as refund is due to applicant, the proper officer shall pass 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 acknowledgement under sub-rule (1) or sub-rule (2) of Rule 90. He will also issue payment advice in Form GST RFD-05 for such refund amount, which is credited to Bank account of applicant.

Granting of Final Refund

After examination of the application, if 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.

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 B of Form GST RFD-07 informing him the reasons for withholding of such refund.

Types of Refund & Procedure for Claiming Refund

5.1 Types of Refund

5.1.1 Refund of Excess Balance in Cash Ledger

As per Section 49(6), the balance in the electronic cash ledger may be refunded in accordance with the provisions of Section 54. Further, as per proviso to section 54(1), a registered person, may claim refund of any balance in the electronic cash ledger through the return for the relevant tax period in Form GSTR-3, Form GSTR-4 or Form GSTR-7, as the case may be.

Source of Excess Balance in Cash Ledger

The amount in electronic cash ledger comes from deposit made by any person into government account after generating a challan in Form PMT-06 on common portal [Rule 87(2) and 87(6)]. The deposit against the challan so generated on common portal can be made through:

- (i) Internet Banking through authorized banks;
- (ii) Credit card or Debit card through the authorized bank;
- (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank by generating mandate form along with challan; or
- (iv) Over the Counter payment through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft. [Rule 87(3), 87(5) and Section 49]

Further, the deposit in electronic cash ledger can also travel from claim in GSTR-2 for deduction of tax u/s 51 or collection of tax u/s 52. [Rule 87(9)].

An unregistered person can also make payment into electronic cash ledger on the basis of temporary Identification number [Rule 87(4)]

Other Return Related Liabilities to be adjusted first

The balance in cash ledger is normally utilized for the payment towards tax, interest, penalty, fees or any other amount payable under the provisions of CGST Act or rules made under CGST Act and refund of balance in cash ledger can be granted only after making these payments [Section 49(3) and 49(6)].

Refund from cash ledger can be claimed only when all the return related liabilities for that tax period have been discharged [Instruction No. 13 to GSTR-3].

Form of Application and Procedure for Refund of Balance in Cash Ledger

- As per proviso to section 54(1), refund of balance in electronic cash ledger may be claimed in the return furnished under section 39 in such manner as may be prescribed.
- As per Rule 61(4), a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in *Part B* of the return in *Form GSTR-3* and such return shall be deemed to be an application filed under section 54.
- Further as per 1st proviso to Rule 89(1), 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 per Rule 89(2)(k), a statement showing the details of the amount of claim on account of excess

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payment of tax is required to be furnished to establish that a refund is due to the applicant.

- Appropriate Table 14 of GSTR-3 for claim of balance in cash ledger is as follows:

14. Refund claim from Electronic cash ledger

Description	Tax	Interest	Penalty	Fee	Other	Debit Entry Nos.
1	2	3	4	5	6	7
(a) Integrated Tax						
(b) Central Tax						
(c) State/UT Tax						
(d) Cess						
Bank Account Details (Drop Down)						

Hence, one has to provide details regarding bank account in which refund is to be obtained. For this the bank account has to be selected from drop down list provided at the time of registration as amended from time to time.

Debit and Re Credit to Cash Ledger

Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger [R. 87(10) and Instruction No. 14 to GSTR-3]. If the refund so claimed is rejected, either fully or partly, the amount debited under Rule 87(10), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer 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 to the proper officer that he shall not file an appeal [Explanation 2 to Rule 87].

Circumstances under which refund of balance in cash ledger may be required to be refunded

1. Excess deposit in cash ledger which is not adjustable against present liabilities.
2. Advance payment of tax into government account against which no supplies are made.
3. The amount of tax deducted or collected is more than the net liability of the registered person after setting off input tax credit.

5.1.2 Refund of Unutilized Input Tax Credit

The definition of refund provided under Explanation 1 to Section 54 specifically includes refund of unutilized input tax credit as provided under sub-section (3) of section 54. Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

It Comprises:

- (a) Refund of Unutilized ITC where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (Inverse Duty Rate Structure) [clause (ii) of Proviso to Section 54(3)]
- (b) Refund of Unutilized ITC on Export of goods or services without payment of tax [clause (i) of Proviso to Section 54(3)]

Limitation Period for making refund application

As per section 54(1), application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, 'relevant date' means, in the case of refund of unutilized input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises. However, as per section 54(3), claim for refund can be made at the end of any tax period. Hence, the definition of 'relevant date' needs to be brought in synchronization with section 54(3)

When refund claim for unutilized input tax credit can be made

Refund claim can be made at the end of any tax period. As per section 2(106), "tax period" means the period for which the return is required to be furnished.

Refund of amount to applicant instead of being credited to Consumer Welfare Fund [Section 54(8)(b)]

In case of refund of unutilized input tax credit under section 54(3), the refundable amount shall, instead of being credited to the Consumer Welfare Fund, be paid to the applicant.

Withholding of Refund of Unutilized Credit [Section 54(10)]

As per section 54(3), the refund of unutilized credit is subject to section 54(10). As per section 54(10), Where any refund of unutilized input tax credit is due under Section 54(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 (last date for filing an appeal under this Act)*, 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.

Order withholding of Refund in RFD-07 Part B [Rule 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) or, as the case may be, sub-section (11) of section 54, he shall pass an order in Part B of Form GST RFD-07 informing him the reasons for withholding of such refund.

Debit of Electronic Credit Ledger [Rule 89(3)]

Where the application for refund 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.

A. Refund of Accumulated ITC in case of Inverted Duty Structure

As per section 54(3)(ii), where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies, a registered person may claim refund of unutilized input tax credit at the end of any tax period.

Restrictions on Refund of accumulated ITC in case of Inverted duty structure

- (a) The refund of unutilized ITC on account of Inverse duty rate is not allowed where output supplies are NIL rated or wholly exempt [1st Proviso to Section 54]
- (b) The refund of unutilized ITC on account of Inverse duty rate is not allowed against supplies of goods or services or both as may be notified by the Government on the recommendations of the Council

Notified Goods

Notified Goods where refund under Inverted Duty Rate is not allowed [Notification No. 5/2017-Central Tax (Rate) dated 28-06-2017 and Notification No. 44/2017-Central Tax (Rate) dated 14-11-2017]

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S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
6A.	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B.	5801	Corduroy fabrics
6C.	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)
7.	60	Knitted or crocheted fabrics [All goods]
8.	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9.	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
10.	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11.	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)
12.	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
13.	8606	Railway or tramway goods vans and wagons, not self-propelled
14.	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
15.	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing

Restriction of refund for fabrics

Restriction of refund for fabrics waived under inverted duty rate structure [Notification 20/2018-CTR dated 26-7-2018] by adding following proviso to principal notification 5/2017-CTR as amended by Notification No.44/2017:

“Provided that,-

- (i) *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 goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and*

(ii) *in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse."*

Hence, the restriction of not allowing refund in respect of fabrics under inverted duty rate structure has been waived in respect of goods received on or after 01-08-2018. The waiver of restriction regarding refund on fabrics shall result in lapse of accumulated input tax credit lying unutilized after payment of tax for and up to 31-07-2018.

Calculation of Lapse of ITC for fabrics- [Circular No. 56/30/2018 dated 24-08-2018 -354/290/2018-TRU]

The Tax Research Unit of CBIC has issued a circular to clarify calculation of lapse of credit in respect of fabrics. The circular deals with calculation of ITC to lapse, impact of lapse of ITC on exports, input services and capital goods and also deals with situations of fabrics where tax rate on inputs is not higher than outward supplies like cotton and silk. It was decided in 28th GST Council meeting to remove restriction for grant of refund on fabrics prospectively and simultaneously lapse the accumulated ITC, lying unutilized, for the past period, after the payment of GST for the month of July, 2018 [Para 3 of Circular]. The highlights of the Circular are as under:

1	Whether all ITC lying unutilized after payment of tax up to July 2018 shall lapse ?	No. ITC relating to following shall not lapse: 1. Capital Goods 2. Services 3. Zero Rated Supplies 4. Stock as on 31-07-2018
2	Whether unutilized ITC in respect of services and capital goods shall also be disallowed ?	No.
3	Implication to fabrics like cotton and silk where there was no inverted duty rate structure ?	The formula for calculation of ITC to lapse takes care that no ITC for which inverted duty rate structure is not applicable does not get covered.
4	Whether Accumulated ITC in respect of exports shall also be made to lapse ?	No. Formula under Rule 89(4) and Rule 89(5) takes care that refund of ITC on exports is allowed and attributable ITC does not get lapsed.
5	Whether government has power to lapse credit ?	It flows inherently from the power to deny refund of accumulated ITC
6	How to calculate amount of ITC to Lapse ?	Following Formula under Rules 89(5) shall apply <i>mutatis mutandis</i> for calculation of Maximum ITC to lapse as it applies to calculation of Maximum ITC eligible for refund $\{(Turnover\ of\ inverted\ rated\ supply\ of\ goods \div Adjusted\ Total\ Turnover) \times Net\ ITC\} - tax\ payable\ on\ such\ inverted\ rated\ supply\ of\ goods.$ Period to be captured is 01-07-2017 to 31-07-2017
7	If ITC calculated as per formula is 5 lacs but actual ITC is Rs. 10 lacs, how much ITC shall lapse ?	Rs. 5 lacs, because the formula gives maximum amount to lapse
8	If ITC calculated as per formula is 5 lacs but	Rs. 3 lacs, because the formula gives only the

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	actual ITC is Rs. 3 lacs, how much ITC shall lapse ?	maximum amount that can lapse.
9	IT total ITC is Rs. 42 lacs, and ITC on manmade fabrics is 25 lacs and ITC on cotton fabrics (not covered by inverted duty) is 10 lacs. Turnover of cotton fabrics is 2 crores and turnover of manmade fabrics is 5 crores. Tax Rate is 5%. How much ITC shall lapse ?	Total ITC =42 lacs Total Turnover=7 lacs Tax payable on MMF fabrics= 5% of 5 crores= 25 lacs ITC to lapse= 42 x (5/7)-25= 5 lacs
10	Whether ITC on stock shall lapse ?	While calculating Net ITC for calculation of ITC to lapse, ITC attributable to inputs in finished goods shall be excluded. It shall reduce the amount of ITC to lapse and thus ITC attributable to stock as on 31-07-2017 shall not lapse
11	When ITC shall lapse ?	ITC to lapse shall be provided in GSTR-3B for August 2018 to be filed in September by providing the amount in columns 4B (2) of the return [ITC amount to be reversed for any reason (others)]
12	When the amount of ITC to lapse shall be verified ?	At the time of filing of first refund on account of inverted duty rate structure on fabrics. A detailed calculation sheet shall be furnished.

Calculation of Net ITC, Turnover of Inverted Duty Rated Supplies and Adjusted Turnover for the purpose of calculation of ITC to lapse

Calculation of Net ITC	
Total ITC from 01-07-2017 to 31-07-2017	Xxxxx
Less:	Xxxxx
ITC for supplies received @ 01.% [40/2017-CTR 7 41/2017-ITR]	Xxxxx
ITC on Capital goods	Xxxxx
ITC on Services	Xxxxx
ITC on stock as on 31-07-2018	Xxxxx
ITC on other Inputs and Input services used in making zero rated supplies where supplier has claimed benefit of deemed exports/advance authorization on one part of inputs.	Xxxxx
Net ITC	Xxxxx
Turnover of Inverted Duty Rated Supplies	
Total Turnover from 01-07-2017 to 31-07-2017	Xxxx
Less: Turnover not covered by Inverted Duty Rate	Xxxx
Less : Zero Rated Supplies	Xxxx
Net turnover of Inverted Duty Rated Supplies	
Adjusted Total Turnover	
Total Turnover 01-07-2017 to 31-07-2017	Xxxx
Less: Value of Exempt Supplies (Other than zero rated supplies)	Xxxx
Less: Zero rated supplies against inputs received under Concessional Tax of 0.1%, Deemed	Xxxx

Exports and Advance Authorization	
Net Adjusted Total Turnover	Xxxx

ITC relating to inputs contained in stock to be determined as per Point no. 7 of ITC-01 [Para 11]

For Calculation of ITC on Stock as on 31-07-2018, information to be prepared under following heads:

1. GSTIN of Supplier
2. Invoice No. and Date
3. Description of Inputs
4. Unit Quantity Code
5. Quantity
6. Value (As adjusted by credit/debit note)
7. Amount of ITC claimed

Refund to be granted on Goods supplied to Railways not covered by Chapter 86: [Circular No. 30/4/2018-GST dated 25-01-2018]

It has been clarified that:

- (a) only the goods classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilized input tax credit; and
- (b) other goods [falling in any other Chapter], would attract the general applicable GST rates to such goods, under the aforesaid notifications, even if supplied to the railways.

Restriction applicable for notified goods under inverted duty rate structure is not applicable to exports [Circular 18/18/2017 dated 16-11-2017]

However, the aforesaid notification having been issued under clause (ii) of the Proviso to sub-section (3) of section 54 of the CGST Act, 2017, restriction on refund of unutilized input tax credit of GST paid on inputs will not be applicable to zero rated supplies, that is (a) exports of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Accordingly, as regards export of fabrics it is clarified that, subject to the provisions of sub-section (10) of section 54 of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

Notified Services where refund under Inverted Duty Rate is not allowed [Notification No. 15/2017-CGST (Rate) dated 28-06-2017]

Supply of services specified in sub-item (b) of item 5 of Schedule II i.e. construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Supplies to Merchant Exporters qualify for Inverted Duty Rate Structure [Circular 37/11/2018 dated 15-03-2018]

Notification No. 40/2017 – Central Tax (Rate), dated 23rd October 2017 and Notification No. 41/2017 – Integrated Tax (Rate) dated 23rd October 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. The relevant portion of the circular are as follows:

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"1. 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.

2. 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. In this connection, notification No. 3/2018-Central Tax, dated 23.01.2018 may be referred."

Calculation of Maximum Refund Amount under Inverted Duty Rate Structure [Rule 89(5)]

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

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

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

In case of Inverted duty rate structure, refund is allowed only against inputs and amount of input service has to be deducted from total input tax credit. Further no refund is allowed against input tax credit on capital goods.

- (b) 'Adjusted Total turnover' shall have the same meaning as assigned to it in rule 89 (4).

As per Rule 89(4) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding –

- (a) the value of exempt supplies other than zero-rated supplies and
(b) the turnover of supplies in respect of which refund is claimed under sub rules (4A) or (4B) or both, if any, during the relevant period

Under Rule 89(4A), refund is allowed to the recipient of supplies under deemed exports (i.e. advance authorization or EPCG license or supply to EOU/EHTP/STP/BTP) for ITC on other inputs and input services received other than supplies received under deemed export and used for making zero rated supplies. However, in such cases no refund is allowed on exports against payment of IGST.

Similarly, under Rule 89(4B), refund is allowed to the recipient of supplies (exporter) receiving inputs under:

- (a) concessional rate of tax or
(b) importing without payment of IGST under advance authorization

and utilizes the inputs received as well as other inputs and input services in furtherance of zero rated supplies.

This refund is allowed on credit available on inputs or input services on which concessional tax payment has been done and also in respect of other inputs and input services utilized in export of goods.

Format of Calculation under RFD-01A**Statement -1 [Rule 89(5)]**

Refund Type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

(Amount in Rs.)

Turnover of inverted rated supply of goods	Tax payable on such inverted rated supply of goods	Adjusted total turnover	Net input tax credit	Maximum refund amount to be claimed [(1×4÷3)-2]
1	2	3	4	5

Documentary Evidence to establish that refund is due to applicant to be submitted with application RFD-01 [Rule 89(2)(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 unutilized 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.

Statement 1A [Rule 89(2)(h)]

Refund Type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

Sl. No.	Details of invoices of inward supplies received				Tax paid on inward supplies			Details of invoices of outward supplies issued			Tax paid on outward supplies		
	GSTIN of the supplier	No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/Union territory Tax	No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/Union territory Tax
1	2	3	4	5	6	7	8	9	10	11	12	13	14

B. Refund of Unutilized ITC on Export of Goods or Services without payment of IGST

As per section 54(3)(i), a registered person may claim refund of any unutilized input tax credit at the end of any tax period in case of zero-rated supplies made without payment of tax. Zero rated supplies are defined in section 16(1) of IGST Act and as per section 16(1)(a) of IGST Act, export of goods or services or both are zero rated supplies. Hence, under the legal provisions, refund of unutilized ITC on export of goods or services without payment of IGST may be claimed.

A registered person making zero rated supply shall be eligible to claim refund for supply of goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit [Section 16(3)(a)].

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means:

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- (a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods-
- (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
 - (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 the Post Office concerned to a place outside India.

Refund of Unutilized Credit on exempted Goods in case of Exports

Subject to provisions of section 17(5), credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply [Section 16(2) of IGST Act]. As per section 17(2), the amount of ITC is restricted to the amount attributable to taxable supplies including zero rates supplies. Hence, ITC against zero rated supplies is allowed even if they fall in the list of exempted goods or exempted services.

Bond or LUT in RFD-11 [Rule 96A (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.

Whether bond or Letter of Undertaking (LUT) is required in the case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods? [Para 6 of Notification No.45/19/2018 dated 30-05-2018]

"6.1 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. Whereas, as per 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.

6.2 However, in 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. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any.

6.3 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."

Form for LUT

The registered person (exporter) shall fill and submit *Form GST RFD-11* on the common portal. An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online [Para 2(c) of Circular 8/2017 as amended by *Notification No.40/2018 dated 6-4-18*].

Documents for LUT

No document needs to be physically submitted to the jurisdictional office for acceptance of LUT [Para 2(d) of Circular 8/2017 as amended by *Notification No.40/2018 dated 6-4-18*].

Acceptance of LUT/bond

An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an 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* [Para 2(e) of Circular 8/2017 as amended by Notification No.40/2018 dated 6-4-18].

LUT in lieu of Bond [Rule 96A (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.

Conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person [Notification 37/2017-Central Tax dated 04-10-2017]

- (i) All registered persons who intend to supply goods or services for export without payment of integrated tax shall be eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

Self-declaration for non-prosecution: It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the claimant has not been prosecuted. In this regard, Circular No.37/11/2018 dated 15th March 2018 has clarified thus:

"7.1 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.

7.2 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."

- (ii) The Letter of Undertaking shall be furnished on the letter head of the registered person, in duplicate, for a financial year in the annexure to Form GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorized by such working partner or Board of Directors of such company or proprietor.
- (iii) Where the registered person fails to pay the tax due along with interest, as specified under sub-rule (1) of rule 96A of Central Goods and Services Tax Rules, 2017, within the period mentioned in clause (a) or clause (b) of the said sub-rule, the facility of export without payment of integrated tax will be deemed to have been withdrawn and if the amount mentioned in the said sub-rule is paid, the facility of export without payment of integrated tax shall be restored.

Eligibility to export under LUT

The facility of export under LUT has now been extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and

fifty lakh rupees unlike Notification No. 16/2017-Central Tax dated 7th July, 2017 which extended the facility of export under LUT to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore. [Para 2(a) of Circular No. 8/8/2017 dated 4-10-2017]

Bank guarantee

Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount. [Para 2(f) of Circular No. 8/2017 dated 4-10-2017]

Clarification regarding running bond

The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the 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. [Para 2(g) of Circular No. 8/2017 dated 4-10-2017]

Obligation under LUT or Bond [Rule 96A (1)]

In LUT or Bond the registered person binds 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, *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.

Failure to Export Goods within 3 Months from the date of issue of Invoice [Rule 96A (3)]

Where the goods are not exported within the time specified in sub-rule 96A(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.

Restoration of Exports [Rule. 96A(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.

Exports after stipulated period [Para 5.1 of Circular 37/11/2018 dated 15-03-2018]

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 emphasised 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.

Validity of LUT

The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee. [Para 2(b) of Circular 8/8/2017 dated 4-10-2017]

Restrictions on Refund of Unutilized ITC on Export of goods or services without payment of tax

1. Export Duty restriction

No refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty [Second Proviso to Section 54(3)].

2. Drawback Restrictions

As per section 2(42) "drawback" in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods.

No refund of unutilized input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax. [Third Proviso to section 54(3)]

Earlier it was clarified in Para 8 of Circular 24/24/2017-GST dated 21-12-2017, that the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act. However, this clarification was modified by subsequent circular 37/11/2018 dated 15-03-2018, in which it was stated vide Para 2.1 that, reference to "section 54(3)(ii) of the CGST Act" is a typographical error and it should read as "section 54(3)(i) of the CGST Act". Further, it may be noted that in the said circular reference has been made only to central tax, integrated tax, State/Union territory tax *and not to customs duty leviable under the Customs Act, 1962. Therefore, a supplier availing of 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 of drawback in respect of central tax.*

Hence, refund of unutilized Input Tax Credit is allowed against drawback of customs duty. This refund is restricted only if there is drawback of CGST or IGST. Further, the denial of CGST or IGST refund due to availment of drawback of CGST or IGST shall not result in denial of refund of unutilized SGST or UTGST.

