



# Refund under GST Law

# Refunds

CGST Act	Chapter XI	Sections: 54,55,56,57, 58
IGST Act	Chapter VI	Section15
CGST Rules	Chapter X	Rules: 89,90,91,92,93,94,95,96,96A, 96B,97,97A

# Relevant Sections/ Rules (CGST)

- 54. Refund of tax
- 55. Refund in certain cases
- 56. Interest on delayed refunds
- 57. Consumer Welfare Fund
- 58. Utilisation of Fund

## Other Relevant Sections

- 33. Tax to be indicated in tax invoice
- 57. Consumer Welfare Fund
- 49. Payment of tax, interest, penalty etc.
- 39. Furnishing of returns
- 77. Tax wrongfully collected and paid

- 89. Application for refund of tax, interest, penalty, fees or any other amount
- 90. Acknowledgement
- 91. Grant of provisional refund
- 92. Order sanctioning refund
- 93. Credit of the amount of rejected refund claim
- 94. Order sanctioning interest on delayed refunds
- 95. Refund of tax to certain persons
- 96. Refund of integrated tax paid on goods or services exported out of India
- 96A. Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking
- 96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised.
- 97. Consumer Welfare Fund
- 97A. Manual filing and processing

# Forms prescribed under the GST Law

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

# Zero rate Supply

## ➤ Section 16 of the IGST Act:

1. “Zero rated supply” means any of the following supplies of goods or services or both, namely :-
  - a. export of goods or services or both; or
  - b. supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.
2. Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.
3. A registered person making zero rated supply shall be eligible to claim refund under either of the following options, 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 unutilized 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.

## Deemed Export

- **Section 147 of the CGST Act:** The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

# Refund of ITC in case of Zero-Rated Supplies & Inverted Tax Structure

*Sub-Section (3):*

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

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

*(i) zero rated supplies made without payment of tax;*

*(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:*

*Provided further that no refund of unutilised input tax credit shall be allowed in cases where the **goods exported out of India are subjected to export duty: (items covered under The Second Schedule to the Custom Tariff Act, 1975 – viz. Coffee, Tea, Black pepper, Cardamom, Turmeric, Basmati Rice, Groundnut in shell, Animal feed, Tobacco, Iron ore, Manganese, Bauxite etc.)***

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

*\*There is no restriction if drawback is in respect of Custom duty and State Tax.( Para 2 of Circular No. 37/11/2018 – GST, dated 15-03-2018 & Para 40 of Circular No. 125/44/2019 – GST, dated 18-11-2019.*

Notification No.05/2017 CT (R ) as amended vide N.No 20/2018 CT (R ) specifies goods on which refund is not allowed for inverted duty structure.

W.E.F. 01-08-2018 refund of accumulated credit on account of inverted duty structure is allowed on fabrics.



# \* Eligibility Criteria

Refund can be filed for:

- Zero rated supplies made without payment of tax
- Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies

Refund can be filed by following:

1. A specialized agency of the United Nations Organization or
2. Any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947,
3. Consulate or Embassy of foreign countries or
4. Any other person or class of persons as notified under section 55.

In terms of Notification No. 55/2017 the refunds may be filed manually and the processing of refund with respect to any notice, reply or order, among others, can also be issued / filed manually. Prior to this, only online applications were allowed

# \* Deemed Exports

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

(Notification No. 48/2017 – Central Tax dated 18.10.2017)

Notification 49/2017-Central Tax prescribes the evidences to be submitted by supplier of deemed export for claiming refund;

☐ In case of supplies to EPCG License Holder or Advance Authorization Holder, an acknowledgment from tax officer having Jurisdiction over such EPCG or Advance Authorization holder that goods are received by such license holder

☐ In case of supplies to EOU, a copy of tax invoice issued by supplier shall be duly signed by EOU stating that deemed export supplies are received. (Procedure prescribed under Circular 14/14/2017-GST shall be followed)

☐ An undertaking by recipient of deemed exports that no input ITC is claimed.

☐ An undertaking by recipient of deemed exports that he shall not claim refund of tax paid with respect to deemed exports received by him.

☐ The supplier who is claiming refund of tax paid on deemed exports, is not required to collect the tax amount from the recipient.

In cases where exports are undertaken by a registered person by receiving goods from a supplier claiming deemed export benefit, then the recipient exporter will be entitled to claim refund of other inputs and input services used in connection with the said export goods. {Rule 89(4A)}

## Supplies to Merchant Exporter

The merchant exporter who receives the goods is required to export the goods under bond/LUT.