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

In order to ensure smooth transition to the GST regime, 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 have been doing earlier. The conditions imposed for claiming these composite rates 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 manufacture of export goods or claim refund of IGST paid on export goods.* Further, an exporter claiming composite

rate shall also be barred to carry forward CENVAT credit on the export goods or on inputs or input services used in 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 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]

3. Restriction on claim of IGST Paid

No refund of unutilized input tax credit shall be allowed, if the supplier of goods or services or both claim refund of the integrated tax paid on such supplies. [Third Proviso to Section 54(3)]

On the other hand, while allowing refund of integrated tax paid on exports, refund of tax paid on exports of goods or services or both or on inputs or input services used in making such exports is allowed

Calculation of the Maximum Amount of Refund of Unutilized ITC on Exports [Rule 89(4)]

In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula—

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

Where,—

"Refund amount" means the maximum refund that is admissible;

"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-rule (4A) or (4B) or both;

"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or (4B) or both

"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;

"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) of section 89(4) and non-zero-rated supply of services,

excluding-

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

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- (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.'

(Hence the Turnover of zero rated supply of service on which tax has been paid stands excluded from the adjusted turnover.)

"Relevant period" means the period for which the claim has been filed.

Statement- 3A [Rule 89(4)]

Refund Type: Export without payment of tax (accumulated ITC) – calculation of refund amount

(Amount in Rs.)

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4

Provisional Grant of Refund [Section 54(6)]

The proper officer may, in the case of any claim for refund on account of zero-rated supply (exports/supply to SEZ Units/Developers) of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, *ninety per cent of the total amount so claimed*.

The order for provisional grant of refund shall be made in such manner and subject to such conditions, limitations and safeguards as may be prescribed.

Refund of Provisionally accepted ITC

While granting 90% of total claim the amount of provisionally accepted ITC shall be excluded. However due to non-implementation of GSTR-2 and GSTR-3, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit. However, 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-01A on the common portal. [Para 2 of Circular 24/2017 dated 21-12-17]

Condition for provisional grant of refund [Rule 91(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.

Procedure for Provisional Grant of Refund [Rule 90(2)]

Forward Application to Proper officer

The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer.

Scrutiny of Refund

Proper Officer shall, within a period of fifteen days of filing of the said application, scrutinize the application

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for its completeness including whether the application is complete in terms of sub-rules (2), (3) and (4) of rule 89, i.e.

- (a) Application is accompanied by documentary evidence under Rule 89(2)
- (b) Electronic Credit Ledger should have been debited by Refund Claim [Rule 89(3)]
- (c) Refund claim should be as per maximum refund allowed u/R 89(4)

List of documents required for processing refund claim on export of goods or services without payment of tax [Para 14.2 of Circular 37/11/2018 dated 15-03-2018]

- Copy of Form RFD-01A filed on common portal
- Copy of Statement 3A of FORM RFD-01A generated on common portal
- Copy of Statement 3 of FORM RFD-01A
- Invoices w.r.t. input and input services
- BRC/FIRC for export of services
- Undertaking / Declaration in FORM RFD-01A

Acknowledgment

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 [i.e. period of 60 days for final order from date of receipt of application complete in all respects] shall be counted from such date of filing.

Order for Grant of Provisional Refund [Rule 91(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.

Period for Grant of Provisional Refund [Rule 91(2)]

Provisional refund on account of zero-rated supply (exports/supply to SEZ Units/Developers) of goods or services or both made by registered persons shall be granted within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90 i.e. RFD-02.

Payment Advice Credit for Provisional Refund [Rule 91(3)]

The proper officer shall issue a payment advice 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.

Credit of Provisional Refund to Bank Account [Rule 91(3)]

Payment advice in RFD-05 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.

Final Settlement of Refund Claim

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 [Rule 92(1)]

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Final settlement of the refund claim after due verification of documents furnished by the applicant shall be made within sixty days from the date of receipt of application complete in all respects. [Section 54(7)] If tax ordered to be refunded is not refunded within 60 days from the date of receipt of application, the applicant shall be allowed interest @ 6% after the expiry of 60 days till date of refund of tax [Section 56 read with Notification No.13/2017 dated 28-06-2017].

Documentary Evidence to establish that refund is due to applicant [Rule 89(2)(b) and Rule 89(2)(c)]

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.

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

Statement- 3 [Rule 89(2)(b) and 89(2)(c)]

Refund Type: Export without payment of tax (accumulated ITC)

(Amount in Rs.)

Sr. No.	Invoice details			Goods/Services (G/S)	Shipping bill/ Bill of export			EGM Details		BRC/FIRC	
	No.	Date	Value		Port code	No.	Date	Ref No.	Date	No.	Date
1	2	3	4	5	6	7	8	9	10	11	12

Transmission of details from Common Portal to Indian Customs EDI System (ICES) [Rule 96A(2)] through GSTR-1

The details of the 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.

In case of extension of filing date of GSTR-1 [First Proviso to Rule 96A(2)]

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:

Auto population of data in GSTR-1 [Second Proviso to Rule 96A(2)]

The information in Table 6A furnished under the first proviso shall be auto-drafted in Form GSTR-1 for the said tax period.

Confirmation of Transmission of detail [Rule 96A(2)]

The ICES shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India:

Realization of export proceeds in Indian Rupee

Para 2(k) of Circular 8/2017 dated 4-10-17 has clarified thus:

"Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that "there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy

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(2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible VOSTRO account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.

Accordingly, it is clarified that the acceptance of 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 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”.

BRC / FIRC for export of goods

Para 12 of circular 37/11/2018 dated 15-03-2018 has clarified as under:

“It is clarified that the realization of convertible foreign exchange 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 Realisation 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.

5.1.3 Refund of IGST paid on Exports

The definition of ‘refund’ provided under Explanation 1 to section 54 specifically includes refund of:

- (a) tax paid on zero-rated supplies of goods or services or both or
- (b) tax paid on inputs or input services used in making such zero-rated supplies.

The cumulative effect is refund of tax charged in invoice meant for zero rated supply.

Refund of amount to applicant instead of being credited to Consumer Welfare Fund [Section 54(8)(a)]

In case of 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, the refundable amount shall, instead of being credited to the Fund, be paid to the applicant. Zero rated supplies include exports as well as supplies to SEZ. Where supplies are made to SEZ unit against payment of tax which is entitled to avail credit, the concept of unjust enrichment may apply and hence refund should be credited to consumer welfare fund instead of being paid to applicant. Hence u/s 54(8)(a), refund to tax paid on exports only can be paid to the applicant.

Form for claiming refund

Filing of Shipping bill deemed to be Application for Refund [Rule 96(1)]

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 [Rule 96(1)] General Application form for claiming refunds RFD-01 is not applicable for claiming refund of IGST paid on export of goods. [Rule 89(1)]

When refund application is deemed to have been filed [Rule 96(1)]

A refund 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 export manifest or an export report covering the number and the date of shipping bills or bills of export; and
- (b) the applicant has furnished a valid return in Form GSTR-3 or Form GSTR-3B, as the case may be.

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means:

- (a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods-
 - (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
 - (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 the Post Office concerned to a place outside India

Transmission of details from Common Portal to Indian Customs EDI System (ICES) [Rule. 96(2)] through GSTR-1

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.

In case of extension of filing date of GSTR-1 First Proviso to Rule 96(2)]

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:

Auto population of data in GSTR-1 [Second Proviso to Rule 96(2)]

The information in Table 6A furnished under the first proviso shall be auto-drafted in Form GSTR-1 for the said tax period.

Confirmation of Transmission of detail [Rule 96(2)]

The ICES shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

Processing of Refund claim [Rule 96(3)]

Upon receipt of the information regarding the furnishing of a valid return in Form GSTR-3 [or Form GSTR-3B, as the case may be] from the common portal, the system designated by the Customs *or the proper officer of Customs*, as the case may be, shall process the claim of refund in respect of export of goods.

Credit of IGST paid in Shipping bill to bank account [Rule 96(3)]

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*.

Withholding of Refund Claim [Rule 96(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.

Intimation of Refund withheld on request of jurisdiction Commissioner [Rule 96(5)]

Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4) of rule 96, 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.

Withholding Order by Jurisdictional Officer [Rule 96(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 B of Form GST RFD-07.

Release of withheld Refund [Rule 96(7)]

Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4) of rule 96, 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 GST RFD-06.

Refund to Bhutan Government [Rule 96(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.

Refund of IGST Paid on Export of Goods not to be allowed to certain persons [Rule 96(10)]

Persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of:

- (a) Deemed Exports under Notification No. 48/2017 dated 18-10-2017 (i.e. Supply against advance authorization or EPCG license or supply to EOU/EHTP/STP/BTP)
- (b) Concessional Tax @ 0.1/0.05% under Notification Nos.40/2017-Central Tax (rate) and 41/2017-Integrated Tax (Rate)
- (c) import without payment of IGST under advance authorization [Under Notification Nos. 78/2017-Customs and 79/2017-Customs]

Circular 45/19/2018 dated 30-05-2018

"7. What is the scope of the restriction imposed by rule 96(10) of the CGST Rules, regarding non-availment of the benefit of notification Nos. 48/2017-Central Tax dated the 18.10.2017, 40/2017-Central Tax (Rate) dated 23.10.2017, 41/2017-Integrated Tax (Rate) dated 23.10.2017, 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017?"

7.1 Sub-rule (10) of rule 96 of the CGST Rules seeks to prevent an exporter, who is receiving goods from suppliers availing the benefit of certain specified notifications under which they supply goods without payment of tax or at reduced rate of tax, from exporting goods under payment of integrated tax. This is to ensure that the exporter does not utilise the input tax credit availed on other domestic supplies received for making the payment of integrated tax on export of goods.

7.2 However, the said restriction is not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for making their outward supplies. Further, the said restriction is also not applicable to an exporter who has procured goods from suppliers who have, in turn, received goods from registered persons availing the benefits of these notifications since the exporter did not directly procure these goods without payment of tax or at reduced rate of tax.

7.3 Thus, the restriction under sub-rule (10) of rule 96 of the CGST Rules is only applicable to those

exporters who are directly receiving goods from those suppliers who are availing the benefit under notification No. 48/2017-Central Tax dated the 18th October, 2017, notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017, or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 or notification No. 78/2017- Customs dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017.

7.4 Further, there might be a scenario where a manufacturer might have imported capital goods by availing the benefit of Notification No. 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017. Thereafter, goods manufactured from such capital goods may be supplied to an exporter. It is hereby clarified that this restriction does not apply to such inward supplies of an exporter”

Domestic Supplier of Exporter claiming benefit of advance authorization/ EPCG license etc. shall not debar exporter from claiming IGST refund on exports

The provisions of Rule 96(10) have been modified by Notification 39/2018- CTR dated 4-9-2018, w.e.f. 23-10-2017, retrospectively, to deny to the person claiming refund of IGST paid on exports if he has:

- a) Received supplies on which benefit of Notification No.48/2017-CTR or 40/2017-CTR or 41/2017-IGST(rate) has been availed or
- b) Availed the benefit of 78/2017 or 79/2017-Customs

Clarification

Further, Para 5 of Circular 59/2018 dated 04-09-2018 has clarified as under:

“5.1 Rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018 provides that registered persons, including importers, who are directly purchasing/importing supplies on which the benefit of reduced tax incidence or no tax incidence under certain specified notifications has been availed, shall not be eligible for refund of integrated tax paid on export of goods or services.

For example, an importer (X) who is importing goods under the benefit of Advance Authorization/EPCG, is directly purchasing/importing supplies on which the benefit of reduced/Nil incidence of tax under the specified notifications has been availed. In this case, the restriction under rule 96(10) of the CGST Rules is applicable to X.

However, if X supplies the said goods, after importation, to a domestic buyer (Y), on payment of full tax, then Y can rightfully export these goods under payment of integrated tax and claim refund of the integrated tax so paid. However, in the said example if Y purchases these goods from X after availing the benefit of specified notifications, then Y also will not be eligible to claim refund of integrated tax paid on export of goods or services.

5.2 Overall, it is clarified that the restriction under rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018, applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed.”

5.1.4 Export of services with payment of tax

The definition of refund provided under Explanation 1 to section 54 specifically includes refund of:

- (a) tax paid on zero-rated supplies of goods or services or both or
- (b) Tax paid on inputs or input services used in making such zero-rated supplies.

The cumulative effect is refund of tax charged in invoice meant for zero rated supply.

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Refund of amount to applicant instead of being credited to Consumer Welfare Fund [Section 54(8)(a)]

In case of 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, the refundable amount shall, instead of being credited to the Fund, be paid to the applicant.

Form of Application

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. [Rule 96(9)]

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means:

".....(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, where the supply of services had been completed prior to the receipt of such payment; or
- (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice

Documents to be furnished along with the application [Rule 89(2)(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.

Statement- 2 [Rule 89(2)(c)]

Refund Type: Exports of services with payment of tax

(Amount in Rs.)

Sr. No.	Invoice details			Integrated tax		Cess	BRC/FIRC		Integrated tax and cess involved in debit note, if any	Integrated tax and cess involved in credit note, if any	Net Integrated tax and cess (6+7+10-11)
	No.	Date	Value	Taxable value	Amt.		No.	Date			
1	2	3	4	5	6	7	8	9	10	11	12

Documents required for processing of refund application [Para 14.2 of Circular 37/11/2018 dated 15-03-2018]

- Copy of Form RFD-01A filed on common portal
- Copy of Statement 2 of Form RFD-01A
- Invoices w.r.t. input, input services and capital goods
- BRC/FIRC for export of services
- Undertaking / Declaration in Form RFD-01A

BRC or FIRC details will be mandatory where refund is claimed against export of services [Instruction No. 11 to RFD-01]

Jurisdiction

Vide Notification 10/2018, state officers are also empowered to sanction refund of Integrated tax paid on export of services.

Refund of IGST Paid on Export of Services not to be allowed to certain persons [Rule 96(10)]

Persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of:

- (a) Deemed Exports under Notification No.48/2017 dated 18-10-2017(i.e. Supply against advance authorization or EPCG license or supply to EOU/EHTP/STP/BTP)
- (b) Concessional Tax @ 0.1/0.05% under Notification Nos. 40/2017-Central Tax (rate) and 41/2017-Integrated Tax (Rate)

[Import without payment of IGST under advance authorization Under Notification Nos. 78/2017-Customs and 79/2017-Customs]

Domestic Supplier of Exporter claiming benefit of advance authorization/ EPCG license etc. shall not debar exporter from claiming IGST refund on exports

The provisions of Rule 96(10) have been modified by Notification 39/2018- CTR dated 4-9-2018, w.e.f. 23-10-2017, retrospectively, to deny to the person claiming refund of IGST paid on exports if he has :

- (a) Received supplies on which benefit of Notification Nos.48/2017-CTR or 40/2017-CTR or 41/2017-IGST(rate) has been availed or
- (b) Availed the benefit of Notification No. 78/2017 or 79/2017-Customs

Clarification

Further Para 5 of Circular 59/2018 dated 04-09-2018 has clarified as under:

"5.1 Rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018 provides that registered persons, including importers, who are directly purchasing/importing supplies on which the benefit of reduced tax incidence or no tax incidence under certain specified notifications has been availed, shall not be eligible for refund of integrated tax paid on export of goods or services.

For example, an importer (X) who is importing goods under the benefit of Advance Authorization/EPCG, is directly purchasing/importing supplies on which the benefit of reduced/Nil incidence of tax under the specified notifications has been availed. In this case, the restriction under rule 96(10) of the CGST Rules is applicable to X.

However, if X supplies the said goods, after importation, to a domestic buyer (Y), on payment of full tax, then Y can rightfully export these goods under payment of integrated tax and claim refund of the integrated tax so paid. However, in the said example if Y purchases these goods from X after availing the benefit of specified notifications, then Y also will not be eligible to claim refund of integrated tax paid on export of goods or services.

5.2 Overall, it is clarified that the restriction under rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018, applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed."

5.1.5 Refund on account of Unutilized ITC on supplies made to SEZ Unit/SEZ Developer without payment of tax

As per section 54(3)(i), a registered person may claim refund of any unutilized input tax credit at the end of any tax period in case of zero-rated supplies made without payment of tax. Zero rated supplies are defined in section 16(1) of IGST Act and as per section 16(1)(b) of IGST Act, supply of goods or services or both to SEZ developer or SEZ Unit are zero rated supplies. Hence under the legal provisions, refund of unutilized ITC on *supplies made to SEZ unit/ SEZ developer* of goods or services without payment of IGST may be claimed.

Refund of Unutilized Credit on exempted Goods in case of Zero Rated Supplies

Further, subject to the provisions of section 17(5), credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. [Section 16(2) of IGST Act]. As per section 17(2), the amount of ITC is restricted to the amount attributable to taxable supplies including zero rates supplies. Hence ITC against zero rated supplies is allowed even if they fall in list of exempted goods or exempted services.

Subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier. [Circular 48/22/2018 dated 14-06-2018]

A registered person making zero rated supply shall be eligible to claim refund for supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit. [Section 16(3)(a)]

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means in the case of refund of unutilized input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises.

Applicability of Bond or LUT for supply to SEZ Units/Developers without payment of tax [Rule 96(6)]

The provisions of sub-rule 96(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.

Bond or LUT in RFD-11 [Rule 96A(1)]

Any registered person availing the option to supply goods or services to SEZ Developer/Unit 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,

Whether bond or Letter of Undertaking (LUT) is required in the case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods?

Para 6 of Circular No. 45/19/2018 dated 30-05-2018 answers this question thus:

“6.1 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. Whereas, as per 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.

6.2 However, in 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 supply to SEZ Developer/Unit 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. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any.

6.3 Further, the supplier to SEZ Developer/Unit 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."

Form for LUT

A registered person (exporters) shall fill and submit Form GST RFD-11 on the common portal. An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. [Para 2(c) of Circular 8/2017 as amended by 40/2018 dated 6-4-18]

Documents for LUT

No document needs to be physically submitted to the jurisdictional office for acceptance of LUT. [Para 2(d) of Circular 8/2017 as amended by 40/2018 dated 6-4-18]

Acceptance of LUT/bond

An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that a supplier to SEZ Developer/Unit whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017-Central Tax, then for the supplier to SEZ Developer/Unit, LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected *ab initio*." [Para 2(e) of Circular 8/2017 as amended by Notification No.40/2018 dated 6-4-18]

LUT in lieu of Bond [Rule 96A(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.

Conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person.

Notification No. 37/2017-Central Tax dated 04-10-2017 has clarified as under:

"All registered persons who intend to supply goods or services to SEZ Unit/Developer without payment of integrated tax shall be eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees;"

Self-declaration for non-prosecution

Circular No. 37/11/2018 dated 15th March 2018 has clarified as under:

"It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the claimant has not been prosecuted.

7.1 The facility of supply to SEZ Unit/ Developer 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

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self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to supply under LUT are required to supply under bond.

7.2 It is clarified that this requirement is already satisfied in case of supply to SEZ Unit/Developer under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT, is not warranted."

The Letter of Undertaking shall be furnished on the letterhead of the registered person, in duplicate, for a financial year in the annexure to Form GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor.

Where the registered person fails to pay the tax due along with interest, as specified under sub-rule (1) of rule 96A of Central Goods and Services Tax Rules, 2017, within the period mentioned in clause (a) or clause (b) of the said sub-rule, the facility of supply without payment of integrated tax will be deemed to have been withdrawn and if the amount mentioned in the said sub-rule is paid, the facility of export without payment of integrated tax shall be restored.

Eligibility to supply to SEZ Unit/Developer under LUT

The facility of supply to SEZ Unit /Developer under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees unlike Notification No. 16/2017-Central Tax dated 7th July, 2017 which extended the facility of supply under LUT to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore. [Para 2(a) of Circular 8/8/2017 dated 4-10-2017]

Bank guarantee

Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount. [Para 2(f) of Circular 8/2017 dated 4-10-2017]

Clarification regarding running bond

The supplier to SEZ Unit/Developer shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the supply. The supplier shall ensure that the outstanding integrated tax liability on such supply is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed supplies, the supplier 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 supplier. The record of such entries shall be furnished to the Central tax officer as and when required. [Para 2(g) of Circular 8/2017 dated 4-10-2017]

Obligation under LUT or Bond [Rule 96A(1)]

In LUT or Bond the registered person binds himself to pay the tax due along with interest specified under sub-section (1) of section 50 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 supply to SEZ Unit/Developer, if the goods are not supplied to SEZ Unit/Developer; 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 supply to SEZ Unit/Developer, if the payment of such services is not received by the supplier.

Restriction on claim of IGST Paid

No refund of unutilized input tax credit shall be allowed, if the supplier of goods or services or both claims refund of the integrated tax paid on such supplies. [Third Proviso to Section 54(3)]

Calculation of the Maximum Amount of Refund of Unutilized ITC [Rule 89(4)]

Availability of refund to be claimed in case of supplies made to SEZ unit or SEZ developer without payment of tax shall be worked out in accordance with the formula prescribed in rule 89(4) [Instruction No. 14 to RFD-01]

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) × Net ITC ÷ Adjusted Total Turnover

Where,—

"Refund amount" means the maximum refund that is admissible;

"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-rule (4A) or (4B) or both;

"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or (4B) or both;

"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;

"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) of section 89(4) 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.'

(Hence the Turnover of zero rated supply of service on which tax has been paid stands excluded from the adjusted turnover.)

"Relevant period" means the period for which the claim has been filed.

Statement-5A [Rule 89(4)]

Refund Type: On account of supplies made to SEZ unit / SEZ developer without payment of tax (accumulated ITC) – calculation of refund amount

(Amount in Rs.)

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4

Provisional Grant of Refund [Section 54(6)]

The proper officer may, in the case of any claim for refund on account of zero-rated supply (exports/supply to SEZ Units/Developers) of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, *ninety per cent of the total amount so claimed*.

The order for provisional grant of refund shall be made in such manner and subject to such conditions, limitations and safeguards as may be prescribed.

Refund of Provisionally accepted ITC

While granting 90% of total claim the amount of provisionally accepted ITC shall be excluded. However due to non-implementation of GSTR-2 and GSTR-3, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit. 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 made available in Form RFD-01A on the common portal. [Para 2 of Circular 24/2017 dated 21-12-17]

Condition for provisional grant of refund [Rule 91(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.

Procedure for Provisional Grant of Refund [Rule 90(2)]

Forward Application to Proper officer

The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer.

Scrutiny of Refund

The Proper Officer shall, *within a period of fifteen days* of filing of the said application, scrutinize the application for its completeness including whether the application is complete in terms of sub-rules (2), (3) and (4) of rule 89, i.e.

- (a) Application is accompanied by documentary evidence u/r 89(2)
- (b) Electronic Credit Ledger should have been debited by Refund Claim [Rule 89(3)]

(c) Refund claim should be as per maximum refund allowed u/r 89(4)

Acknowledgment

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 [i.e. period of 60 days for final order from date of receipt of application complete in all respects] shall be counted from such date of filing.

Order for Grant of Provisional Refund [Rule 91(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.

Period for Grant of Provisional Refund [Rule 91(2)]

Provisional refund on account of zero-rated supply (exports/supply to SEZ Units/Developers) of goods or services or both made by registered persons shall be granted within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90 i.e. RFD-02.

Payment Advice Credit for Provisional Refund [Rule 91(3)]

The proper officer shall issue a payment advice 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.

Credit of Provisional Refund to Bank Account [Rule 91(3)]

Payment advice in RFD-05 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.

Final Settlement of Refund Claim

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 [Rule 92(1)]

Final settlement of the refund claim after due verification of documents furnished by the applicant shall be made within sixty days from the date of receipt of application complete in all respects. [Section 54(7)] If tax ordered to be refunded is not refunded within 60 days from the date of receipt of application, the applicant shall be allowed interest @ 6% after the expiry of 60 days till the date of refund of tax [Section 56 read with Notification No. 13/2017 dated 28-06-2017].

Endorsement by Specified Officer of the Zone [Second Proviso to Rule 89(1)]

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:

Documentary Evidence to establish that refund is due to applicant [Rule 89(2)(d), (e), (f)]

“(d) A statement containing the number and date of invoices as provided in rule 46 along with the

evidence regarding the endorsement specified in the second proviso to sub-rule (1) *in the case of the supply of goods* made to a Special Economic Zone unit or a Special Economic Zone developer

- (e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of *supply of services* made to a Special Economic Zone unit or a Special Economic Zone developer;
- (f) a declaration to the effect that 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;”

5.1.6 Refund on account of supplies made to SEZ Unit/SEZ Developer with payment of tax

The definition of refund provided under Explanation 1 to section 54 specifically includes refund of:

- (a) tax paid on zero-rated supplies of goods or services or both or
- (b) tax paid on inputs or input services used in making such zero-rated supplies.

The cumulative effect is refund of tax charged in invoice meant for zero rated supply.

Refund of amount to applicant instead of being credited to Consumer Welfare Fund [Section 54(8)(a)]

In case of 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, the refundable amount shall, instead of being credited to the Fund, be paid to the applicant.

Subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier. [Circular 48/22/2018 dated 14-06-2018]

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means the date of payment of tax.

Form of Application

Application for refund of IGST paid on supplies to SEZ Unit/SEZ Developer shall be made in RFD-01

Endorsement by Specified Officer of the Zone [Second Proviso to Rule 89(1)]

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:

Documentary Evidence to establish that refund is due to applicant [Rule 89(2)(d), (e), (f)]

“(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

Types of Refund & Procedure for Claiming Refund

- (e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of *supply of services* made to a Special Economic Zone unit or a Special Economic Zone developer;
- (f) a declaration to the effect that 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;”

Statement-4 [Rule 89(2)(d) and 89(2)(e)]

Refund Type: On account of supplies made to SEZ unit or SEZ Developer (on payment of tax)

(Amount in Rs.)

GSTIN of recipient	Invoice details			Shipping bill/Bill of export/Endorsed invoice by SEZ		Integrated Tax		Ces s	Integrate d tax and cess involved in debit note, if any	Integrate d tax and cess involved in credit note, if any	Net Integrate d tax and cess (8+9+10-11)
	No .	Dat e	Valu e	No.	Date	Taxabl e Value	Amt .				
1	2	3	4	5	6	7	8	9	10	11	12

5.1.7 Refund to Supplier and Recipient in Deemed Exports

Deemed Exports u/s 147 read with Notification No.48/2017 dated 18-10-2017

- Supply of goods by a registered person against Advance Authorisation. “Advance Authorisation” means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports
- Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization. “Export Promotion Capital Goods Authorization” means an authorization issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015- 20 for import of capital goods for physical exports.
- Supply of goods by a registered person to Export Oriented Unit. “Export Oriented Unit” means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.
- Supply of gold by a bank or Public Sector Undertaking specified in *Notification No. 50/2017-Customs, dated the 30th June, 2017* (as amended) against Advance authorization.

Purchases from manufacturer and Form CT-1:

It is clarified that there is no provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime. The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST. [Para 2(i) of Circular 8/2017 dated 4-10-2017]

Transactions with EOUs

Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them under GST regime. Therefore, supplies to EOUs are taxable like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter [Para 2(i) of 8/2017 dated 4-10-2017]

In accordance with the decisions taken by the GST Council in its 22nd meeting held on 06.10.2017 at New Delhi to resolve certain difficulties being faced by exporters post-GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 (hereinafter referred to as 'the Act') and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies. Accordingly, Notification No. 48/2017-Central Tax dated 18.10.2017 has been issued to treat such supplies to EOU/EHTP/STP/BTP units as deemed exports. Further, rule 89 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') has been amended vide Notification No. 47/2017- Central Tax dated 18-10-2017 to allow either the recipient or supplier of such supplies to claim refund of tax paid thereon. [Circular No.14/14/2017-GST, dated 6-11-2017]

Procedure and safeguards for supply to EOU/EHTP/STP/BTP [Para 2 of Circular 14/2017 dated 6-11-17]

Prior Intimation [Para 2(i)]

The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form-A" bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to:

- (a) the registered supplier;
- (b) the jurisdictional GST officer in charge of such registered supplier; and
- (c) its jurisdictional GST officer.

Supply to EOU [Para2(ii)]

The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.

Endorsement of receipt by EOU [Para2(iii)]

On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –

- (a) the registered supplier;
- (b) the jurisdictional GST officer in charge of such registered supplier; and
- (c) its jurisdictional GST officer.

Proof of Deemed Export [Para 2(iv)]

The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.

Records to be maintained by EOU [Para 2(v)]

The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B". The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required.

Form-B to Jurisdictional GST Officer [Para 2(v)]

A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of the month) in a CD or Pen drive, as convenient to the said unit.

Who can file the application

In terms of the Third Proviso to Rule 89(1) either the Supplier or Recipient of Deemed Exports can file application

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

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, "relevant date" means:

- (a) 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;
- (b) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person;

Documentary Evidence to establish that refund is due to applicant [Rule 89(2)(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

Following documents have been notified u/r 89(2)(g) vide Notification 49/2017 dated 18-10-2017:

1. Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a 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
2. An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
3. An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

Para 4 of Circular 24/2017 dated 21-12-2017 reiterates the legal provisions stated above. Further, as per the provisions of rule 89(2)(g) of the CGST Rules, the following statement 5B of FORM GST RFD-01A is required to be furnished for claiming refund on supplies declared as deemed exports:-

Statement 5B [Rule 89(2)(g)]

Refund Type: On account of deemed exports

(Amount in Rs)

Sl. No.	Details of invoices of outward supplies in case refund is claimed by supplier/Details of invoices of inward supplies in case refund is claimed by recipient				Tax paid			
	GSTIN of the supplier	No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/Union Territory Tax	Cess
1	2	3	4	5	6	7	8	9

5.1.8 Refund of wrongly collected/ paid tax

Tax wrongfully collected and paid to Central Government or State Government. [Section 77 of CGST Act]

- (1) A registered person who has paid the Central tax and State tax or, as the case may be, the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.
- (2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of Central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable

Tax wrongfully collected and paid to Central Government or State Government [Section 19 of IGST Act]

- (1) A registered person who has paid integrated tax on a supply considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.
- (2) A registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.

Refund of amount to applicant instead of being credited to Consumer Welfare Fund [Section 54(8)(d)]

In case of refund of tax in pursuance of section 77, the refundable amount shall, instead of being credited to the Fund, be paid to the applicant.

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means the date of payment of tax.

Documentary Evidence to establish that refund is due to applicant to be submitted with application RFD-01 [Rule 89(2)(j)]

A statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply.

5.1.9 Refund of duty/tax under existing law

Return of Goods by Unregistered person within 6 Months from appointed day [Section 142(1)]

Where any goods on which duty, if any, had been paid under the existing law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer.

Refund claims under existing law filed before Appointed Day [Section 142(3)]

Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944):

PROVIDED that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

PROVIDED FURTHER that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

Refund claims under existing law filed after Appointed Day [Section 142(4)]

Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law:

PROVIDED that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

PROVIDED FURTHER that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

Refund of tax paid under existing law against services not provided [Section 142(5)]

Every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944).

Appeal/ review/ reference Proceedings relating to refund of Credit under existing law [Section 142(6)(a)]

Every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944) and the amount rejected, if any, shall not be admissible as input tax credit under this Act:

PROVIDED that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act;

Appeal/review/ reference Proceedings relating to payment of tax found admissible as refundable under existing law [Section 142(7)(b)]

Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944) and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Assessment/Adjudication Proceedings relating to payment of tax, interest, fine or penalty found admissible as refundable under existing law [Section 142(8)(b)]

Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944) and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Refund claim due to Revision of Return under Existing law [Section 142(9)(b)]

Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944) and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Clarification on Refund of taxes under existing laws [Para 10 of Circular 37/11/2018 dated 15-03-2018]

"10. *Refund of taxes paid under existing laws:* Sub-sections (3), (4) and (5) of section 142 of the CGST Act provide that refunds of tax/duty paid under the existing law shall be disposed of in accordance with the provisions of the existing law. It is observed that certain taxpayers have applied for such refund claims in FORM GST RFD-01A also. In this regard, the field formations are advised to reject such applications and pass a rejection order in Form GST PMT-03 and communicate the same on the common portal in Form GST RFD-01B. The procedures laid down under the existing laws viz., Central Excise Act, 1944 and Chapter V of the Finance Act, 1994 read with above referred sub-sections of section 142 of the CGST Act shall be followed while processing such refund claims.

10.1 Furthermore, it has been brought to the notice of the Board that the field formations are rejecting, withholding or re-crediting CENVAT credit, while processing claims of refund filed under the existing laws. In this regard, attention is invited to sub-section (3) of section 142 of the CGST Act which provides that the amount of refund arising out of such claims shall be refunded in cash. Further, the first proviso to the said sub-section provides that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse and therefore, will not be transitioned into GST. Furthermore, it should be ensured that no refund of the amount of CENVAT credit is granted in case the said amount has been transitioned under GST. The field formations are advised to process such refund applications accordingly."

5.1.10 Refund to Casual Taxable Person/ Non-Resident Taxable Person

Casual Taxable person and non-resident taxable person are required to obtain registration at least 5 days prior to commencement of business [Proviso to section 25(1)]. Further casual taxable person and non-resident taxable person are required to make an advance deposit of tax in an amount equivalent to estimated tax liability for the period of registration [Section. 27(2)]. The amount of advance deposit of tax may become refundable after the expiry of period for which registration was granted.

Time and Manner for claiming refund

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 [Fourth Proviso to Rule 89(1)]

No refund without furnishing all returns [Section 54(13)]

Notwithstanding anything to the contrary contained in section 54, 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

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means the date of payment of tax

5.1.11 Refund of IGST to International Tourist

Section 15 of the IGST Act reads thus:

"The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

Explanation. --For the purposes of this section the term "tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

5.1.12 Refund of Provisionally paid tax

Under section 60 of the CGST Act taxable person can request for allowing provisional payment of tax in case such person is unable to determine value of goods or services or both or determine the rate of tax applicable there to. Provisional order is required to be made within 90 days from date of receipt of request and final assessment order under section 60(3) is required to be passed within 6 months (or period extended by Joint/Additional Commissioner or Commissioner) from date of communication of provisional order.

As per section 60(5), where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54, interest shall be paid on such refund as provided in section 56. It means that refund shall be paid to applicant and it shall not be credited to consumer welfare fund. Further, interest @ 6% shall be allowed under Section 56 read with Notification No.13/2017-Central Tax dated 28-06-2017, after the expiry of 60 days from the date of receipt of application of refund.

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per clause (f) to Explanation 2 to section 54, relevant date means:

"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"

Documentary Evidence to establish that refund is due to applicant to be submitted with application RFD-01 [Rule 89(2)(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.

5.1.13 Refund of Compensation Cess

Para 8 of Circular 1/1/2017

Provisions of section 16 of the IGST Act, 2017, relating to zero rated supply will apply *mutatis mutandis* for the purpose of Compensation Cess (wherever applicable), that is to say that:

- (a) Exporter will be eligible for refund of Compensation Cess paid on goods exported by him [on similar lines as refund of IGST under section 16(3) (b) of the IGST, 2017]; or
- (b) No Compensation Cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of Compensation Cess relating to goods exported [on similar lines as refund of input taxes under section 16(3) (a) of the IGST, 2017]

Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess

Para 5 of Circular 45/19/2018 dated 30-05-2018 reads as under:

“5.1 Doubts have been raised whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminum products, whereas cess is not levied on aluminum products.

5.2 In this regard, section 16(2) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) 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, as per section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, (hereafter referred to as the Cess Act), all goods and services specified in the Schedule to the Cess Act are leviable to cess under the Cess Act; and vide section 11 (2) of the Cess Act, section 16 of the IGST Act is *mutatis mutandis* made applicable to inter-State supplies of all such goods and services. Thus, it implies that all supplies of such goods and services are zero rated under the Cess Act. Moreover, as section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal, it is clarified that a registered person making zero rated supply of aluminum products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal.

5.3 Such registered persons may also make zero-rated supply of aluminum 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. Accordingly, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.”

5.1.14 Refund on account of Excess or Erroneous Deduction

As per section 51(8), the refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54.

In terms of the Proviso to this section no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

Limitation Period for making refund application

As per section 54(1), an application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means the date of payment of tax.

5.1.15 Refund on Inward Supplies to Canteen Stores Department

Exemption on Outward Supplies by CSD/URCs [Notification No. 7/2017-Central Tax Rate dated 28-06-2017

There is exemption on supply of goods by Canteen Stores Department and Unit Run canteen as under:

1. The supply of goods falling under any Chapter by the CSD to the Unit Run Canteens
2. The supply of goods falling under any Chapter by the CSD to the authorized customers
3. The supply of goods falling under any Chapter by the Unit Run Canteens to the authorized customers.

Basic Legal provisions for Refund [Section55]

The Government may, on the recommendations of the Council, by notification, specify:

- any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 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.

Notification No. 6/2017-Central Tax Rate dated 28-06-2017 u/s 55

In exercise of the powers conferred by section 55 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby specifies the Canteen Stores Department (hereinafter referred to as the CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

Refund applications to be filed by Canteen Stores Department (CSD) [Circular No. 60/2018 dated 4-9-18]

Application

- (a) CSD to be granted invoice based instant refunds against inward supplies of goods and not accumulated unutilized input tax credit.
- (b) CSD to apply refunds on quarterly basis.
- (c) Refund Application to be filed in Form RFD-10A manually to jurisdictional tax office.
- (d) CSD will apply for refund with the jurisdictional Central tax/State tax authority to whom the CSD has been assigned

Documents to be submitted alongwith the application

- (a) Refund application to accompany an undertaking stating that the goods on which refund is being claimed have been received by the CSD.
- (b) Refund application to accompany a declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed
- (c) Copies of the valid return filed in Form GSTR-3B by the CSD for the period covered in the refund claim to be filed with refund application
- (d) Copies of Form GSTR-2A of the CSD for the period covered in the refund claim along with attested

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hard copies of the invoices on which refund is claimed but which are not reflected in Form GSTR-2A to be filed with refund application.

- (e) Details of the bank account in which the refund amount is to be credited to be provided

Acknowledgment/Deficiency Memo within 15 days

Upon receipt of the application an acknowledgment is to be issued in RFD-02 manually within 15 days from date of receipt of application. Deficiency memo to be issued in RFD-03 manually within 15 days of the receipt of the refund application. Only one deficiency memo should be issued which should be complete in all respects.

Scrutiny by proper officer

- (a) The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in Form GSTR- 3B has been filed by the CSD.
- (b) The proper officer may scrutinize the details contained in Form RFD-10A, Form GSTR-3B and Form GSTR-2A.
- (c) The proper officer may rely upon Form GSTR-2A as an evidence of the account of the supply made by the corresponding suppliers to the CSD in relation to which the refund has been claimed by the CSD.
- (d) The proper officer should ensure that the amount of refund sanctioned is 50 % of the Central tax, State tax, Union territory tax and integrated tax paid on the supplies received by CSD.

Sanction of Refund

- (a) The proper officer shall issue the refund sanction/rejection order manually in Form GST RFD-06 manually. Payment advice manually in Form GST RFD-05 for each tax head separately.
- (b) 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.

Disbursement

- (a) Payment of the sanctioned refund amount in relation to central tax / integrated tax shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority.
- (b) Refund order issued by the proper officer of any tax authority to be duly communicated to the concerned counter-part tax authority within seven days for the purpose of payment of the remaining sanctioned refund amount.
- (c) Communication to counterpart tax authority to be made through nominated nodal officer through dedicated e mail id.
- (d) The jurisdictional proper officer of Central or State Tax, as the case may be, shall issue Form GST RFD-05 and send it to the DDO for onward transmission for release of payment.
- (e) After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other.

Refund in case of Specialized agencies of United Nations organization or any multilateral financial institutions

Form of Application

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and

Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, [Section 54(2)]. RFD-01 is not applicable in such cases.

Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued under section 55 shall apply for refund in Form GST RFD-10 electronically on the common portal or otherwise, either directly or through a Facilitation Centre notified by the Commissioner [Rule 95(1)]

Time Period for making application

A specialized agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, *before the expiry of six months from the last day of the quarter in which such supply was received* [Section. 54(2)]

Extension of Time for filing of application [Notification 20/2018 dated 28-03-2018]

"Whereas, the facility for filing the claim of refunds under section 55 of the said Act has been made available on the common portal recently;

Now, therefore, in exercise of the powers conferred by section 148 of the said Act, the Central Government, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, *before the expiry of eighteen months from the last date of the quarter in which such supply was received.*"

Frequency of refund Application [Rule 95(1)]

Refund Application in RFD-10 shall be made once in every quarter

Statement of inward Supplies [Rule 95(1)]

Refund Application in RFD-10 shall be accompanied by a statement of the inward supplies of goods or services or both in Form GSTR-11.

Providing statement of invoices while submitting the refund application

Circular 43/17/2018 dated 13-04-2018 provides as under:

"2.1. The procedure for filing a refund application has been outlined under rule 95 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the CGST Rules") which provides for filing of refund on a quarterly basis in Form RFD-10 along with a statement of inward invoices in Form GSTR-11. It has come to the notice of the Board that the print version of Form GSTR-11 generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated Form 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 refund application.

2.2. Further, the officers are advised not to request for original or hard copy of the invoices unless necessary."

Acknowledgment of Refund Application [Rule 95(2)]

An acknowledgement for the receipt of the application for refund shall be issued in Form GST RFD-02.

Condition for availability of Refund [Rule 95(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;
- (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.