☐ He can claim refund of 0.1% tax paid on the said goods received from supplier along with input tax paid on any input services received by them in connection with this export

☐ In cases where exports are made by payment of tax, he is not eligible for refund.

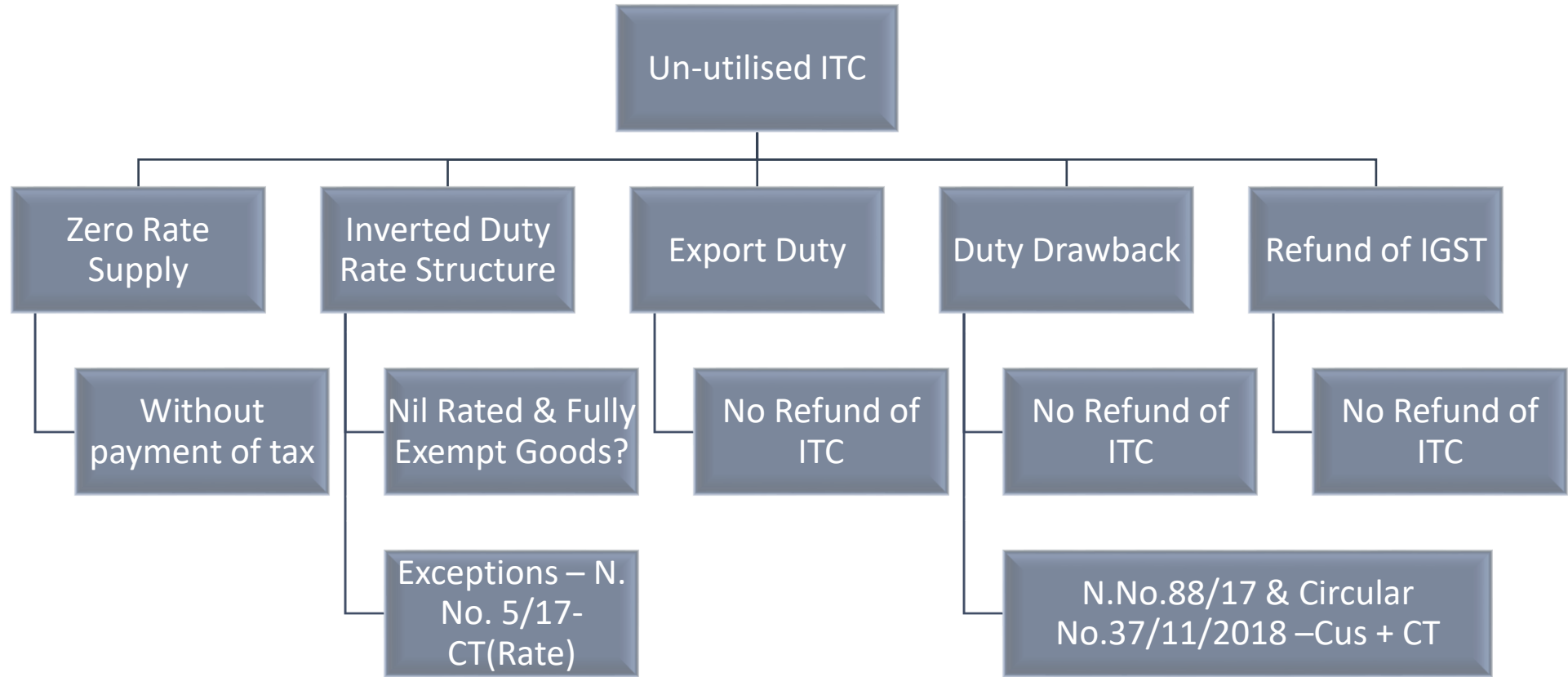
☐ The supplier who supplies goods to merchant exporter at 0.1% may end up in accumulating excess ITC than his output tax. In such case he can file refund of ITC treating the case as that of inverted tax structure.

# Supplies to Merchant Exporter

Notification 40/2017-CGST(Rate) and Notification 41/2017-IGST(Rate) provides for concessional rate of GST at 0.1% for supplies to merchant exporter. The following are the conditions to be satisfied: .