Order Sanctioning Refund [Rule 95(4)]

The provisions of rule 92 shall, *mutatis mutandis*, apply for the sanction and payment of refund under this rule. It means:

- (a) Refund Order shall be issued in Form RFD-06
- (b) Complete Adjustment of demand under this Act or existing law shall be informed in Part A of RFD-07
- (c) Refund Withholding order shall be passed in RFD-07 Part B
- (d) Show Cause Notice for inadmissible/not payable refund shall be given in RFD-08
- (e) Reply to show cause notice shall be given in RFD-09 within 15 days of receipt of RFD-08
- (f) Order sanctioning refund after considering reply shall be made in RFD-06
- (g) Rejection of refund shall not be made without opportunity of being heard

5.1.16 Refund on Inward Supplies to UN and agencies and notified persons

Basic Legal provisions [Section55]

The Government may, on the recommendations of the Council, by notification, specify

- any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 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.

Special Registration for availing refund on Inward Supplies

Section 25(9) reads thus:

“Notwithstanding anything contained in sub-section (1),—

- (a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries; and
- (b) any other person or class of persons, as may be notified by the Commissioner,

shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

Centralized Registration

Para 1 & 2(iv) & 6(i) of Circular 36/10/2018 dated 15-03-18 provide as under:

“The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has decided that the

entities having Unique Identity Number (UIN) may be given centralized registration at the option of such entities. Facility of single UIN is optional and an entity may seek more than one UIN.

The facility of centralized UIN ensures that irrespective of the type of tax (CGST, SGST, IGST or Cess) and the State where such inward supply of goods or services have been procured, all refunds would be processed by Central authorities only. Therefore, field formations are advised that all refunds are to be processed on merits irrespective of where and which type of tax is paid on inward supply of goods or services or both by such entities.

Further, it was also decided that the Central Government will be responsible for all administrative compliances in respect of such entities."

UINs through REG-13

Entities having UINs are given a special status under the CGST Act as these are not covered under the definition of registered person. These entities have been granted UINs to enable them to claim refund of GST paid on inward supply of goods or services or both received by them. Therefore, if any such entity is making supply of goods or services or both in the course or furtherance of business then such entity will need to apply for GSTIN as per the provisions contained in the CGST Act read with the rules made thereunder.

The process for applying for UIN has been outlined under Rule 17 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"). As stated in the said rule, any person covered under clause (a) of sub-section (9) of section 25 of the CGST Act may submit an application electronically in Form GST REG-13 on the common portal. Therefore, Specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall apply for grant of UIN electronically by filling Form GST REG-13.

Alternative Mechanism for REG-13

Due to delays in making available Form GST REG-13 on the common portal, an alternative mechanism has been developed. Entities covered under clause (a) of sub-section (9) of Section 25 of the CGST Act may approach the Protocol Division, Ministry of External Affairs in this regard, who will facilitate grant of UINs in coordination with the Central Board of Excise and Customs (CBEC) and GSTN.

Form of Application

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, [Section 54(2)]. RFD-01 is not applicable in such cases.

Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued under section 55 shall apply for refund in Form GST RFD-10 electronically on the common portal or otherwise, either directly or through a Facilitation Centre notified by the Commissioner [Rule 95(1)]

Time Period for making application

A specialized agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, *before the expiry of six months from the last day of the quarter in which such supply was received* [Section 54(2)]

Extension of Time for filing of application

Notification 20/2018 dated 28-03-2018 provides as under:

"Whereas, the facility for filing the claim of refunds under section 55 of the said Act has been made available on the common portal recently;

Now, therefore, in exercise of the powers conferred by section 148 of the said Act, the Central Government, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, *before the expiry of eighteen months from the last date of the quarter in which such supply was received.*

Frequency of refund Application [Rule 95(1)]

Refund Application in RFD-10 shall be made only once in every quarter.

Statement of inward Supplies [Rule 95(1)]

Refund Application in RFD-10 shall be accompanied by a statement of the inward supplies of goods or services or both in Form GSTR-11.

Filing of return by UIN agencies [Para 4 of 36/10/2018 dated 15-3-18]

- (i) The procedure for filing returns by UIN entities is specified under sub-rule (1) of Rule 82 of the CGST Rules. The UIN entity is required to file details of inward supplies in Form GSTR-11.
- (ii) It may be noted that return in Form GSTR-11 is required to be filed only for those tax periods for which refund is being claimed. In other words, if an UIN entity is not claiming refund for a particular period, it need not file return in Form GSTR-11 for that period.

Providing statement of invoices while submitting the refund application

Circular 43/17/2018 dated 13-04-2018 provides as under:

"2.1. The procedure for filing a refund application has been outlined under rule 95 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as „the CGST Rules“) which provides for filing of refund on a quarterly basis in Form RFD-10 along with a statement of inward invoices in Form GSTR-11. It has come to the notice of the Board that the print version of Form GSTR-11 generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated Form 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 refund application.

2.2. Further, the officers are advised not to request for original or hard copy of the invoices unless necessary."

Acknowledgment of Refund Application [Rule 95(2)]

An acknowledgement for the receipt of the application for refund shall be issued in Form GST RFD-02.

Condition for availability of Refund [Rule 95(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;
- (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.

Order Sanctioning Refund [Rule 95(4)]

The provisions of rule 92 shall, *mutatis mutandis*, apply for the sanction and payment of refund under this rule. It means:

- (a) Refund Order shall be issued in Form RFD-06
- (b) Complete Adjustment of demand under this Act or existing law shall be informed in Part A of RFD-07
- (c) Refund withholding order shall be passed in RFD-07 Part B
- (d) Show Cause Notice for inadmissible/not payable refund shall be given in RFD-08
- (e) Reply to show cause notice shall be given in RFD-09 within 15 days of receipt of RFD-08
- (f) Order sanctioning refund after considering reply shall be made in RFD-06
- (g) Rejection of refund shall not be made without opportunity of being heard.

Conflict with International Agreement or Treaty [Rule 95(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.

Monthly Report on Refunds [Para 6(ii) of Circular 36/10/2018 dated 15-03-2018]

A monthly report as prescribed in Annexure B to the above circular is required to be furnished to the Director General of Goods and Services Tax by the 30th of the succeeding month.

Copy of Refund Order to State Counterparts [Para 6(iii) of Circular 36/10/2018 dated 15-03-2018]

Field officers shall send a copy of the order passed for such refunds to their State counterparts for information purposes only.

No mention of UINs on Invoices

Circular 43/17/2018 dated 13-04-2018 provides as follows:

“3.1. It has been represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. It is hereby clarified that 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.

3.2. Further, in cases where, UIN has not been recorded on the invoices pertaining to refund claim for the quarters of July – September 2017, October – December 2017 and January – March 2018, a one-time waiver is being given by the Government, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency. Field officers are advised that the terms of Notification No. 16/2017-Central Tax (Rate) dated 28th June 2017 and corresponding notifications under the Integrated Goods and Services Tax Act, 2017, Union Territory Goods and Services Tax Act, 2017 and respective State Goods and Services Tax Acts should be satisfied while processing such refund claims.”

5.1.17 Refund of tax against supplies not made

As per section 31(3)(e), where, on receipt of advance payment with respect to any supply of goods or services or both, the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment.

Refund of amount to applicant instead of being credited to Consumer Welfare Fund [Section 54(8)(c)]

In case of 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, the refundable amount shall, instead of being credited to the Fund, be paid to the applicant.

5.1.18 Refund of Interest against restoration of ITC

Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed [Section 42(9)]

5.1.19 Refund of Interest against restoration of reduction in output tax liability

As per section 43(9), where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

5.1.20 Refund due to order of Appellate Authority/Court

Limitation Period for making refund application

As per section 54(1), application for refund is required to be made within 2 years from the relevant date. As per Explanation 2 to section 54, relevant date means:

in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction.

Documentary Evidence to establish that refund is due to applicant [Rule 89(2)(a)]

Application RFD-01 shall be accompanied by 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.

5.1.21 Refund of Central Share in CGST & IGST in hilly areas

Scope of Area and Period Covered by Scheme

1.1 In pursuance of the decision of the Government of India to provide budgetary support to the existing eligible manufacturing units operating in the States of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim under different Industrial Promotion Schemes of the Government of India, for a residual period for which each of the units is eligible, a new scheme has been introduced. The new scheme is offered, as a measure of goodwill, only to the units which were eligible for drawing benefits under the earlier excise duty exemption/refund schemes but has otherwise no relation to the erstwhile schemes.

Taxes Covered by Scheme

1.2 Units which were eligible under the erstwhile Schemes and were in operation through exemption notifications issued by the Department of Revenue in the Ministry of Finance, as listed under para 2 below would be considered eligible under this scheme. All such notifications have ceased to apply w.e.f. 01.07.2017 and stands rescinded on 18.07.2017 vide notification no. 21/2017 dated 18.07.2017. The scheme shall be limited to the tax which accrues to the Central Government under

Central Goods and Service Act, 2017 and Integrated Goods and Services Act, 2017, after devolution of the Central tax or the Integrated tax to the States, in terms of Article 270 of the Constitution.

Erstwhile Schemes

2. The erstwhile Schemes which were in operation on 18.07.2017 were as follows:
 - 2.1 *Jammu & Kashmir*- Notification nos. 56/2002-CE dated 14.11.2002, 57/2002-CE dated 14.11.2002 and 01/2010-CE dated 06.02.2010 as amended from time to time.
 - 2.2 *Himachal Pradesh & Uttarakhand*- Notification nos. 49/2003-CE dated 10.06.2003 and 50/2003-CE dated 10.06.2003 as amended from time to time.
 - 2.3 *North East States including Sikkim*- Notification no 20/2007-CE dated 25.04.2007 as amended from time to time.

3. SHORT TITLE AND COMMENCEMENT

- 3.1 The scheme shall be called Scheme of Budgetary Support under Goods and Services Tax (GST) Regime to the units located in State of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim. The said Scheme shall come into operation w.e.f. 01.07.2017 for an eligible unit (as defined in para 4.1) and shall remain in operation for residual period (as defined in para 4.3) for each of the eligible unit in respect of specified goods (as defined in para 4.2). The overall scheme shall be valid upto 30.06.2027.

3.2 OBJECTIVE

The GST Council in its meeting held on 30.09.2016 had noted that exemption from payment of indirect tax under any existing tax incentive scheme of Central or State Governments shall not continue under the GST regime and the concerned units shall be required to pay tax in the GST regime. The Council left it to the discretion of Central and State Governments to notify schemes of budgetary support to such units. Accordingly, the Central Government in recognition of the hardships arising due to withdrawal of above exemption notifications has decided that it would provide budgetary support to the eligible units for the residual period by way of part reimbursement of the Goods and Services Tax, paid by the unit limited to the Central Government's share of CGST and/or IGST retained after devolution of a part of these taxes to the States.

4. DEFINITIONS

- 4.1 'Eligible unit' means a unit which was eligible before 1st day of July, 2017 to avail the benefit of *ab-initio* exemption or exemption by way of refund from payment of central excise duty under notifications, as the case may be, issued in this regard, listed in para 2 above and was availing the said exemption immediately before 1st day of July, 2017. The eligibility of the unit shall be on the basis of application filed for budgetary support under this scheme with reference to:
 - (a) Central Excise registration number, for the premises of the eligible manufacturing unit, as it existed prior to migration to GST; or
 - (b) GST registration for the premises as a place of business, where manufacturing activity under exemption notification no. 49/2003-CE dated 10.06.2003 and 50/2003-CE dated 10.06.2003 were being carried prior to 01.07.2017 and the unit was not registered under Central Excise.
- 4.2 'Specified goods' means the goods specified under exemption notifications, listed in paragraph 2, which were eligible for exemption under the said notifications, and which were being manufactured and cleared by the eligible unit by availing the benefit of excise duty exemption, from:
 - (a) The premises under Central Excise with a registration number, as it existed prior to migration to GST; or
 - (b) The manufacturing premises registered in GST as a place of business from where the said

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goods under exemption notification no. 49/2003-CE dated 10.06.2003 and 50/2003-CE dated 10.06.2003 were being cleared

4.3 'Residual period' means the remaining period out of the total period not exceeding ten years, from the date of commencement of commercial production, as specified under the relevant notification listed in paragraph 2, during which the eligible unit would have been eligible to avail exemption for the specified goods. The documentary evidence regarding date of commercial production shall be submitted in terms of para 5.7.

5. DETERMINATION OF THE AMOUNT OF BUDGETARY SUPPORT

5.1 The amount of budgetary support under the scheme for specified goods manufactured by the eligible unit shall be sum total of –

- (i) 58% of the Central tax paid through debit in the cash ledger account maintained by the unit in terms of sub section (1) of section 49 the Central Goods and Services Act, 2017 after utilization of the Input tax credit of the Central Tax and Integrated Tax.
- (ii) 29% of the integrated tax paid through debit in the cash ledger account maintained by the unit in terms of section 20 of the Integrated Goods and Services Act, 2017 after utilization of the Input tax credit Tax of the Central Tax and Integrated Tax.

Provided where inputs are procured from a registered person operating under the Composition Scheme under Section 10 of the Central Goods and Services Act, 2017 the amount i.e. sum total of (i) & (ii) above shall be reduced by the same percentage as is the percentage value of inputs procured under Composition scheme out of total value of inputs procured.

Explanation-I

a	Sum total worked out under clause (i) & (ii)	Rs. 200
b	Percentage value of inputs procured under Composition Scheme out of total value of inputs procured	20%
c	Admissible amount out of (a) above	Rs. (200-20% of 200) = Rs. 160

Explanation- II

- (a) Calculation of (ii) shall be followed by calculation of (i)
 - (b) To avail benefit of this scheme, eligible unit shall first utilize input tax credit of Central tax and Integrated tax and balance of liability, if any, shall be paid in cash and where this condition is not fulfilled, the reimbursement sanctioning officer shall reduce the amount of budgetary support payable to the extent credit of Central tax and integrated tax, is not utilized for payment of tax.
- 5.2 The above 58% has been fixed taking into consideration that at present Central Government devolves 42% of the taxes on goods and services to the States as per the recommendation of the 14th Finance Commission.
- 5.3 Notwithstanding, the rescinding of the exemption notifications listed under para 2 above, the limitations, conditions and prohibitions under the respective notifications issued by Department of Revenue as they existed immediately before 01.07.2017 would continue to be applicable under this scheme. However, the provisions relating to facility of determination of special rate under the respective exemption notifications would not apply under this scheme.
- 5.4 Budgetary support under this scheme shall be worked out on quarterly basis for which claims shall be filed on a quarterly basis namely for January to March, April to June, July to September & October to December.

- 5.5 Any unit which is found on investigation to over-state its production or make any mis-declaration to claim budgetary support would be made ineligible for the residual period and be liable to recovery of excess budgetary support paid. Activity relating to concealment of input tax credit, purchase of inputs from unregistered suppliers (unless specifically exempt from GST registration) or routing of third party production or other activities aimed at enhancing the amount of budgetary support by mis-declaration would be treated as fraudulent activity and, without prejudice to any other action under law may invite denial of benefit under the scheme *ab-initio*. The units will have to declare total procurement of inputs from unregistered suppliers and from suppliers working under Composition Scheme under CGST Act, 2017.
- 5.6 The grant of budgetary support under the scheme shall be subject to compliance of provisions relating to any other law in force.
- 5.7 The manufacturer applying for benefit under this scheme for the first time shall also file the following documents:
- (a) the copy of the option filed by the manufacturer with the jurisdictional Deputy Commissioner/ Assistant Commissioner of Central Excise officer at the relevant point of time, for availing the exemption notification issued by the Department of Revenue;
 - (b) document issued by the concerned Director of Industries evidencing the commencement of commercial production;
 - (c) the copy of last monthly/quarterly return for production and removal of goods under exemption notification of the Department of Revenue.
 - (d) An Affidavit-cum-indemnity bond, as per Annexure A, to be submitted on one time basis, binding itself to pay the amount repayable under para 9 below.
- Any other document evidencing the details required in clauses (a) to (c) may be accepted with the approval of the Commissioner.
- 5.8 For the purpose of this Scheme, "manufacture" means any change(s) in the physical object resulting in transformation of the object into a distinct article with a different name or bringing a new object into existence with a different chemical composition or integral structure. Where the Central Tax or Integrated Tax paid on value addition is higher than the Central Tax or Integrated Tax worked out on the value addition shown in column (4) of the table below, the unit may be taken up for verification of the value addition:

TABLE

Serial No.	Chapter	Description of goods	Rate (%)	Description of inputs for manufacture of goods in column (3)
(1)	(2)	(3)	(4)	(5)
1.	17 or 35	Modified starch or glucose	75	Maize, maize starch or tapioca starch
2.	18	Cocoa butter or powder	75	Cocoa beans
3.	25	Cement	75	Lime stone and gypsum
4.	25	Cement clinker	75	Lime stone
5.	29	All goods	29	Any goods
6.	29 or 38	Fatty acids or glycerine	75	Crude palm kernel, coconut, mustard or rapeseed oil
7.	30	All goods	56	Any goods
8.	33	All goods	56	Any goods

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9.	34	All goods	38	Any goods
10.	38	All goods	34	Any goods
11.	39	All goods	26	Any goods
12.	40	Tyres, tubes and flaps	41	Any goods
13.	72	Ferro alloys, namely, ferro chrome, ferro manganese or silico manganese	75	Chrome ore or manganese ore
14.	72 or 73	All goods	39	Any goods, other than iron ore
15.	72 or 73	Iron and steel products	75	Iron ore
16.	74	All goods	15	Any goods
17.	76	All goods	36	Any goods
18.	85	Electric motors and generators, electric generating sets and parts thereof	31	Any goods
19.	Any chapter	Goods other than those mentioned above in S.Nos.1 to 18	36	Any goods

Explanation

For calculation of the value addition the procedure specified in notification no 01/2010-CE dated 06.02.2010 of the Department of Revenue as amended from time to time shall apply mutatis-mutandis.

5.9.1 In cases where an entity is carrying out its operations in a State from multiple business premises, in addition to manufacture of specified goods by the eligible unit, under the same GST Identification Number (GSTIN) as that of the eligible unit, the eligible unit shall submit application for reimbursement of budgetary support along with additional information, duly certified by a Chartered Accountant, relating to receipt of inputs, input tax credit involved on the inputs or capital goods received by the eligible unit and quantity of specified goods manufactured by the eligible unit *vis-a-vis* the inputs, input tax credit availed by the registrant under the given GSTIN.

5.9.2 Under GST, one business entity having multiple business premises would generally have one registration in a State and it may so happen that only one of them (eligible unit) was operating under Area Based Exemption Scheme. In such situations where inputs are received from another business premises of (supplying unit) of the same registrant (GSTIN) by, the details of input tax credit of Central Tax or Integrated Tax availed by the supplying unit for supplies to the eligible unit shall also be submitted duly certified by the Chartered Accountant. The jurisdictional Deputy/Assistant Commissioner in such cases shall sanction the reimbursement of the budgetary support after reducing input tax credit relatable to inputs used by the supplying unit.

6. INSPECTION OF THE ELIGIBLE UNIT

6.1 The Budgetary Support under the Scheme shall be allowed to an eligible unit subject to an inspection by a team constituted by DIPP for every State to scrutinize in detail the implementation of the previous schemes. The inspection report shall be uploaded by the inspection team on ACES-GST portal of the Central Board of Excise & Customs (CBEC) and shall be made available to the jurisdictional Deputy/Assistant Commissioner of the Central Tax on the portal before sanction of the budgetary support. Budgetary support will be released only after the findings to these teams are available. Provided that where delay is expected in such findings of the inspection, the Deputy/Assistant Commissioner of Central Taxes may sanction provisional reimbursement to the eligible unit. Such provisional reimbursement shall not continue beyond a period of six months.

7. MANNER OF BUDGETARY SUPPORT

- 7.1 The manufacturer shall file an application for payment of budgetary support for the Tax paid in cash, other than the amount of Tax paid by utilization of Input Tax credit under the Input Tax Credit Rules, 2017, to the Assistant Commissioner or Deputy Commissioner of Central Taxes, as the case may be, by the 15th day of the succeeding month after end of quarter after payment of tax relating to the quarter to which the claim relates.
- 7.2 The Assistant Commissioner or Deputy Commissioner of Central Taxes, as the case may be, after such examination of the application as may be necessary, shall sanction reimbursement of the budgetary support. The sanctioned amount shall be conveyed to the applicant electronically. The PAO, CBEC will sanction and disburse the recommended reimbursement of budgetary support.