- ☐ Both **the supplier and recipient merchant exporter are registered** under GST and the supplier should issue a tax invoice to the recipient.
- ☐ The recipient shall be **registered with an Export Promotion Council** or a Commodity Board Recognised by Department of Commerce
- ☐ The **Supply Order issued** by recipient **shall require the corresponding supplier to supply goods at a concessional rate** as per this notification. A copy of such supply order shall also be provided to the Suppliers' Jurisdictional tax officer.
- ☐ The recipient shall export the goods **within a period of 90 days** from the date of issue of invoice by supplier.
- ☐ The recipient while exporting the goods shall **indicate in shipping bill**, the GSTN and tax invoice number of the supplier.
- ☐ When the goods are exported, a copy of shipping bill or bill of export and proof of export general manifest or export report filed shall be provided by recipient to the supplier and also to the jurisdictional tax officer of such supplier

# \* WHEN IS REFUND OF UN-UTILISED INPUT TAX GIVEN



# \* Relevant Date

- \* Refund of tax paid on inputs and input services or goods themselves exported out of India-
  - \* Date when the ship or the aircraft leaves India or goods pass the customs frontier or dispatched by concerned Post Office to a place outside India.
- \* Refund of unutilized input tax credit accumulated due to exports including zero rated supplies - **Due date for furnishing of return under section 39 for the period in which such claim for refund arises**
- \* Deemed exports supply of goods - the date on which the return relating to such deemed exports is furnished.
- \* Refund of tax paid on such services exported itself or tax paid on inputs/input service
  - \* Date of receipt of payment in convertible foreign exchange (If received in Advance - date of issue of invoice).

## Disallowance of refund of unutilised ITC in certain cases:-

- Where export duty is paid on goods exported out of India
- If the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.
- Refund of cess now allowed (Circular No. 79/53/2018-GST- dated 31/12/2018 – latest)

<p>Where tax becomes refundable as a Consequence of <b>judgment, decree, order or direction</b> of the Appellate Authority, Appellate Tribunal/any court</p>	<p>Date of communication of such judgment, decree, order or direction</p>
<p>In the case where tax is paid provisionally under this Act/rules made thereunder</p>	<p>Date of adjustment of tax after the final assessment thereof</p>
<p>In the case of a person, other than the supplier</p>	<p>Date of receipt of goods or services or both by such person</p>
<p>Any other case</p>	<p>Date of payment of tax</p>



# \* Documentary Evidence

Application shall be accompanied by-

- (a) Documents to establish that a refund is due to the applicant.
- (b) Documents to establish that there is no unjust enrichment.

**'No unjust enrichment'** means establishing that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person.

# Documents which can be provided to establish that a refund is due to the applicant

## Rule 89(2)

In case where refund is on account of	Documentary evidence to be submitted	
A judgment, decree, order/direction of Appellate Authority, Appellate Tribunal/any Court	Copy of the order passed.	
Export of services	<ul style="list-style-type: none"> <li>• statement containing the number and date of invoices.</li> <li>• Bank Realization Certificates or Foreign Inward Remittance Certificates (BRC/FIRC)</li> </ul> <p><b>(Realization of convertible foreign exchange is one of the pre conditions for export of services, hence FIRC/BRC required )</b></p>	
Export of goods	<ul style="list-style-type: none"> <li>• a statement containing the number and date of shipping bills or bills of export.</li> <li>• the number and date of relevant export invoices.</li> </ul>	
Supply of goods is made to a SEZ unit or a SEZ developer	<ul style="list-style-type: none"> <li>• statement containing the number and date of invoices along with the evidence regarding goods admitted in full for authorized operations as endorsed by the specified officer of SEZ.</li> </ul>	<p><b>In addition, a declaration to the effect that tax has not been collected from the SEZ unit/ SEZ developer is also required to be furnished.</b></p>

<p>Supply of services made to a SEZ unit or a SEZ developer</p>	<ul style="list-style-type: none"> <li>• statement containing the number and date of invoices</li> <li>• the evidence regarding receipt of services for authorized operations as endorsed by the specified officer of SEZ</li> <li>• details of payment, along with proof thereof, made by the recipient to the supplier for authorized operations</li> </ul>	<p><b>In addition, a declaration to the effect that tax has not been collected from the SEZ unit/ SEZ developer is also required to be furnished.</b></p>
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<p>Deemed exports</p>	<p>Statement containing the number and date of invoices along with an:</p> <p>(i) acknowledgment by the jurisdictional Tax officer of the Advance Authorisation (AA) holder or Export Promotion Capital Goods (EPCG) Authorisation holder that the said deemed export supplies have been received by the said AA/EPCG Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient EOU that said deemed export supplies have been received by it.</p> <p>(ii) undertaking by the recipient of deemed export supplies that no ITC on such supplies has been availed of by him.</p> <p>(iii) 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<sup>3</sup>.</p>
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refund of any unutilised ITC accumulated on account of inverted duty structure	a statement containing the number and the date of the invoices received and issued during a tax period
Finalisation of provisional assessment	reference number of the final assessment order and a copy of the said order
tax wrongly collected and paid to the Government	Statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply
excess payment of tax	Statement showing the details of the amount of claim on account of excess payment of tax