8. BUDGETARY PROVISION AND PAYMENT OF AMOUNT OF BUDGETARY SUPPORT

- 8.1 The budgetary support shall be disbursed from budgetary allocation of Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce & Industry. DIPP shall keep such budgetary allocation on the disposal of PAO, CBEC. The eligible units shall obtain one time registration on the ACES-GST portal and obtain a unique ID which is to be used for all processing of claims under the scheme. The application by the eligible unit for reimbursement of budgetary support shall be filed on the ACES-GST portal with reference to unique ID obtained and shall be processed by the Deputy Commissioner or Assistant Commissioner of the Central Tax for sanction of the admissible amount of budgetary support.
- 8.2 The application for reimbursement?? of budgetary support shall be made by the eligible unit after the payment of CGST/IGST has been made for the quarter to which the claim relates, in cash in respect of specified goods after utilization of Input Tax credit, if any.
- 8.3 The sanctioning authority (AC/DC) with the approval of the Commissioner may call for additional information (inclusive but not limited to past data on trends of production and removal of goods) to verify the correctness of various factors of production such as consumption of principal inputs, consumption of electricity and decide on the basis of the same, if the quantum of supply have been correctly declared.
- 8.4 Special audit by the Chartered Accountant/Cost Accountant may be undertaken for units selected based on the risk parameters identified by CBEC in order to verify correctness of declared production capacity and production or overvaluation of supplies. Such special audit shall be undertaken only with the approval of the Commissioner, CGST.
- 8.5 The list of sanctions for payment, on the basis of amount sanctioned by the jurisdictional Deputy Commissioner or Assistant Commissioner of the Central Tax shall be forwarded by the authorised officer of the jurisdictional Commissionerate of the Central Tax through the ACES-GST portal to e-PAO, CBEC for disbursal directly into the bank accounts of the eligible units.

9. REPAYMENT BY CLAIMANT/ RECOVERY AND DISPUTE RESOLUTION

- 9.1 The budgetary support allowed is subject to the conditions specified under the scheme and in case of contravention of any provision of the scheme/ notification, the budgetary support shall be deemed to have never been allowed and any inadmissible budgetary support reimbursed including the budgetary support paid for the past period under this scheme shall be recovered along with an interest @15% per annum thereon. In case of recovery or voluntary adjustment of excess payment, repayment, recovery or return, interest shall also be paid by unit at the rate of fifteen per cent per annum calculated from the date of payment of refund till the date of repayment, recovery or return.

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- 9.2 When any amount under the scheme is availed by wrong declaration of particulars regarding meeting the eligibility conditions in this scheme or as specified under respective exemption notification issued by the Department of Revenue, necessary action would be initiated and concluded in the individual case by the Office of concerned Assistant Commissioner or Deputy Commissioner of Central Taxes, as the case may be.
- 9.3 *The procedure for recovery:* Where any amount is recoverable from a unit, the Assistant Commissioner or Deputy Commissioner of Central Tax, as the case may be, shall issue a demand note to the unit (i) intimating the amount recoverable from the unit and the date from which interest thereon is due and (ii) directing the manufacturer to deposit the full sum within 30 days of the issue of the demand note in the account head of DIPP and submit proof of deposit to him/her
- 9.4 Where the amount is not paid by the beneficiary within the time specified as above, action for recovery shall be taken in terms of the affidavit –cum- indemnity bond submitted by the applicant at the time of submission of the application, in addition to other modes of recovery.
- 9.5 Where any amount of budgetary support and/or interest remains due from the unit, based on the report sent by the Assistant Commissioner or Deputy Commissioner of Central Tax as the case may be, the authorized officer of DIPP shall, after the lapse of 60 days from the date of issue of the said demand note take required legal action and send a certificate specifying the amount due from the unit to the concerned District Magistrate/ Deputy Commissioner of the district to recover that amount, as if it were arrears of land revenue
- 10 Residual issues related to the Scheme arising subsequently shall be considered by DIPP, Ministry of Commerce & Industry whose decision shall be final and binding.
11. SAVING CLAUSE
- 11.1 Upon cessation of the Scheme, the unpaid claims shall be settled in accordance with the provisions of the Scheme while the recovery and dispute resolution mechanisms shall continue to be in force.

5.1.22 Refund of Tax under Seva Bhoj Yojna

1	Seva Bhoj Yojna is for a period of two years i.e. 2018-19 and 2019-20
2	Total outlay under the scheme is Rs. 325 crores
3	The scheme has been initiated by Ministry of Culture, Government of India
4	<i>Purpose</i> The scheme is applicable to charitable religious institutions for reimbursement of <u>Central Government share of CGST and IGST</u> to lessen the financial burden of such Charitable Religious Institutions who provide Food/Prasad/Langar (Community Kitchen)/Bhandara free of cost without any discrimination to Public/Devotees. Share of Central government in Central taxes is 58% and share of states is 42% (As per 14 th Finance Commission Report)
5	The <i>eligible charitable religious institutions include</i> Temples, Gurudwara, Mosque, Church, Dharmik Ashram, Dargah, Matth, Monasteries etc.
6	<i>Eligibility Condition for getting reimbursement of CGST and IGST</i> a) The institutions must have been in existence for at least five years before applying for financial assistance/grant b) The institution must serve free food to at least 5000 people in a month c) The institution must be covered by

Types of Refund & Procedure for Claiming Refund

	<p>(i) Section 10(23BBA) of Income Tax Act or</p> <p>(ii) Registered u/s 12AA of Income Tax Act or</p> <p>(iii) Registered as Society under Societies Registration Act or</p> <p>(iv) Registered as Public Trust under any law for the time being in force of statutory religious bodies constituted under any Act</p>
7	<p>All the eligible institutions should be registered with Darpan portal.</p> <p>The details of registered institutions will be available on an online portal for the viewership of public, GST authorities and entity / institution itself.</p>
8	<p>All applications along with supporting documents received from the institutions in the Ministry shall be examined by the committee constituted for the purpose within 4 weeks</p>
9	<p><i>Registration Process:</i></p> <p>On the basis of the recommendation of the committee, competent authority in the Ministry shall register charitable religious institutions for reimbursing claim of CGST and Central Government share of IGST</p> <p><i>Period of Registration</i></p> <p>Ministry of Culture will register the eligible charitable religious institutions for a time period ending with Finance Commission period. The operational period of 14th Finance Commission is 2015-2020.</p> <p><i>Renewal</i></p> <p>Subsequently the registration may be renewed by the Ministry, subject to the performance evaluation of the institutions.</p> <p><i>Changes</i></p> <p>It would be the responsibility of the institutions/entity to intimate the Ministry about any changes being made in Memorandum of Association, Office bearers or addition / deletion of the location of the free food services.</p>
10	<p><i>Application for Reimbursement Claim</i></p> <p>The entity / institution will be permitted to submit the reimbursement claim of the GST and Central Government share of IGST to designated authority of GST Department at State level in the prescribed format during the validity of registration.</p>
11	<p><i>Form of Reimbursement</i></p> <p>Taxes paid on specific items by charitable religious institutions for distributing free food shall be reimbursed as financial assistance by Government of India</p>

5.2 Application of Refund

5.2.1 Form of Application for refund

The Application Form applicable for claiming refund of any tax, interest, penalty, fees or any other amount paid by any person is RFD-01. RFD-01 is required to be filed electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

However, this form of application is not applicable in following cases:

1. Persons claiming refund u/s 55, being agencies of UN and other notified persons

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2. Refund of integrated tax paid on goods exported out of India
3. Refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49

RFD-01 is however applicable to-

1. Casual or non-resident taxable person,
2. Tax deductor,
3. Tax collector,
4. Unregistered person
5. Other registered taxable person

5.2.2 Grounds of Refund Claim in RFD-01

(a)	Excess balance in Electronic Cash Ledger					
(b)	Exports of services- with payment of tax					
(c)	Exports of goods / services- without payment of tax (accumulated ITC)					
(d)	On account of order					
	<i>Sr. No.</i>	<i>Type of order</i>	<i>Order no.</i>	<i>Order date</i>	<i>Order Issuing Authority</i>	<i>Payment reference no., if any</i>
	(i)	Assessment				
	(ii)	Provisional Assessment				
	(iii)	Appeal				
	(iv)	Any other order (specify)				
(e)	ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]					
(f)	On account of supplies made to SEZ unit/ SEZ developer (with payment of tax)					
(g)	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)					
(h)	Recipient of deemed export supplies/ Supplier of deemed export supplies					
(i)	Tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued (advance payment of tax)					
(j)	Tax paid on an intra-State supply which is subsequently held to be inter-state supply and vice versa (change of POS)					
(k)	Excess payment of tax, if any					

5.2.3 Limitation Period for making refund application

Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by

him, may make an application *before the expiry of two years from the relevant date* in such form and manner as may be prescribed [Section 54(1)] except in case of specialized agencies of UN and other notified persons who are required to make the application within 6 months from the last day of the quarter in which supply was received.[Section 54(2)], which stands extended to 18 months.

5.2.4 Filing frequency of Refunds

Circular 37/11/2018-GST dated 15-03-2018 provides as under:

- "11. Section 2(107) of the CGST Act defines the term "tax period" as the period for which the return is required to be furnished. The terms 'Net ITC' and 'turnover of zero rated supply of goods/services' are used in the context of the relevant period in rule 89(4) of CGST Rules. The phrase 'relevant period' has been defined in the said sub-rule as 'the period for which the claim has been filed'.
- 11.1 In many scenarios, exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed. Similarly, there may be cases where exports may have been made in a period but no input tax credit has been availed in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.
- 11.2 In this regard, it is hereby clarified that the exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters. The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years."

5.3 Documentary Evidence Required

5.3.1 Documentary Evidence to be submitted along application for Refund

(a) To establish that refund is due to applicant

As per section 54(4)(a) application for refund shall be accompanied by such documentary evidence as may be prescribed to establish that a refund is due to the applicant.

(b) To establish payment/collection of tax by/from applicant

As per section 54(4)(b) application for refund shall be accompanied by 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.

(c) To establish that incidence of tax and interest had not been passed on to any other person

As per section 54(4)(b) application for refund shall be accompanied by such documentary or other evidence to establish that the incidence of such tax and interest had not been passed on to any other person.

The refundable amount of 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, shall, instead of being credited to the Fund, be paid to the applicant. [Section 54(8)(e)]

5.3.2 Declaration and Certificate of incidence of tax etc. not passed on

A declaration is required to be filed along with the refund application in Form RFD-01 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. [Rule 89(2)(l)] Where the amount of refund claim is more than 2 lakhs, 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

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other amount claimed as refund has not been passed on to any other person [Rule 89(2)(m)] As per Explanation 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.

However, the declaration or certificate of incidence of tax etc. not passed on is not required in following cases covered by section 54(8):

- (a) 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;
- (b) refund of unutilised input tax credit under sub-section 54(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;
- (f) tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

[Proviso to Rule 89(2)(l)]

5.3.3 Documentary evidence not required for refund application less than Rs. 2 lacs

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 [Proviso to section 54(4)]

5.3.4 Self Certification of incidence of tax and interest not passed on

Where refund claim is lesser than 2 lacs then, although no documentary or other evidence is required to be filed by applicant, 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. [Proviso to Section 54(4)]

5.4 Acknowledgement

5.4.1 Acknowledgment of Refund Application

Claim for Refund from Electronic Cash Ledger [Rule. 90(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. [i.e. period of 60 days for grant of refund]

Claim for Refund other than claim from Electronic Cash Ledger [Rule 90(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.

5.4.2 Forwarding Application to Proper officer

The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer.

5.4.3 Scrutiny of Refund

The Proper Officer shall, *within a period of fifteen days* of filing of the said application, scrutinize the application for its completeness including whether the application is complete in terms of sub-rules (2), (3) and (4) of rule 89, i.e.

- (a) Application is accompanied by documentary evidence u/r 89(2)
- (b) Electronic Credit Ledger should have been debited by Refund Claim [Rule 89(3)]
- (c) Refund claim should be as per maximum refund allowed u/r 89(4)

Acknowledgment

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 [i.e. period of 60 days for final order from date of receipt of application complete in all respects] shall be counted from such date of filing.

The period of 7 days for the grant of provisional refund in case of zero rated supplies under Rule 91(2) is also reckoned from date of acknowledgment under Rule 90(2)

5.4.4 Deficiencies in Refund Application [Rule 90(3) and 90(4)]

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.

Hence the older application shall lapse once the deficiency notice is given in RFD-03. [Rule 90(3)]

Where deficiencies have been communicated in Form GST RFD-03 under the State Goods and Services Tax Rules, 2017, the same shall also be deemed to have been communicated under this rule along with the deficiencies communicated under sub-rule (3). [Rule 90(4)]

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, manually in Form GST RFD-01A. This fresh application would be accompanied with the original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier. 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 unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently. [Para 6.1 of Circular 37/11/2018 dated 15-03-2018]

Circular No. 59/2018 dated 4-10-2018 regarding deficiency memo

- (a) Deficiency to be communicated in RFD-03
- (b) Amount claimed to be re credited in RFD-01B
- (c) Fresh Refund application to be filed
- (d) No Show cause notice to be issued

5.4.5 Re-Credit of refund to Electronic Credit Ledger in case of deficiencies [Rule. 93(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 [Rule 93(1)]

5.5 Refund Order

5.5.1 Refund Order and Time limitation for making order [Section 54(5)]

If, on receipt of any refund 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. 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.

5.5.2 Order sanctioning interest on delayed refunds [Rule. 94]

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 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.

5.5.3 No Refund below Rs. 1000 [Section 54(14)]

Notwithstanding anything contained in section 54, no refund under sub-section (5) [Final Order for Refund] or sub-section (6) [Provisional grant of 90% refund claim against zero rated supplies] shall be paid to an applicant, if the amount is less than one thousand rupees.

Monetary Limit for non-issue of Refunds [Circular No. 59/2018 dated 4-10-2018]

- (a) Monetary limit of Rs. 1000/- for non-issue of refund to be applied for CGST/SGST/IGST head wise and not cumulatively
- (b) Refunds rejected on account of being less than Rs. 1000/- to be re credited
- (c) The limit would not apply in cases of refund of excess balance in the electronic cash ledger.

5.5.4 Final Order in RFD-06 [Rule 92(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.

5.5.5 Adjustment of Provisional Refund and Outstanding demand in Final Order RFD-06[Rule 92(1)]

Refund Order RFD-06 shall mention therein the amount, if any,

- refunded to registered person 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.

5.5.6 Complete Adjustment of Outstanding Demand [Proviso to Rule 92(1)]

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. [Proviso to Rule 92(1)]

5.5.7 Withholding of Refunds due to pendency of appellate or further/other proceedings

Withholding of Refund due to adverse effect on Revenue [Section 54(11)]

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

5.5.8 Order for withholding Refund in RFD-07 Part B [Rule 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) or, as the case may be, sub-section (11) of section 54, he shall pass an order in Part B of Form GST RFD-07 informing him the reasons for withholding of such refund

Refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission [Para 15 of Circular 37/11/2018 dated 15-03-2018]

5.5.9 Grant of Interest on Withheld Refund [Section 54(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.

As per Notification 13/2017-Central Tax dated 28-06-2017, Interest shall be allowed @ 6% u/s 54(12).

5.6 Miscellaneous

5.6.1 Show Cause Notice and Reply Where whole or part of Refund of not admissible or payable [Rule 92(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 rule 92 (1) shall, mutatis mutandis, apply to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.

Manual Processing

Any order regarding withholding of such refund or its further sanction respectively in PART-B of Form GST RFD-07 or Form GST RFD-06 shall be done manually till the refund module is operational on the common portal [para 2.2 of Circular 17/17/2017 dated 15-11-17].

5.6.2 Recredit of Rejected Refund Claim to Electronic Credit Ledger [Rule 93(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.

Recredit of Electronic Credit Ledger in case of Rejection of Refund claim [Circular No. 59/2018 dated 4-10-2018]

- (a) Order for rejection to be passed in RFD-01B for the purpose of recredit.
- (b) Before recredit an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection, be obtained. If claimant files appeal, recredit to be done only after the appeal is finally decided against the claimant.
- (c) For ineligible credits the amount can be paid voluntarily with interest with DRC-03. Acknowledgement in DRC-04 to be issued by proper officer. In case of fraud, willful misstatement or suppression of facts, penalty @ 15% to be paid. (The amount should be paid before re-credit in RFD-01B).
- (d) For ineligible credits demand notice to be simultaneously issued u/s 73/74 along with RFD-01B.
- (e) For ineligible credits, Claimant can pay the amount voluntarily u/s 73(5)/74(5) along with interest in DRC-03 within 30 days from show cause notice. In case of section 74(5), if amount and interest along with penalty @ 25% is paid within 30 days from issue of SCN, the proceedings shall be dropped.

Demand Confirmed under section 73(9)/74(9) to be posted to Electronic liability ledger through DRC-07

5.6.3 When a refund is deemed to be rejected [Expl. to Rule 93]

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.

Where refund is payable to the applicant u/s 54(8) [Section 92(4)]

Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (2) of Rule 92 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 advice 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.

Where refund is not payable to applicant u/s 54(8) [Section 92(5)]

Where the proper officer is satisfied that the amount refundable under sub-rule (1) 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 an advice in Form GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund.

5.6.4 Manual filing and processing [Rule 107A]

Notwithstanding anything contained in the rules relating to refunds, 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.

Manual Processing of Refund Application

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/ documents/ forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders. [Para 1 of Circular 17/17/2017 dated 15-11-2017]

RFD-01A to be filed on Portal

Except refund of Integrated tax paid on goods exported out of India, the application for refund of integrated

tax paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services is required to be filed in Form GST RFD-01A (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) by the supplier on the common portal. The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in Form GST RFD-01A on the common portal [Para 2.3 & 2.4 of Circular 17/17/2017 dated 15-11-2017]

Manual Processing of Refund is also made applicable to the following types of Refunds vide Circular 24/2017 dated 21-12-17:

- (i) refund of unutilized input tax credit 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) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council (section 54(3) of the CGST Act refers);
- (ii) refund of tax on the supply of goods regarded as deemed exports; and
- (iii) refund of balance in the electronic cash ledger.

Printout of RFD-01A to be submitted

A print out of the RFD-01A shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable, within the time stipulated for filing of such refund under the CGST Act.

Proof of Debit

The amount claimed as refund shall get debited in accordance with sub-rule (3) of rule 86 of the CGST Rules from the amount in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN- Acknowledgement Receipt Number) which would be mentioned in the Form GST RFD-01A submitted manually, along with the print out of Form GST RFD-01A to the jurisdictional proper officer, and with all necessary documentary evidences as applicable, within the time stipulated for filing of such refund under the CGST Act. [Para 2.3 & 2.4 of Circular 17/17/2017 dated 15-11-2017]

In case of refund claim for the balance amount in the electronic cash ledger, upon filing of Form GST RFD-01A as per the procedure laid down in para 2.4 of Circular No. 17/17/2017-GST dated 15.11.2017, the amount of refund claimed shall get debited in the electronic cash ledger. [Para 7 of Circular 24/2017 dated 21-12-17]

RFD-01A to be filed with Jurisdictional Tax Authority

The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime. [Para 2.5 of Circular 17/17/2017 dated 15-11-2017]

Entry in Refund Register in the office of Jurisdictional Officer

Once such a refund application in Form GST RFD-01A is received in the office of the jurisdictional proper officer, an entry shall be made in a refund register to be maintained for this purpose with the following details –

TABLE 1

Sl. No.	Applicant's name	GSTIN	Date of receipt of application	Period to which the claim pertains	Nature of refund – Refund of integrated tax paid/ Refund of unutilized ITC	Amount of refund claimed	Date of issue of acknowledgement in FORM GST RFD-02	Date of receipt of complete application (as mentioned in FORM GST RFD-02)
1	2	3	4	5	6	7	8	9

[Para 2.6 of Circular 17/17/2017 dated 15-11-2017]

Scrutiny of Application [Step-2 of Para 3.2 of Circular 17/17/2017 dated 15-11-2017]

Check for completeness of application as well as availability of the supporting documents in totality. Once completeness in all respects is ascertained, acknowledgement in Form GST RFD-02 shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register for receipt of refund applications.

Deficiency Memo

- Deficiencies, if any, in documentary evidences are to be ascertained and communicated in Form GST RFD-03 within 15 days of filing of the refund application
- Deficiency Memo should be complete in all respects and only one Deficiency Memo shall be given.
- Submission of application after Deficiency Memo shall be treated as a fresh application
- Resubmission of the application, after rectifying the deficiencies pointed out in the deficiency memo, shall be made by using the ARN and debit entry number generated originally
- If the application is not filed afresh within thirty days of the communication of the deficiency memo, the proper officer shall pass an order in Form GST PMT-03 and re-credit the amount claimed as refund through Form GST RFD-01B.

Grant of Provisional Refund

Provisional refund shall be granted separately for each head CT / ST / UT / IT/ Cess within 7 days of acknowledgement in Form GST RFD-04.

Forms which are to be prepared Manually

Para 2.7 of Circular 17/17/2017 dated 15-11-2017 provides as under:

“2.7 Further, all communication in regard to the FORMS mentioned below shall be done manually, within the timelines as specified in the relevant rules, till the module is operational on the common portal, and all such communications shall also be recorded appropriately in the refund register as discussed in the succeeding paragraphs –

Sl. No.	FORM	Details	Relevant Rule of CGST Rules, 2017
1.	FORM GST RFD-02	Acknowledgement	Rules 90(1) and 90(2)
2.	FORM GST RFD-03	Deficiency memo	Rule 90(3)
3.	FORM GST RFD-04	Provisional refund order	Rule 91(2)
4.	FORM GST RFD-05	Payment advice	Rules 91(3), 92(4), 92(5) and 94

Types of Refund & Procedure for Claiming Refund

5.	FORM GST RFD-06	Refund sanction/Rejection Order	Rules 92(1), 92(3), 92(4), 92(5) and 96(7)
6.	FORM GST RFD-07	Order for complete adjustment/withholding of sanctioned refund	Rules 92(1), 92(2) and 96(6)
7.	FORM GST RFD-08	Notice for rejection of application for refund	Rule 92(3)
8.	FORM GST RFD-09	Reply to show cause notice	Rule 92(3)

Recording of Processing till Provisional Sanction of Refund

Para 2.8 of Circular 17/17/2017 dated 15-11-17 reads thus:

"2.8 The processing of the claim till the provisional sanction of refund shall be recorded in the refund register as in the table indicated below:

TABLE 2

Date of issue of Deficiency Memo in FORM GST RFD-03	Date of receipt of reply from the applicant	Date of issue of provisional refund order in FORM GST-RFD-04	Amount of refund claimed	Amount of provisional refund sanctioned				Date of issue of Payment Advice in FORM GST RFD-05
				CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9

Requirement of invoices for processing of claims for refund: [Para 14.1 of Circular 37/11/2018]

It was envisaged that only the specified statements would be required for processing of refund claims because the details of outward supplies and inward supplies would be available on the common portal which would be matched. Most of the other information like shipping bills details etc. would also be available because of the linkage of the common portal with the Customs system. However, because of delays in operationalizing the requisite modules on the common portal, in many cases, suppliers' invoices on the basis of which the exporter is claiming refund may not be available on the system. For processing of refund claims of input tax credit, verifying the invoice details is quintessential. In a completely electronic environment, the information of the recipients' invoices would be dependent upon the suppliers' information, thus putting an in-built check-and-balance in the system. However, as the refund claims are being filed by the recipient in a semi-electronic environment and is completely based on the information provided by them, it is necessary that invoices are scrutinized.

However, in Circular No. 59/2018 dated 4-10-2018, it has been clarified that:

- (a) Refund claim shall be accompanied by a print-out of Form GSTR-2A of the claimant for the relevant period for which the refund is claimed.
- (b) The proper officer shall rely upon Form GSTR-2A as an evidence of the accounting of the supply by the corresponding supplier in relation to which the input tax credit has been availed by the claimant. 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 present in Form GSTR-2A of the relevant period submitted by the claimant.
- (c) Hard copies of invoices shall be filed where claim of ITC does not appear in GSTR-2A
- (d) Details of Invoices on the basis of which refund of ITC is claimed shall be submitted in the following format manually along with RFD-01A and ARN:

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S. No.	GSTIN of Supplier	Name of Supplier	Invoice Details (Invoice No./Date /Value)	Type (Inputs/ Input Services /Capital goods)	Central Tax	State/ UT tax	IGST	Cess	Eligible for ITC (Y/N/Partially)	Amount of Eligible ITC
1	2	3	4	5	6	7	8	9	10	11

Calculation of Refund as per system validation [Circular No. 59/2018 dated 4-10-2018]

The refundable amount as per system validation is the lowest of the following:

- Amount calculated as per Rule 89(4) or 89(5) [Calculation to be applied on consolidated amount of IGST/CGST and SGST]
- Balance in electronic credit ledger at the end of period for which refund is claimed
- Balance in electronic credit ledger at the time of claim of refund

Manner of Debiting Calculated Refund Amount [Circular No. 59/2018 dated 4-10-2018]

The amount shall be debited in the following order:

- Integrated Tax, to the extent possible
- Central tax and State tax/Union Territory tax, *equally* to the extent of balance available.
- 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)

Status of validation for Availability of Debiting the amount in the portal [Circular No. 59/2018 dated 4-10-2018]

- The above method of debiting the amount is *not presently available* in the 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
- 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-01A is generated.
- Refund application can be filed only after the electronic credit ledger has been debited in the manner specified above and ARN is generated on the portal

Process of Recording Final Order [para 2.9 of Circular 17/17/2017 dated 15-11-2017]

After the sanction of provisional refund, the claim shall be processed and the final order issued within sixty days of the date of receipt of the complete application form. The process shall be recorded in the refund register as in the table indicated below:

TABLE 3

Date of issue of notice, if any for rejection of refund in FORM GST RFD-08	Date of receipt of reply, if any to SCN in FORM GST RFD-09	Date of issue of Refund sanction/rejection order in FORM GST RFD-06	Total amount of refund sanctioned				Date of issue of Payment Advice in FORM GST RFD05	Amount of refund rejected				Date of issue of order for adjustment of sanctioned refund/with holding refund in FORM GST RFD-07
			CT	ST/UTT	IT	Cess		CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13

Rejection of Refund and Re-Credit [Para 2.10 of Circular 17/17/2017 dated 15-11-2017]

After the refund claim is processed in accordance with the provisions of the CGST Act and the rules made thereunder and where any amount claimed as refund is rejected under rule 92 of the CGST Rules, 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. The amount would be credited by the proper officer using Form GST RFD-01B (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) subject to the provisions of rule 93 of the CGST Rules

Re-credit of Electronic Credit Ledger in case of Rejection of Refund claim [Circular No. 59/2018 dated 4-10-2018]

- (a) Order for rejection to be passed in RFD-01B for the purpose of re credit.
- (b) Before re credit an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection, be obtained. If claimant files appeal, recredit to be done only after the appeal is finally decided against the claimant.
- (c) For ineligible credits the amount can be paid voluntarily with interest with DRC-03. Acknowledgement in DRC-04 to be issued by proper officer. In case of fraud, willful misstatement or suppression of facts, penalty @ 15% also to be paid. (The amount should be paid before re credit in RFD-01B)
- (d) For ineligible credits demand notice to be simultaneously issued u/s 73/74 along with RFD-01B
- (e) For ineligible credits, Claimant can pay the amount voluntarily u/s 73(5)/74(5) along with interest in DRC-03 within 30 days from show cause notice. In case of section 74(5), if the amount and interest along with penalty @ 25% is paid within 30 days from issue of SCN, the proceedings shall be dropped.

Demand Confirmed u/s 73(9)/74(9) to be posted to Electronic liability ledger through DRC-07

Payment of Refund by respective State Authorities [Para 4 of Circular 17/17/2017 dated 15-11-17]

The refund application for various taxes i.e. CT / ST / UT / IT/ Cess can be filed with any one of the tax authorities and shall be processed by the said authority; however, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Centre or State government. In other words, the payment of the sanctioned refund amount in relation to CT / IT / Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to ST / UT would be made

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by the State tax/Union territory tax authority. It therefore becomes necessary that the refund order issued either by the Central tax authority or the State tax/UT tax authority is communicated to the concerned counter-part tax authority within three days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.

However, vide Para 5 of Circular 24/2017 dated 21-12-2017, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counterpart tax authority within seven working days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular No. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in para 4 of the said Circular. It must be ensured that the timelines specified under section 54(7) and rule 91(2) of the CGST Rules for the sanction of refund are adhered to.

Appointment of Nodal Officers

In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liaisoning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule 91(2) of the CGST Rules, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa. The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the sanction order [Form GST RFD-04 and Form GST RFD-06], the application for refund in Form GST RFD-01A and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue Form GST RFD-05 and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

Counterpart disbursing tax authority not to withhold refund except against outstanding demand [Circular No. 59/2018 dated 4-10-2018]

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 disbursement of the refund should not be withheld. 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.

Frequency of filing Refund claim [Para 2 of Circular 24/2017 dated 21-12-17]

Refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger, shall be filed for a tax period on a monthly basis in Form GST RFD-01A. However, in case registered persons having aggregate turnover of up to Rs 1.5 crore in the preceding financial year or the current financial year are opting to file Form GSTR-1 quarterly (notification No. 57/2017-Central Tax dated 15.11.2017), such persons shall apply for refund on a quarterly basis.

GSTR-1 of relevant tax period and GSTR-3B of last tax period should have been filed [Para 2 of Circular 24/2017 dated 21-12-17]

Further, it is stated that the 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.

In case of a claim for refund of balance in the electronic cash ledger filed by an ISD or a composition taxpayer and the claim for refund of balance in the electronic cash and/or credit ledger by a non-resident taxable person, the filing of the details in Form GSTR-1 and the return in Form GSTR-3B is not mandatory. Instead, the return in Form GSTR-4 filed by a composition taxpayer, the details in Form GSTR-6 filed by an ISD and the return in Form GSTR-5 filed by a non-resident taxable person shall be sufficient for claiming the said refund. [Para 3.3 of Circular 45/19/2018 dated 30-05-2018]

5.6.5 Jurisdictional Officers for Grant of Refund [Circular 3/3/2017 dated 05-07-2017]

S. 54(5) & (7)	Final Order of Refund	Deputy or Assistant Commissioner of Central Tax
S. 54(6)	Provisional grant of refund	
S. 54(10)	Withholding of refund due to non-filing of return or non-payment of demand under GST or existing law	

5.6.6 Empowerment of State officers for grant of refund [Circular 39/2017 dated 13-10-2017]

Officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, 2017 (14 of 2017) (hereafter in this notification referred to as "the said Acts") who are authorized to be the proper officers for the purposes of section 54 or section 55 of the said Acts (hereafter in this notification referred to as "the said officers") by the Commissioner of the said Acts, shall act as proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act read with the rules made thereunder except rule 96 of the Central Goods and Services Tax Rules, 2017, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

Further vide Notification 10/2018, State officers are also empowered to sanction refund of Integrated tax paid on export of services.

Hence the State officers are not empowered to sanction refund of Integrated tax paid on export of goods under Rule 96(1) to (8) and Rule 96(10).

5.6.7 Refund Forms

Form-GST-RFD-01	Rule 89(1)	Application for Refund
Form GST RFD-01A	Rules 89(1) and 97A	Application for Refund (Manual)
Form RFD-01B	Rules 91(2), 92(1), 92(3), 92(4), 92(5) and 97A	Refund Order details
GST GST-RFD-02	Rules 90(1), 90(2) and 95(2)	Acknowledgment
Form-GST-RFD-03	Rule 90(3)	Deficiency Memo
Form GST RFD-04	Rule 91(2)	Provisional Refund Order
Form-GST-RFD-05	Rules 91(3), 92(4), 92(5) & 94	Payment Advice
Form GST-RFD-06	Rule 92(1), 92(3), 92(4), 92(5) & 96(7)	Refund Sanction/Rejection Order
Form-GST-RFD-07	See rule 92(1), 92(2) & 96(6)	Part A-Order for Complete adjustment of sanctioned Refund Part B- Order for withholding the refund
Form-GST-RFD-08	Rule 92(3)	Notice for rejection of application for refund

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Form-GST-RFD-09	Rule 92(3)]	Reply to show cause notice
Form GST RFD-10	Rule 95(1)	Application for Refund by any specialized agency of UN or any Multilateral Financial Institution and Organization, Consulate or Embassy of foreign countries, etc.
Form GST RFD-11	Rule 96A	Furnishing of bond or Letter of Undertaking for export of goods or services

Refund Hiccups & Resolution

6.1 How to Track Refund Status

1. Exporters should track refund status and errors pertaining to their shipping bills on the ICEGATE website.
2. Link for getting logged or registered is <https://www.icegate.gov.in/iceLogin/loginAction>. One has to get registered as per one's user role of Airline, console agents, custodian, custom broker/CHA, IEC Holder, Others Shipping Line, Shipping Agents etc. Registration to be done by using digital signatures after uploading self-attested scanned copy of authorization letter on the letter head of company/agency, self-attested scanned copy of license, photo ID (Passport, Voter ID, Aadhar, Driving Licence, etc.).
3. Once the registration is obtained, the exporters can check the status of IGST refunds associated with their exports and the corresponding error message, if any.
4. The refund status can be checked by providing GSTIN, Port Code and Return month as inputs.
5. On the basis of above inputs, Shipping Bill Number, Shipping Bill date, Return month, Invoice number, Invoice Date, Response Code and Processed Date are displayed.

6.2 Reasons for Hiccups in Refunds

6.2.1 Data not being transmitted from GSTN to Customs System [ICES]

Only 32% of record on GSTN has been transmitted to ICES [Indian Customs EDI system].

The Reasons are as follows:

- (a) Table 6A of GSTR-1 and GSTR-3B not filed.
- (b) Details of Shipping bill and port number/code not mentioned in Table 6A/GSTR-1. Port code is alphanumeric six characters code as prescribed by ICEGATE. Port codes are available at ICEGATE under <https://www.icegate.gov.in/SMTPLList.html>. Invoices, which don't have these details, shall not be sent to ICEGATE for further processing, because such invoices are treated and export of services.
- (c) IGST paid in Table 3.1(b) of GSTR 3B is lesser than total IGST claimed in Table 6A of GSTR-1 for the same period. It is one of validation check by GSTIN that aggregate IGST paid amount claimed in Table 6A of GSTR-1 is not higher than IGST paid amount indicated in Table under column 3.1(b) of GSTR-3B of corresponding month.
- (d) Total IGST, payable through export invoices specified under Table 6A of GSTR 1, is not specified correctly under Table 3.1(b) of GSTR3B and incorrectly mentioned under Table 3.1(a) [domestic supplies]
- (e) While correct details of exports have been declared in Table 6A of GSTR-1, in GSTR-3B, export data has been disclosed as domestic supplies.
- (f) Taxpayer mentioned exports against LUT under Shipping Bills without tax, whereas declared such export as IGST paid, under GST System. [Exports declared "NA" instead of "P" in Shipping Bill]
- (g) Further, some taxpayers who had filed GSTR 1E (Table 6A) with deficiencies, due to which their refund of IGST paid on export were not processed, subsequently, filed GSTR 1 with corrected data of

Table 6A. However, such data was not allowed to be integrated again in Table 6A because the taxpayer had already filed his GSTR 1E (Table 6A). In such case, the taxpayer has to amend his Table 6A data through Table 9A of subsequent GSTR 1. [Q No. 8 of FAQ on IGST refunds dated 15-2-18 and advisory on IGST refunds]

Presumptive Measures

- (a) 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). Please note, if you are using offline tool for GSTR 1, the date format is dd-mmm-yyyy e.g. 15th July 2017 will be written as 15-Jul-2017 and not like 15/07/2017.
 - ◆ Select from drop down list (WPAY- with payment of tax)/WOPAY-without payment of tax. (Invoices selected as WOPAY are not eligible for refund from ICEGATE)
 - ◆ Shipping Bill No. & Date.
 - ◆ Six Digit Port Code should be mentioned correctly.
 - ◆ *Invoice Value*: It is the total value of export goods covered by the invoice including of 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 case, where the export is done on payment of IGST.
- (b) 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 maintain consistencies between data provided at GST Portal and ICEGATE Portal while filing Table 6A of GSTR-1. Invoice details specified under Table 6A of GSTR-1 should match with what is mentioned in the Shipping bills at ICEGATE. Please note that the invoice value data should match with that shown in shipping Bill.
- (c) 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:
- ◆ File Form GSTR-3B of corresponding period.
 - ◆ In case of export of goods, the IGST amount paid should be shown through 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.

Remedial Action: Adjustment in GSTR-3B of subsequent month

It is clarified that as return in Form GSTR-3B do 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 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].

To sum up-

1. If IGST paid has been reported in GSTR-3B in 3.1(a)[domestic supplies] instead of 3.1(b)[exports]

and IGST shown to have been paid under Table 6A of GSTR 1 of that tax period, appropriate adjustment may be done in subsequent month.

2. If IGST paid on exports has been declared as ZERO in Table 3.1(b), whereas, IGST shown to have been paid under Table 6A of GSTR 1 for that tax period, the correct amount can be declared and offset while filing GSTR 3B of subsequent tax period.
3. If IGST paid on exports declared in Table 3.1(b) is lesser than the total IGST shown to have been paid under Table 6A and Table 6B of GSTR 1, differential amount of IGST can be paid through GSTR 3B of subsequent tax period.

In all these cases, GST System shall aggregate the amount of IGST shown to have been paid under Table 6A/6B and 9A of GSTR 1 and the aggregate IGST amount actually paid through Table 3.1(b) and validation will be done on the basis of cumulative IGST amount of multiple tax period.

Further, where it is not possible to compute the correct value of 3.1(b) using system logic, GST field officers need to be deputed in Customs Houses in order to specifically scrutinize the returns and seek necessary clarifications from the exporter where ever necessary. The GST officers shall reconcile the data submitted by exporters in GSTR-1 and GSTR 3B so as to enable those cases to be processed further. The officers would compare the aggregate data of inter-State supplies declared in Table 4,5,6A and 7B along with amendments if any declared Table 9,10 and 11 of GSTR-1 with the aggregate data of inter-State supplies declared in Table 3.1 of Form GSTR-3B. Thereafter if aggregate values get matched, then the officer would calculate the notional value of Table 3.1(b) on the basis of reconciliation. The notional value shall be equal to or greater than value of exports value and IGST paid in Table 6A of GSTR-1. Only in cases where it can be established that mistake is only on account of feeding details as discussed above, the officer may send the reconciled data to Customs Systems for further processing in following annexure [Para II of F.NO. 450/35/2018-CUS IV dated 28-03-2018]

Annexure A

**The format for data to be sent after verification/reconciliation with respect to Inter-state supplies
(To be filed in Excel sheet only)**

Sr. No.	Information	Data as per Original GSTR 3B	Reconciled Data after Scrutiny/verification
1	GSTIN of exporter		
2	Period of Return (in MM/YYYY)		
3	Taxable Value shown in 3.1(a)		
4	IGST paid shown in 3.1(a)		
5	Cess paid shown in 3.1(a)		
6	Taxable Value shown in 3.1(b)		
7	IGST paid shown in 3.1(b)		
8	Cess paid shown in 3.1(b)		
9	Taxable Value shown in 3.1(c)		
10	IGST paid shown in 3.1(c)		
11	Cess paid shown in 3.1(c)		
12	Taxable Value shown in 3.1(d)		
13	IGST paid shown in 3.1(d)		
14	Cess paid shown in 3.1(d)		

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4. Field formations may take in writing from the exporters about the errors made while filing Table 3.1(b) of GSTR 3B. The officers have to ensure that revised values submitted by exporters in Table 6A of GSTR 1 shall be less than or equal to that in 3.1(b) of GSTR 3B. These documents must also be preserved best they be required subsequently for any investigation or otherwise.
5. In cases, where the errors committed by exporter are not restricted to declaring export supply as domestic supply, a letter from exporter explaining the error and the correction to be made in GST return shall be taken. In such cases, exporter may also provide a certificate from Chartered Accountant that the IGST has been paid on export of goods for which IGST refund is being claimed.

Where exporters have mis-declared IGST paid on export supplies as IGST paid on interstate domestic outward supplies

Cases where There is no short payment of IGST

(i)	List to be sent to GSTN The Customs policy wing would prepare a list of exporters whose cumulative IGST amount paid against exports and interstate domestic outward supplies, for the period July, 2017 to March, 2018 mentioned in GSTR-3B is greater than or equal to the cumulative IGST amount indicated in GSTR-1 for the same period. Customs policy wing shall send this list to GSTN
(ii)	Confirmatory mail to transmit data GSTN shall send a confirmatory e-mail to these exporters regarding the transmission of records to Customs EDI system
(iii)	CA Certificate till 31-10-18 to port of export The exporters whose refunds are processed/sanctioned would be required to submit a certificate from Chartered Accountant before 31 st October, 2018 to the Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export for submission of the said certificate
(iv)	Copy of CA Certificate to GST Department A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15th November 2018
(v)	Adverse Effect of Non-submission of CA Certificate Non-submission of CA certificate shall affect the future IGST refunds of the exporter
(vi)	List of Exporters to DG(Audit) The list of exporters whose refunds have been processed as above shall be sent to DG (Audit)/DG (GST) by the Board.