## Documentary evidence pertaining to passing of incidence of tax

When amount of refund < 2 Lacs	When amount of Refund > 2 lacs
Self Declaration	Certificate from CA / Cost Accountant

**But Neither a declaration by the applicant nor a certificate by a Chartered Accountant/Cost Accountant is required to be furnished in the following cases:**

- Export refund of tax paid on of goods or services or both or on inputs or input services used in making such exports
- refund of unutilised ITC in case of zero rated supplies made without payment of tax or on account of inverted duty structure;
- refund of tax paid on a supply which is not provided, either wholly or partially, and for which *invoice* has not been issued, or where a refund voucher has been issued.
- refund of tax in pursuance of section 77, i.e. tax paid on a transaction treating it as an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa.
- the tax or interest borne by such other class of applicants as the Government may by notification, specify.

## Refund Application:

Refund application have to be filed in Form **GST RFD-01A** through the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of these refund applications, i.e. issuance of acknowledgement of the refund application, issuance of deficiency memo, passing of provisional/final order, payment advice etc. was also being done manually. However, w.e.f. 26-09-2019, all the refund applications shall be filed in **Form GST RFD 01** and provide details in Statement –3 & 3A in Annexure 1 on the common portal and the same shall be processed electronically. On filing of application, the electronic credit ledger shall be debited by an amount equal to the refund so claimed. The refund application has to be accompanied by following documents / details –

- I. **Statement- 3** [rule 89(2)(b)] - containing the number and date of shipping bills or bills of export and the number and the date of the relevant export Invoices.
- II. statement containing the number and date of invoices and the relevant Bank Realization 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**; [R. 89 (2) (c)]
- III. A undertaking to be furnished electronically along with refund claim, in respect of return of refund to the Government with interest, in cases if it is subsequently found that requirement of S. 16 (2)( c ) r. w Rule 42 (2) have not been complied with. [Para 7 of Circular No. 125/44/2019 – GST, dated 18-11-2019]

## Procedure on receipt of refund claim

Where the application relates to:	
Claim for refund from the electronic cash ledger	Other refund claims
An acknowledgment in prescribed form shall be made available to the applicant, clearly indicating the date of filing of the claim for refund.	<ul style="list-style-type: none"><li><input type="checkbox"/> The application shall be forwarded to the proper officer</li><li><input type="checkbox"/> The proper officer shall within a period of 15 days issue an acknowledgement through the common portal electronically, if application is not deficient.</li></ul>

### ‘Deficiencies in refund claim’

PO shall communicate the deficiencies to the applicant in Deficiency memo. Applicant shall file a fresh refund application after rectification of such deficiencies.(15/2021-CGST dated 18.05.2021)

## **Grant of provisional refund [Section 54(6) read with rule 91]**

Section 54(6) provides for grant of provisional refund of 90% of the total refund claim, in case the claim relates for refund arising on account of zero rated supplies.

- The provisional refund would be paid within 7 days after giving the acknowledgement.
- The remaining 10% can be refunded later after due verification of documents furnished by the applicant.
- The provisional refund would not be granted to such supplier who was, during any period of 5 years immediately preceding the refund period, was prosecuted for any offence under the Act or under an existing law **where the amount of tax evaded exceeds ` 2.5 crores.**
  - The proper officer, within 7 days from the date of the acknowledgement shall make an order in prescribed form, sanctioning the amount of refund due to the said applicant on a provisional basis
  - The proper officer shall issue a payment advice for the amount sanctioned. 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