The above measures are subject to post refund audit

Cases Where there is short payment

(i)	List to GSTN and Chief Commissioners In cases where there is a short payment of IGST i.e. cumulative IGST amount paid against exports and interstate domestic outward supplies together, for the period of July' 2017 to March' 2018 mentioned in GSTR-3B is less than the cumulative IGST amount indicated in GSTR-1 for the same period, the Customs policy wing would send E the list of such exporters to the GSTN and all the Chief Commissioner of Customs
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(ii)	<p>E Mails to Exporters</p> <p>E-mails shall be sent by GSTN to each exporter referred in para (i) above so as to inform the exporter that their records are held up due to short payment of IGST. The e.-mail shall also advise the exporters to observe the procedure under this circular.</p>
(iii)	<p>Payment of IGST short paid</p> <p>The exporters would have to make the payment of IGST equal to the short payment in GSTR 3B of subsequent months so as to ensure that the total IGST refund being claimed in the Shipping Bill/GSTR-1(Table 6A) is paid.</p> <p>Submission of Proof of Payment</p> <p>The proof of payment shall be submitted to Assistant/Deputy Commissioner of Customs in charge of port from where the exports were made. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export</p>
(iv)	<p>Where IGST Refund up to Rs. 10 lakhs</p> <p>Where the aggregate IGST refund amount for the said period is upto Rs. 10 lacs, the exporter shall submit proof of payment (self-certified copy of challans) of IGST payment to the concerned Customs office at the port of export.</p> <p>Where IGST Refund is more than 10 lakhs</p> <p>However, where the aggregate IGST refund amount for the said period is more than Rs. 10 lacs, the exporter shall submit proof of payment (self-certified copy of challans) of IGST to the concerned Customs office at the port of export along with a certificate from Chartered Accountant that the shortfall amount has been liquidated.</p>
(v)	<p>Undertaking from Exporter</p> <p>The exporter would give an undertaking that they would return the refund amount in case it is found to be not due to them at a later date</p>
(vi)	<p>List of Such Exporters to be Compiled</p> <p>The Customs zones shall compile the list of exporters (GSTIN only), who have come forward to claim refund after making requisite payment of IGST towards short paid amount and complied with other prescribed requirements.</p>
(vii)	<p>Forwarding of Complied List to DG (Audit)</p> <p>The compiled list may be forwarded to Customs policy wing, DG (Audit) and DG (GST). Customs policy wing shall forward the said list of GSTINs to GSTN. On receipt of the list of exporters from Customs policy wing, GSTN shall transmit the records of those exporters to Customs EDI system.</p>
(viii)	<p>Certificate from CA till 31-10-18</p> <p>The exporters whose refunds are processed/sanctioned as above would be required to submit another certificate from Chartered Accountant before 31st October, 2018 to the same Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018.</p> <p>Copy of CA Certificate to GST Department</p> <p>A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15th November 2018.</p>
(ix)	<p>Adverse Effect of Non-submission of CA Certificate</p> <p>Non-submission of CA certificate shall affect the future IGST refunds of the exporter.</p>

Post refund audit

- The exporters would be subjected to a post refund audit under the GST law. DG (Audit) shall include the above referred GSTINs for conducting Audit under the GST law. The inclusion of IGST refund aspects in Audit Plan of those units may be ensured by DG (Audit). In case, departmental Audit detects excess refunds to the exporters under this procedure, the details of such detections may be communicated to the concerned GST formations for appropriate action.
- DG (GST) shall send the list of exporters to jurisdictional GST officers (both Centre/State) informing that these exporters have taken benefit of the procedure prescribed in this circular. The jurisdictional GST formations shall also verify the payment particulars at their end.
- This Circular deals only with the cases where the records have not been transmitted by GSTN to Customs EDI system. Once the records are transmitted by GSTN to Customs System based upon the above-mentioned procedure, the usual procedure adopted in case of sanction of IGST refunds would have to be followed. In cases where the errors like SB005, SB002, SB006 etc. are encountered with the records so transmitted, the provisions of Circulars issued by Board earlier shall apply to them.

Export under IGST payment wrongly declared without payment in Shipping Bill [Para 2(ii) of Circular 8/2017-Cus. dated 23-3-2018]

Where in shipping bills, exporters have wrongly mentioned the status of IGST payment as "NA" (without payment) instead of mentioning "P" (with IGST payment), despite the fact that IGST has been paid and reflected in GSTR-3B/Table 6A of GSTR-1, manual interface by officer has been allowed after the officer is satisfied about actual payment of IGST based on GST return information forwarded by GSTN. DG(Sys) to open physical interface for the purpose.

Declaration of Cess Amount as IGST

In the absence of cess column in GSTR-1 Table 6A, the cess amount has been clubbed in IGST, thereby resulting refund claim in Table 6A being higher than IGST paid as per 3.1(b) of GSTR-3B

For non-transmission on account of failure of this validation, the matter has been taken up with GSTN and CCA for resorting to system based solutions [F.NO. 450/35/2018-CUS IV dated 28-03-2018].

6.2.2 Mismatch of GST Invoice and Shipping Bill Details [SB001, SB003 and SB005]

1	The most common error is SB001 and SB005 i.e. due to mismatch of invoice number, taxable value and IGST paid in shipping bill vis a vis the same details mentioned in GSTR-1/Table 6A or GSTIN declared in the shipping bills with GSTIN used to fill the corresponding GST returns.
2.	<i>The above error is due to the fact</i> that exporters are using two sets of invoices, one invoice for GST and another Commercial Invoice for Customs which is resulting in mismatch of invoice numbers, including mismatch of taxable value and IGST paid in those invoices.
3	<i>Hence to curb this problem, it is necessary that</i> Invoice number, taxable value and IGST paid mentioned in GSTR-1 and the shipping bill match with each other and the invoice issued is compliant with the GST Invoice Rules.
4	<i>How to redress this problem</i> a) If the mismatch is due to data entry mistake in GSTR-1 Table 6A, [SB001] or due to wrong GSTIN mentioned in it [SB003], mistake can be rectified in GSTR-1 by amendment Table 9A available in exporter's log in at GST portal w.e.f. 15-12-2017 as below:

Details of original document			Revised details of document or details of original Debit/Credit Notes or refund vouchers						Rate	Taxable Value	Amount				Place of supply
GSTIN	Inv. No.	Inv. Date	GSTIN	Invoice		Shipping bill		Value			Integrated Tax	Central Tax	State / UT Tax	Cess	
				No.	Date	No.	Date								
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
9A. If the invoice/Shipping bill details furnished earlier were incorrect															

- b) But mistake in shipping bill cannot be rectified once Export General Manifest [EGM] has been filed. Hence this mistake cannot be rectified by amendment Table 9A in GSTR-1.
- c) Also if different invoice is used for shipping bill and GSTR-1, the exporter cannot include that invoice in his GSTR instead of his GST Invoice.
- d) Hence most of the mismatches in Table 6A/GSTR-1 and Shipping bill cannot be rectified by any amendment either in GSTR-1 or in shipping bill.
- e) Considering large number of shipping bills failing in refund procedure due to invoice mismatch, an interim *alternative mechanism* has been approved by Finance Ministry *for a specified period* wherein invoice matching was replaced with Shipping bill matching. The alternative mechanism was notified by Customs Circular 5/2018 dated 23-2-18 applicable for shipping bills filed till 31-12-17; however, by Customs Circular No. 8/2018 dated 23-03-2018, this period has been extended to shipping bills filed up to 28-02-2018. Thereafter vide Circular 15/2018, CBIC extended the facility of officer interface to shipping bills filed up to 30-04-2018. Further vide Circular 22/2018-Customs dated 18-07-2018, this facility has further been extended for shipping bills filed up to 30-06-2018.
- f) In this procedure, Shipping bills stuck in SB005 *with only one invoice declared against them, both at customs as well as GSTR-1*, were considered for refund sanction based on certain parameters.
- g) For remaining cases also, a mechanism is being considered by the CBEC.
- h) These interim measures are available as one time measure only.
- i) The alternative mechanism envisages an officer interface on the Customs EDI System through which customs officer can verify the information furnished in GSTN and Customs EDI system and sanction refund in those cases where invoice details provided in GSTR-1/Table 6A are correct though the said details provided in shipping bills were at variance.
- j) Under the alternate mechanism, self-certified copy of a *concordance table* indicating the mapping between GST Invoices and corresponding shipping bill invoices to be filed in support of refund claim to the **concerned AC/DC of the port of Export**.

Format of concordance Table Port Code Wise

S.No.	GST Invoice No/Date	Taxable Value as per GST Invoice	IGST Amt as per GST	S.No.	Corresponding SB No/Date	Taxable Value as per SB	IGST Amt as per SB	Final IGST Corrected Amount as per actual exports

- k) A scanned copy of concordance Table may also be sent to dedicated email address of Customs location from where exports took place.

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	<p>l) The officer shall verify the following:</p> <ul style="list-style-type: none">i. Duly certified concordance Table submitted by the exporter as per Annexure A indicating mapping between GST invoice and corresponding Shipping Bill invoice.ii. IGST taxable value and IGST amount declared in the Shipping Bill.iii. IGST details declared in the Shipping Bill should be in proportion to the goods actually exported. <p>m) After determining the correct refund amount, the officer need to enter the same into the Customs EDI system.</p> <p>n) The officer has the facility to edit the IGST paid details in case of short shipment or incorrect calculation by the exporter. The officer shall complete the verification by accepting or rejecting or amending the same.</p> <p>o) Once all the invoices pertaining to Shipping Bill are verified by the officer, the system shall calculate the scroll amount against a shipping bill, after subtracting the drawback amount for each invoice where applicable, and display the refund amount to the officer for approval.</p> <p>p) Invoices in any particular GSTR 1 where refund is sanctioned shall be disabled in the system to prevent refund against same invoice in future.</p> <p>q) Once refund is sanctioned by the officer, the shipping bills would be available for generating scroll as per normal process.</p>
5	<p>SB003: This error occurs when there is mismatch between GSTIN Entity mentioned in the shipping bill and the one filing GSTR-1/GSTR-3B. This happens mostly in cases where an entity filing shipping bill is a registered office and the entity which has paid the IGST is manufacturing unit/other office and vice versa.</p> <p>In such cases although GSTIN is different, PAN of both entities is same. Board has decided to provide correction facility in such cases.</p> <p>However, in such cases, entity claiming refund (one which has filed shipping bill) will give an undertaking to the effect that its other office (one which has paid IGST) shall not claim any refund or any benefit of the amount of IGST so paid. The undertaking shall be signed by authorized persons of both the entities. The undertaking has to be submitted to the Customs officer at the port of export.</p> <p>[Para 2 of Circular 15/2018-Customs dated 06-06-2018]</p> <p>In several cases, the exporters have mentioned PAN instead of GSTIN in the Shipping Bills, even though GSTIN has been correctly mentioned while filing the GST returns. Due to this mismatch, the IGST refund claims are not getting processed.</p> <p>As PAN is embedded in the GSTIN, CBIC has decided to accord similar treatment to such cases also as are already covered under Para 2 of Circular 15/2018-Customs. The conditions prescribed in Para 2 of the said circular shall apply <i>mutatis mutandis</i></p> <p>[Paras 1 & 2 of Circular 22/2018-Customs dated 18-07-2018]</p>

6.2.3 Gateway Export General Manifest [EGM] not available [EGM Error] [SB006] or EGM not filed [SB002]

- (a) As per Rule 96 of CGST Rules, filing of shipping bill is deemed to be an application for refund of IGST paid against exports when EGM and GSTR-3/3B have been filed.
- (b) Hence filing of EGM is necessary to tackle processing of refund claims.
- (c) EGM is required to be filed by shipping line/airline agents under sections 41 and 42 of the Customs Act electronically for exports originating from the gate way ports.

- (d) However, for cargo originating from Inland Container Depot [ICD], shipping/airline were filing EGM manually or not filing EGM or filing EGM with errors.
- (e) Absence of proper electronic EGM is the next major obstacle in processing of refund claims.
- (f) Shipping/ Airlines have been directed to file supplementary EGM where shipping bill details are not available in EGM. Swift penal action against erring shipping/airlines also directed. [Para 3 of Circular No.6/2018-CUS dated 16-3-18]
- (g) *Jurisdictional officer in ICD* directed to ensure:
 - Filing of Local EGM i.e. train or truck summary, immediately after the cargo leaves the port
 - Liaisoning with Jurisdiction officer of gateway port for incorporation of shipping bills pertaining to cargo originating at ICDs, in EGM filed at gateway port by shipping/airline agents
 - Rectification of errors in Local and Gateway EGMs, wherever necessary.

[Para 4 of Circular No.6/2018-CUS dated 16-3-18]

(h) *Jurisdictional officer at gateway port -*

- (a) To monitor the EGM pendency and error reports available at ICES
- (b) To ask shipping/airline to file requisite amendment
- (c) To approve amendments filed by shipping/airline on ICES
- (d) To take remedial action, where there are errors either in shipping bill or local EGM (i.e. truck or train summary)

[Para 5 of Circular No.6/2018-CUS dated 16-3-18]

(i) *Mismatch in local EGM and Gateway EGM: EGM Errors*

Error Code	Description	Remedial Action
M	Incorrect Gateway Port Code in local EGM	Option being designed for Export AC in the ICD to amend/rectify the details in transshipment after due verification of facts.
C	Change in Container for LCL cargo or mistake committed while entering container number in SB and EGM	EGM or Shipping bill wherein wrong container number is provided to be amended. Request for EGM Amendment-Update to be submitted at service centre and approved by proper officer Option being designed for Gateway port officer to make necessary verification and up-dation, only in cases where mismatch occurs due to consolidation of cargo into different container(s).
N	Incorrect count of containers in SB and EGM	<i>Mistake in EGM:</i> Request for "EGM Amendment-Delete" at service center for deleting concerned SB from EGM and then "EGM Amendment-Add" to be submitted and approved by proper officer. <i>Mistake in SB:</i> Mistake at post stuffing stage. Direct amendment not possible. Separate

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		<p>Procedure to be followed.</p> <p>Option being designed for Gateway port officer to make necessary verification and updation, only in cases where mismatch occurs due to consolidation of cargo into different container(s).</p>
T	Mistake in entering nature of cargo	<p><i>Mistake in EGM:</i> EGM amendment request for "EGM Amendment-Update" to be submitted at service centre and approved by proper officer at EDC</p> <p><i>Mistake in SB:</i> Mistake at post stuffing stage, Direct amendment not possible. Separate Procedure to be followed.</p> <p>Option being designed for Gateway port officer to make necessary verification and updation, only in cases where mismatch occurs due to consolidation of cargo into different container(s).</p>
P	Number of Packets mismatch	
L	LET Export order [LEO] is given in ICES after sailing date of vessel [LEO date > Sailing Date]	<p>No option to rectify. Officer at EDC to be contacted for exercising the option "Forceful removal of SBs from EGM-Error" which will remove the concerned Shipping bill from EGM error queue.</p> <p>Option being designed for Export AC in the ICD to amend/rectify the details in transshipment after due verification of facts.</p>

[Para 5 of Circular No.6/2018-CUS dated 16-3-18 and Guide on IGST Refunds Annexure B]

- (j) Discontinuance of Transference Copy of Shipping Bill resulting Error Code SB 006[Para 2(i) of Circular 8/2018-CUS dated 23-02-2018]

In lieu of transference copy of Shipping bill either final bill of lading issued by shipping line or written confirmation of custodian of gateway port may be treated as valid document for purpose of integration with EGM

- (k) EGM not filed [SB002]

1	Annexure to be submitted at service centre for "EGM Amendment -Delete" for deleting the concerned shipping bill from the EGM. The EGM amendment to be approved by proper officer
2	After approval of deletion, Let Export Order [LEO] granted for Shipping bill to be cancelled
3	After cancellation of LEO, amendments to be carried at service centre as per procedure and to be approved
4	Goods registration and LEO to be granted again in ICES
5	After LEO/Stuffing, annexure to be submitted at service centre for EGM Amendment-Add for including that shipping bill in the concerned EGM. EGM amendment to be approved by proper officer

6.2.4 Shipping Bill Matched but not appearing in Refund Scroll [SB:000]

Nature of Error	Where GSTIN, shipping bill number, Invoice number etc get matched between GSTN and Customs data base, but still shipping bill does not appear in refund scroll. Code reflected is SB000 [para 4(i) of Guide on IGST refunds in ICES]
Reasons	Non-depiction of Shipping bill in spite of data match can be due to a) Exports under Bond/LUT b) Higher rate of drawback claimed on shipping bills c) IGST claim being less than Rs. 1000 d) IEC alert/suspension in Indian Customs EDI System [ICES] e) Account of IEC not validated by PFMS (Public financial Management System) [Para 4(i) of Guide on IGST refunds in ICES]
Remedial Action	<u>IEC alert/suspension in Indian Customs EDI System [ICES]</u> Exporter to clear his dues or submit E-BRC and have suspension revoked [Para 8(iv) of Guide on IGST refunds in ICES] Shipping bills shall be available once the suspension is revoked [Para 6(b) of Guide] <u>Account of IEC not validated by PFMS (Public financial Management System).</u> These accounts appear with "#" tag. Report of such accounts is available in New MIS role and COM role in ICES. Approach jurisdictional Customs Commissionerate with correct account details and get it updated in ICES through CLK role. [Para 6(a) and Para 8(iv) of the Guide]

There may be duplicate/ repeat transmission of Invoice by GSTN resulting in *Error Code SB 004*. The previous transmission would have already been validated for IGST refund by ICES

Help Desks at the offices of FIEO and AEPC for expeditious resolution of IGST refund related issues

Micro, small and medium enterprise exporters have informed that their IGST refunds are held up and that they are unable to approach Customs port of exports due to factors like distance, lack of information/knowledge etc. Hence help desks were set up at the following offices of FIEO and AEPC for two weeks for expeditious resolution of IGST refunds:

FIEO	(i) Ahmedabad (ii) Bangalore (iii) Chennai (iv) Cochin (v) Coimbatore (vi) Delhi (vii) Hyderabad (viii) Kolkata (ix) Ludhiana (x) Mumbai
AEPC	Tirupur

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The necessary infrastructure like Computer, Scanner/Printer, Internet, Cabin Space etc. was made available to the officers by FIEO/AEPC

Procedure followed at the help desks

1	The Directorate of Systems shall provide the status of each pending IGST refund claim with specific error due to which it is being held up, on <i>Antarang</i> .
2	The icegate email ID of the officer(s) deputed at the Help Desk may immediately be informed to Team.ICES@icegate.gov.in to enable access to the data.
3	The officers deputed at Help Desks would use this data to inform the exporters about the documents required, if any, and guide them to resolve the errors.
4	The exporters can provide details related to any port of export at the Help Desk near their location. The Help Desk shall act as an extended office of the Port of export and collect documents/information on behalf of the port of export.
5	The details provided by the exporters to the Help Desk shall be transmitted by ICEGATE e-mail to the nodal officers at the port of export.
6	The ICEGATE e-mail ID of the nodal officer of each port of export shall immediately be informed to Team.ICES@icegate.gov.in.
7	The Customs officers at the port of export shall process the refund claim after all the necessary details/documents submitted at the Help Desks have been forwarded to the nodal officer at the port of export.

Thus, There shall be no need for the exporters to visit any port of export once all the requisite documents/information have been submitted at the Help Desks.

[Circular 21/2018-Customs dated 18-07-2018]

Interest on Delayed Refund

7.1 Interest on Delayed Refund

Section 56 of CGST Act

This section provides that when an applicant is not paid the eligible refund within a period of 60 days from the date of receipt of application under sub-section (1) then interest not exceeding 6% as may be specified in notification, shall be payable to the applicant from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

The Proviso to section 56 says 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.

The Explanation below section 56 says that for the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

As per Rule 94 of CGST Rule, if any interest is due and payable to applicant then the proper officer shall make an order sanctioning such interest amount on delayed payments in Form RFD-05 specifying the amount of refund that is delayed.

Doctrine of Unjust Enrichment and Consumer Welfare Fund

8.1. Doctrine of Unjust Enrichment and Consumer Welfare Fund

The essence of this doctrine is that no one should make undue profit out of taxes.

As per section 54(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."

Therefore, if refund is payable then it should be paid to the customer who has borne the burden of the same. In *Roplas Limited* AIR (1989) Bom. 183 it was suggested to transfer the amount of refund to the fund instead of refunding the same to the supplier, as the same was collected from various unidentifiable customers. The said principle has been affirmed in the case of *Mafatlal Industries v. UOI* (1997) 89 ELT 247 by the Supreme Court.

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

Thus, normally refund will be credited to the consumer welfare fund but there are exceptions to the same and the same has been carved out in sub-section 8. Hence, the doctrine of unjust enrichment is not applicable in the case of zero rated exports, inverted duty structure, where supply is not effected and invoice is also not raised, where tax is paid considering transaction inter-state instead of intra-state or vice a versa then in such situation, tax or the burden of interest paid had not been passed on to any other person, or as may be notified class of person by the government.

In all other cases, as per section 57 "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."

Hence, where the doctrine of unjust enrichment is applicable barring cases mentioned above then the government cannot retain the said amount but has to transfer the same to the Consumer Welfare Fund.

Accounting Treatment

9.1 Accounting Treatment

First and foremost, condition for claiming refund is that the tax must be paid by the applicant and the same should be reflected in the books of account. "Paid" does not mean always paid through cash or bank. It may be treated paid if credit note is also issued.

The amount of refund claimed should be reflected under current assets as "Duty receivable".

While claiming the same the claimant has to debit its electronic credit register and hence ITC account will be debited accordingly and in the books of account the ITC refund account has to be credited and respective ITC account has to be credited. Where payment is received from the department then in that case the Bank Account has to be debited and ITC refund account has to be credited. In case refund is rejected then again ITC account has to be debited and ITC refund account will be credited provided ITC claimed is not in question.

Introduction to Audit Provisions

10.1 Introduction to Audit Provisions

Before going into a detailed discussion, first we need to know the meaning of the term "Audit".