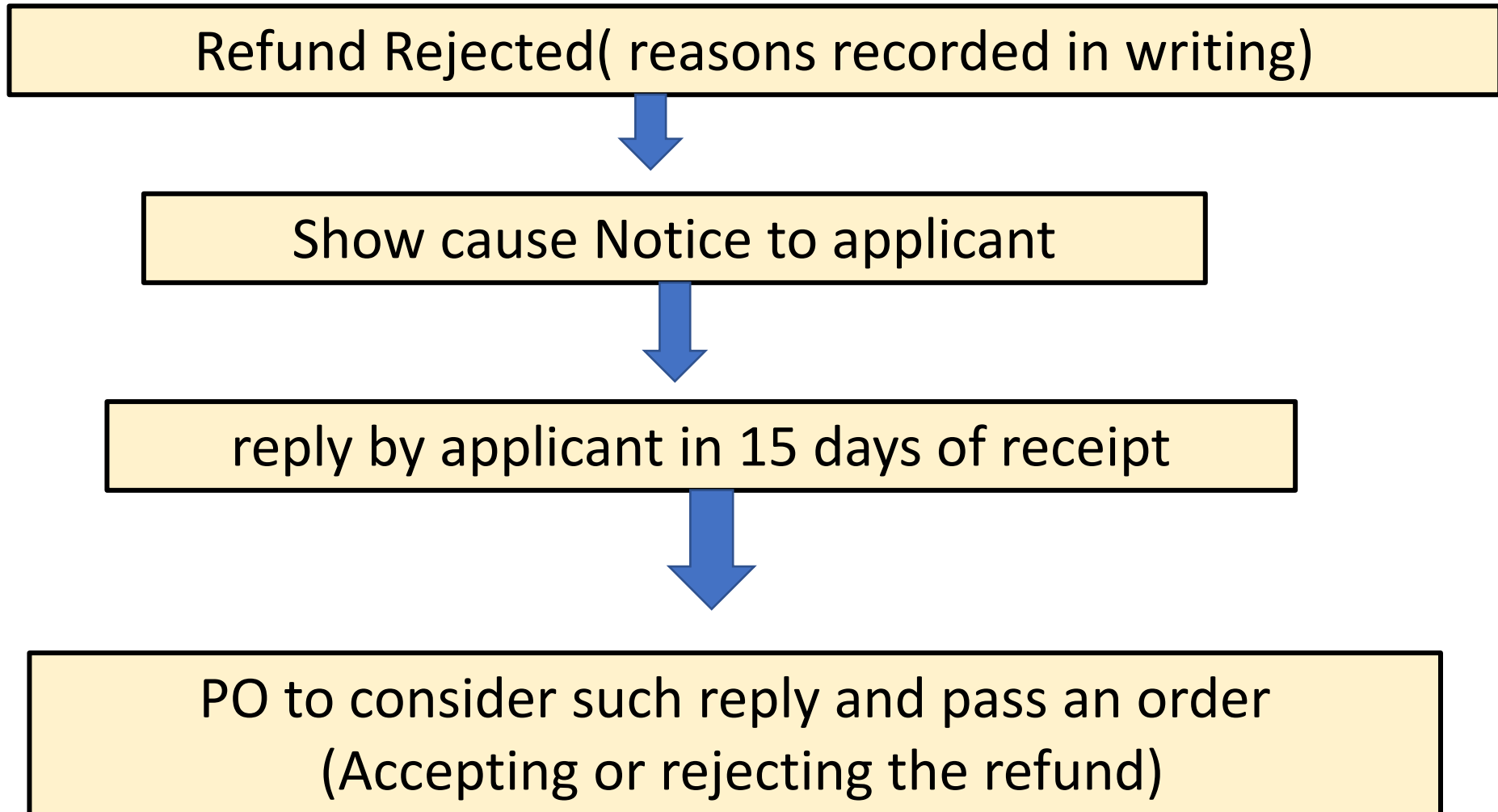
***However, the payment advice shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.***



## Order of refund [Section 54(5), (7) read with rule 92]

When refund to be credited to Consumer Welfare Fund	When Refund to be credited to Applicant
<ul style="list-style-type: none"> <li>✓ make an order sanctioning the amount of refund to which the applicant is entitled.</li> <li>✓ mentioning therein:               <ul style="list-style-type: none"> <li>(i) amount, if any, refunded to him on a provisional basis</li> <li>(ii) amount adjusted against any outstanding demand</li> <li>(iii) the balance amount refundable.</li> </ul> </li> <li>✓ Issue an advice for the amount of refund to be credited to the Consumer Welfare Fund [Rule 92(5)].</li> </ul>	<ul style="list-style-type: none"> <li>✓ make an order sanctioning the amount of refund to which the applicant is entitled.</li> <li>✓ mentioning therein the (i) amount, if any, refunded to him on a provisional basis, (ii) amount adjusted against any outstanding demand and (iii) the balance amount refundable.</li> <li>✓ Issue a payment advice for the amount of refund.</li> </ul>
<ul style="list-style-type: none"> <li>✓ <b>Time-limit for issuance of refund order:</b> within 60 days from the date ( as mentioned in the acknowledgement) of receipt of application complete in all respects</li> </ul>	