As per Section 2(13) of CGST Act, 2017 'audit' means: "the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the Rules made thereunder or under any other law for the time being in force, to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the Rules made thereunder;"

Under GST Regime, there are three types of audit prescribed as under:

Sl. No.	Relevant Section of CGST Act	Description
1.	Section 35	Audit by a chartered accountant or a cost accountant based on turnover of the assessee during Financial year
2.	Section 65	Audit by Tax Authorities if the authority deems fit to conduct audit
3.	Section 66	Special Audit by chartered accountant or a cost accountant during assessment proceedings and based on complexities involved in the books of account of the assessee.

Now, let's discuss the provisions relating to the punitive actions that may be taken by Tax Authorities in case of erroneous refunds.

10.2 Audit by Tax Authorities u/s 65

- Section 65 of CGST Act, 2017 read with Rule 101 of CGST Rules, 2017 has prescribed the provisions related to Audit by Tax Authorities.
- The Commissioner or any officer authorized by him on general or special order may undertake audit of any registered person for a financial year or multiples thereof.
- The Registered person shall be issued notice at least 15 working days before the start of audit as may be prescribed. Notice shall be issued in Form GST ADT-01.
- Moreover, the proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised, *refund claimed*, and other relevant issues and record the observations in his audit notes.
- Audit as above shall be completed *within period of 3 months* from the start of the audit. Where the audit cannot be completed within 3 months, the Commissioner may extend the same for a further period not exceeding six months to complete the same for reason to be recorded in writing.
- The Authorized officer, during the course of audit, may require the registered person:
 - to afford him the necessary facility to verify the books of accounts or other documents;

- furnish such information as he may require and render assistance for timely completion of the audit.
- Furthermore, the proper officer may inform the registered person of the discrepancies, if any, noticed. The registered person may file his explanation to the discrepancies in his reply. Thereafter, the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.
- After the conclusion of audit, proper officer within 30 days, inform the registered person of his finding, his right and obligations and the reasons for such findings in Form GST ADT-02.

10.3 Special Audit u/s 66

- Section 66 of CGST Act, 2017 read with Rule 102 of CGST Rules, 2017 prescribe the provisions relating to Special Audit.
- If at any stage of scrutiny, inquiry, investigation or any other proceeding, where an officer not below the rank of Asst. Commissioner, finds that value has not been correctly declared or credit availed is not within limits, may with the prior approval of Commissioner, direct the registered person, by communication in writing, to get his records including books of account, examined and audited by a Chartered Accountant or a Cost Accountant as nominated by the Commissioner. The Intimation to the registered person shall be in Form GST ADT-03.
- The Auditor as mentioned above will provide his report within 90 days, duly signed and certified by him to the concerned Asst. Commissioner. However, the said period of 90 days may be extended by a further period of 90 days on an application made by the registered person or the Chartered Accountant or Cost Accountant or for any other material and sufficient reason.
- The registered person shall be informed of the findings of this report in Form GST ADT-04.
- Special audit under section 66 shall have effect despite the registered person is being audited under provisions of the Act or any other law for the time being in force.
- The registered person shall be given an opportunity of being heard in respect of any material (Information/evidence) gathered on the basis of special audit under this section, which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.
- The expenses of the examination and audit including the remuneration of such Auditor, shall be determined and paid by the Commissioner and such determination shall be final.

10.4 Determination of tax under section 73 and 74

- Where the result of 'Audit by Tax Authorities' or 'Special Audit' is tax short paid, not paid or erroneously refunded or input tax credit wrongly availed or utilized, the proper officer may initiate proceedings u/s 73 or 74.
- Provisions relating to proceedings for demand and recovery are applicable when a registered dealer has paid tax incorrectly or has not paid tax at all. It is also applicable when an *incorrect refund* or ITC is claimed by the dealer. Broadly, demand for tax can be raised in the following two cases:
 - When there is no fraud or wilful misstatement or suppression of facts [Section 73]
 - When there is fraud or wilful misstatement or suppression of facts [Section 74]
- The proper officer will issue a show cause notice along with a demand for payment of tax and penalty in case of fraud.
- *When there is No Fraud:* If the assessee received an erroneous refund, the case must be adjudicated within 3 years from the date on which such refund was credited to the assessee's account.
- *When there is Fraud:* If the assessee received an erroneous refund, the case must be adjudicated within 5 years from the date on which such refund was credited to the assessee's account.

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- The quantum of penalty leviable under different circumstances is given in the following Table.:

<i>Situation</i>	<i>No Fraud Cases (Sec 73)</i>	<i>Fraud Cases (Sec 74)</i>
Before issue of show cause notice	Nil	15% of the tax due
Within 30 days from issue of show cause notice	Nil	25% of the tax due
Within 30 days from issue of order	Higher of 10% of Tax or INR 10,000	50% of the tax due
Any other case		100% of the tax due

- The proper officer (with sufficient cause) may grant time and adjourn the hearing for reasons to be recorded in writing. However, GST laws do not allow more than three adjournments to a person during the proceedings.
- The amount of tax, interest and penalty demanded in the order shall not be more than the amount specified in the notice and no demand shall be confirmed on any ground other than the ground specified in the notice.

10.5 Penalty and Prosecution for fraudulently obtaining Refund u/s 122 and 132

Penalty

Section 122 of CGST Act, 2017 prescribes penalty for certain offences. One of the offences prescribed under the said section is fraudulently obtaining refund of tax under this Act.

Penalty will be higher of the following:

- Ten thousand rupees or
- an amount equivalent to the tax evaded

Prosecution

Similarly, Section 132 of CGST Act, 2017 prescribes the punishment for certain offences. One of the offences under this section is evading tax, fraudulently availing input tax credit or fraudulently obtaining refund.

The punishment for the above offence will be as under:

<i>Quantum of tax evasion (Amount in rupees)</i>	<i>Term of imprisonment</i>
Exceeding ₹ 100 lakhs up to ₹ 200 lakhs	Up to 1 year and fine
Exceeding ₹ 200 lakhs up to ₹ 500 lakhs	Up to 3 years and fine
Exceeding ₹ 500 lakhs	Up to 5 years and fine

Chapter-11

Case Study

CASE 1: Procedure for Computation of refund of Unutilised ITC

Particulars	Amount (Rs.)
Export Turnover (without payment of tax)	75,000
Domestic Turnover (Inter-State)	1,25,000
Output IGST (125000*18%)	22,500
ITC availed during the relevant period -	
IGST	9,500
CGST	9,500
SGST	9,500

How to calculate eligible amount of refund?

Ans: Least of the following is eligible for refund:

- (i) Closing balance of ITC before claiming refund
- (ii) Maximum refund amount computed as per formula mentioned under Rule 89(4) of CGST Rules given below

Formula u/r 89(4):

Refund Amount =

$$\frac{\text{Turnover of Zero-Rated Supply of Goods/Services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$

Step – 1: Maximum refund amount as per formula under Rule 89(4)

Particulars	IGST	CGST	SGST
Refund Amount	$9,500 \times \frac{75,000}{2,00,000}$	$9,500 \times \frac{75,000}{2,00,000}$	$9,500 \times \frac{75,000}{2,00,000}$
	3,563	3,563	3,563

Step – 2: Closing balance of ITC before claiming refund

Particulars	IGST	CGST	SGST
ITC Availed (Cr. In Electronic Credit Ledger)	9,500	9,500	9,500
Utilization of ITC for payment of Output IGST Rs. 22,500 (Dr. In Electronic Credit Ledger & Cr. In Electronic Liability Ledger)	9,500	9,500	3,500
Closing balance of ITC (Cr. In Electronic Credit Ledger)	Nil	Nil	6,000

Step – 3: Eligible amount of Refund

Particulars	IGST	CGST	SGST
Least of Step-1 and Step-2	Nil	Nil	3,563

CASE 2: Whether refund of accumulated credit on account of inverted duty structure is available only for those inputs where the rate of GST is higher than the output supplies or for all kinds of inputs.

Ans: Refund on account of inverted duty structure shall be granted as per the formula provided under Rule 89(5) of CGST Rules, 2017.

Formula u/r 89(5):

$$\text{Maximum Refund Amount} = \left\{ \frac{\text{Turnover of Inverted-Rated Supply of Goods/Services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC} \right\} - \left\{ \text{Tax payable on such inverted rated supply of goods/services} \right\}$$

In this regard, the explanation to Rule 89(5) defines the term "Net ITC" as under:

"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"

The above explanation does not categorically specify inputs having higher GST rate than output supplies. Hence, taxpayers can consider entire credit of inputs for the purpose of calculating refund claim on account of inverted duty structure.

CASE 3 : ABC Ltd. is engaged in providing the services in relation to repair and maintenance of Vehicles. It has its service centres in India. Mr. Y is a foreigner residing in USA and ask ABC Ltd. to repair one of his Cars in India. Can ABC Ltd. claim refund of tax on the basis of export of services.

Ans: Section 13 of IGST Act, 2017 shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India. Further, as per Section 13(3) of the said Act:

The place of supply of the following services shall be the location where the services are actually performed, namely: —

(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

In the present case, the Car is required to be made physically available in India by Mr. Y to enable ABC Ltd. providing repair services. Hence as per Section 13(3), place of supply will be in India and the said services will not fall under the ambit of export of services. Therefore ABC Ltd. is not eligible to claim refund.

CASE 4 : Mr. X has its liability of tax under IGST amounting to Rs. 5000/- during the month of May 2018. However, inadvertently he has paid 8000/- IGST. Now what is the provision to claim refund of excess amount of Rs. 3000/- under the GST Law.

Ans: Any amount paid under CGST, SGST or IGST by the taxable person shall be credited in the Electronic Cash Ledger. As per Rule 89(1) of CGST Rules, 2017, any claim for refund relating to excess balance in the electronic cash ledger 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. Also, the refund may be claimed directly by filing Form GST RFD-01.

CASE 5 : Mr. P has the following tax liability:

Particulars	Amount (Rs.)
Outward Supply (Intra-State)	1,00,000/-
Output CGST (100000*9%)	9,000/-
Output SGST (100000*9%)	9,000/-

At the time of payment of taxes, Mr. P paid 18,000/- under IGST (Inter-State) in place of CGST+SGST (Intra-State). What can be the possible solution.

Ans: In the present case, Mr. P has paid the taxes by wrongly mentioning the nature of tax as IGST instead of CGST+SGST. This will result in excess tax paid under CGST and SGST. The amount of excess tax paid under IGST amounting to Rs. 18,000/- can be claimed as refund under the provisions of Section 77 of CGST Act, 2017.

Notifications/Circulars/Orders/Advance Rulings issued till date for Refund

List of Notifications

Sr No.	Notification number	Heading of Notification									
1	Notification No. 16/2017-Central Tax dated 7th July 2017	Prescribed Procedure for filling LUT Physically instead of bond by certain person									
2	Notification No. 37/2017-Central tax dated 4th October 2017	Conditions for furnishing LUT instead of Bond for ease of doing Export without payment of Tax with some condition (Supersede Notification No.16/2017 – central tax dated 07 th July 2017)									
3	Notification No. 39/2017-Central Tax dated 13th October 2017 as modified by Notification No. 10/2018-Central Tax dated 23rd January 2018	Officer appointed under SGST / UTGST Act can process refund under CGST Act also as proper officer.									
4	Notification No. 48/2017-Central tax dated 18th October 2017	Prescribes following supplies which will be considered as deemed supply: <ol style="list-style-type: none"> 1. Supply of goods by a registered person against Advance Authorization 2. Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization 3. Supply of goods by a registered person to Export Oriented Unit 4. Supply of gold by a bank or Public-Sector Undertaking specified in the Notification No. 50/2017-Customs, dated 30th June 2017 (as amended) against Advance Authorization 									
5	Notification No. 49/2017-Central Tax dated 18th October 2017:	Prescribes the documents required to be furnished by the supplier of deemed export for claiming refund									
6	Notification No. 05/2017-Central Tax (Rate) dated 28th June 2017, Notification 29/2017-Central Tax (Rate) dated 22nd September 2017	Supply of goods that are not eligible for refund of unutilized Input tax credit. <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th>S. No.</th> <th>Tariff item, heading, sub-heading or Chapter</th> <th>Description of Goods</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>(2)</td> <td>(3)</td> </tr> <tr> <td>1.</td> <td>5007</td> <td>Woven fabrics of silk or of silk waste</td> </tr> </tbody> </table>	S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods	(1)	(2)	(3)	1.	5007	Woven fabrics of silk or of silk waste
S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods									
(1)	(2)	(3)									
1.	5007	Woven fabrics of silk or of silk waste									

Notifications/Circulars/Orders/Advance Rulings issued till date for Refund

Notification 44/2017-Central Tax (Rate) dated 14th November 2017	2.	5111 to 5113	Woven fabrics of wool or of animal hair
	3.	5208 to 5212	Woven fabrics of cotton
	4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
	5.	5407, 5408	Woven fabrics of manmade textile materials
	6.	5512 to 5516	Woven fabrics of manmade staple fibres
	6A.	5608	<i>Knitted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials</i>
	6B.	5801	<i>Corduroy fabrics</i>
	6C.	5806	<i>Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)]</i>
	7.	60	Knitted or crocheted fabrics [All goods]
	8.	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
	9.	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
	10.	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
	11.	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)
	12.	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
	13.	8606	Railway or tramway goods vans and wagons, not self-propelled
14.	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof	
15.	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	

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7	Notification No. 15/2017-Central Tax (Rate) and 12/2017-Integrated Tax (Rate) dated 28th June 2017	Restricts refund of unutilized input tax credit with regard to this service as per Para 5(b) of Schedule II of the CGST Act, 2017 which will be considered as supply of service. As per Para 5(b) of Schedule II of the CGST Act 2017, construction of complex, building, civil structure or a part thereof including a complex or building intended for sale to a buyer, wholly or partly except where the entire consideration has been received after issuance of completion certificate where required by the competent authority or after its first occupation whichever is earlier.
8	Notification No. 06/2017-Central Tax (Rate) dated 28th June 2017 and Notification No. 6/2017-Integrated Tax (Rate) both dated 28th June 2017	Prescribes refund of 50% of CGST on all inward supplies received by Canteen Stores Department (CSD) under Ministry of Defence for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.
9	Notification No. 16/2017-Central Tax (Rate) dated 28th June 2017	Entities which have been issued UINs and are notified under Section 55 of the CGST Act will be eligible for refund of inward supply of goods or services or both
10	Notification No. 55/2017 – Central Tax dated 15th November 2017	Sets out the process to file Refund application in case of Zero rated supplies
11	Notification No. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23 rd October 2017	Explains the process for supply to merchant exporter at concessional rate of 0.05% CGST or 0.1% IGST
12	Notification No. 47/2017-Central Tax dated 18th October 2017	Permits 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 that the supplier may claim the refund to file refund application.
13	Notification No. 51/2017-Central Tax dated 28th October 2017	Prescribes Table 6A of GSTR-1 to be filled for refund of Export with payment of tax due to deferment of GSTR-1
14	Notification No. 75/2017-Central Tax dated 29th December 2017,	Amends Refund Rules by prescribing various refund procedures
15	Notification No. 20/2018-Central Tax dated 28 th March 2018	Extension of due date for filing of application for refund under section 55 by notified agencies

Notifications/Circulars/Orders/Advance Rulings issued till date for Refund

16	Notification No. 21/2018-Central Tax dated 18-4-2018	Change in formula for calculation of refund in case of inverted duty rate structure under Rule 89(5) and substitution of Rule 97 on Consumer Welfare Fund
17	Notification No. 26/2018-Central Tax dated 13-6-18	Change in formula for calculation of refund in case of inverted duty rate structure under Rule 89(5) with retrospective effect; Change in Rules 95 and 97
16	Notification 20/2018-Central Tax (Rate) dated 26-7-18	Waiver of restriction regarding refund on fabrics under Inverted Duty Rate
17	Notification 39/2018-Central Tax dated 4-9-18	Increase in refund amount due to exclusion of IGST paid zero rated supplies from Adjusted Turnover and Domestic Supplier of Exporter claiming benefit of advance authorization/ EPCG license etc. shall not debar exporter from claiming IGST refund on exports

List of Circulars

<i>Sr No.</i>	<i>Circular number</i>	<i>Summary of Notification</i>
1	Circular no. 40/14/2018-GST dated 6th April 2018	Modification in Circular no. 8/8/2017-GST dated 4th October 2017 to prescribe filling of LUT online
2	Circular no. 8/8/2017-GST dated 4th October 2017	Prescribed Procedure for filling LUT Physically in place of Bond
3	Circular no. 14/14/2017-GST dated 6th November 2017-	Prescribes the procedure and safeguard for supplies to EOU / EHTP / STP / BTP
4	Circular No.36/10/2018-GST dated 13th March, 2018	Entities which have been issued UINs and are notified under Section 55 of the CGST Act will be eligible for refund of inward supply of goods or services or both
5	Circular No. 17/17/2017-GST dated 15 th November, 2017	Manual filling and processing of refund claims in respect of Zero-rated supplies
6	Circular No. 18/18/2017-GST dated 16 th November, 2017	Clarification on refund of unutilized input tax credit on GST paid on input in respect of Export of Fabrics
7	Circular No. 24/24/2017-GST dated 21 st December 2017	Procedure to file Manual Refund application in case of inverted duty structure, Deemed Export and Excess balance in electronic cash ledger
8	Circular No. 26/26/2017-GST dated 29 th December 2017	Rectification mechanism of errors in filling GSTR-3B and GSTR-1
9	Circular No. 30/04/2018-GST dated 25 th January 2018	Clarification on supplies made to India Railways and Refund eligibility
10	Circular No. 31/05/2018-GST dated 09 ^h February 2018	Proper officer under sections 73 and 74 of the Central Goods and Service tax Act, 2017 and under the Integrated Goods and service tax Act 2017
11	Circular No. 36/10/2018-GST dated 13 th March 2018	Clarification of Procedure of Refund application for UIN entities

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12	Circular No.37/11/2018 – GST dated 15 th March 2018	Further clarification on Various Export related issue in line with Circular No. 17/17/2017 – GST dated 15th November 2017 and Circular No. 24/24/2017 – GST dated 21st December 2017
13	Circular No. 45/19/2018- GST dated 30 th May 2018	Further clarification on Various Export related issue in line with Circular No. 17/17/2017 – GST dated 15th November 2017, Circular No. 24/24/2017 – GST dated 21st December 2017 and Circular No.37/11/2018 – GST dated 15 th March 2018
14	Circular No. 48/22/2018- GST dated 14 th June 2018	Clarification on refund of Unutilized ITC to fabric Job worker
15	Circular No. 43/17/2018- GST dated 13 th April 2018	Further clarification on procedure for UIN refund as prescribed in Circular No. 36/10/2018 dated 13th March, 2018
16	Circular no. 45/19/2018 dated 30-05-2018	Clarification on refund claim by ISD, Composition Dealer, non-resident taxable person; Application of refund of tax paid on export of service or supplies to SEZ Developer/Units; Refund of compensation where outward supplies not exigible to compensation cess; LUT in case of exempted supplies; Scope of restriction under Rule 96(10)
17	Circular 48/22/2018 dated 14-06-2018	Circulars clarifying miscellaneous issues related to SEZ and refund of unutilized ITC for job workers
18	Circular no. 56/30/2018 dated 24-08-2018	Clarification regarding removal of restriction of refund of accumulated ITC on fabrics
19	Circular no. 59/ 33/208 dated 4-9-18	Change in scope of restriction under Rule 96(10); Submission of Invoices for refund claim; System validations in refund; Recredit in case of rejection; Disbursal of refund after sanction; Deficiency Memo; Treatment of small refunds below Rs. 1000/-
20	Circular no. 60/34/2018 dated 4-9-18	Processing of refund applications filed by Canteen Stores Department (CSD)
Customs Circulars		
1	Circular No. 22/2017- Customs dated 30 th June 2017	Amendments effective from 1.7.2017 in the All Industry Rates of Duty Drawback and other Drawback related changes
2	Circular No. 24/2017 – Customs dated 30 th June 2017	Duty Drawback for supplies made by DTA units to Special Economic Zones in the GST scenario
3	Circular No. 26/2017 – Customs dated 01 st July 2017	Export procedure and sealing of containerized cargo
4	Circular No.42/2017 – Custom dated 07 th November 2017	Refund of IGST paid on Export of Goods under Rule 96 of CGST Rules 2017
5	Circular No. 05/2018- Customs dated 23 rd February 2018	Refund of IGST on Export– Invoice mis-match Cases –Alternative Mechanism with Officer Interface
6	Circular No. 06/2018- Customs dated 16 th	Refund of IGST on Export for EGM Error related case

Notifications/Circulars/Orders/Advance Rulings issued till date for Refund

	March 2018	
7	Circular No. 12/2018- Customs dated 29 th May 2018	Sanction of pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems
8	Circular No. 45/19/2018- GST dated 30 th May 2018	Clarifications on refund related issues
Customs Instructions		
1	Instruction NO.15/2017 and 16/2017-CUSTOMS dated and 09 th October 2017	Refund of IGST paid on Export of Goods under Rule 96 of CGST Rules 2017