## Issue of SCN and rejection of refund claim [Rule 92(3)]



## Credit of the amount of rejected refund claim [Rule 93]

- ❑ Where any deficiencies in refund claim have been communicated under rule 90(3), the amount earlier debited under rule 89(3) shall be re-credited to the electronic credit ledger.
- ❑ 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 prescribed form.
- ❑ 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.

## Cases where theory of unjust enrichment is not applicable

**Section 54(8)** stipulates that the refundable amount shall, instead of being credited to the Consumer Welfare Fund, be **paid to the applicant**, if such amount is relatable to-

- ✓ export refund of tax paid on goods or services or both or on inputs or input services used in making such exports
- ✓ refund of unutilized ITC in case of zero rated supplies made without payment of tax or accumulated ITC on account of inverted duty structure
- ✓ refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued
- ✓ refund of tax in pursuance of section 77, i.e. tax paid on a transaction treated to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa.
- ✓ 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
- ✓ the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

**Refund of taxes paid under existing laws:** Where claims filed for refund of CENVAT Credit under Rule 5 of CCR, 2005 under existing laws shall be processed as per the provisions of existing laws in view of the provisions of Section 142(3),(4) and(5) of CGST Act, 2017. The concerned authorities processing the refund claims should ensure that the corresponding CENVAT Credit is not transitioned into GST

❓ **No Refund of Transition Credit:** Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC'

**Refund of IGST Paid on Supplies to SEZ:** Certain suppliers have not shown this turnover under 'ZeroRated Supply' column in GSTR-3B. As a result, the inbuilt control in GST portal is not allowing these suppliers to claim refund. It has been clarified that for the period from 01.07.2017 to 31.03.2017, the inbuilt control in GST Portal to file RFD01 has been taken away to allow these suppliers also to claim refund.

**❓ No Refund of Compensation Cess:** Clarified that no refund can be claimed of the Compensation Cess Credit unless the export product is also subject to compensation cess.(Now Amended.)

**❓ Bond/LUT Requirement for non-GST and Exempted Goods:** Clarified that in case of zero-rated supply of non-GST and exempted goods, there is no requirement to execute Bond/LUT.

## Para 5 of Circular No. 37/11/2018-GST:

5.1 It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the 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.

☐ Though the Rule 96A is mandating the requirement of Bond/LUT prior to export without payment of IGST, the same was insisted under Section 16, only for the purposes of claiming refund. No demand shall be insisted upon if the goods or services are ultimately exported.

## Para 2.2 of Circular No. 48/22/2018-GST:

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

❑ *Section 26(1)(e): Exemption from service tax under Chapter-V of the Finance Act, 1994 on taxable services provided to a Developer or Unit to carry on the authorised operations in a Special Economic Zone.*

❑ *IGST Act, 2017 is an enabling Act to grant GST exemptions that are conferred under SEZ Act, 2005 which only limits the exemption to authorized operations. Harmonious interpretation should be adopted to reconcile the inconsistencies between two legislations.*



# Refund claim under Rule 89

The following exporters are covered under this rule

☐ Exporter of goods exporting under bond/LUT without payment of Integrated tax

☐ Exporter of services exporting under bond/LUT without payment of Integrated tax

☐ Exporter of services by paying integrated tax.

☐ In case of exports under bond/LUT without payment of tax, the refund is of ITC which can be claimed as refund only after debiting an equivalent amount in electronic credit ledger.

☐ Sub-rule (4A) provides that exporter of goods is entitled to claim refund of ITC availed on input services and other inputs used in export for which the supplier has availed the benefit of deemed exports

☐ Sub-rule (4B) provides that exporter of goods is entitled to claim refund of ITC availed on input services and other inputs and unutilised ITC used in export for which the supplier has availed the benefit of Supply at concessional rate ,or inputs under EPCG, Advance Authorisation.

# \* Refund Formula

## \* In case of Accumulated ITC -

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

\* Where, "Net ITC" means input tax credit availed on **inputs and input services** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both

## \* In case of Inverted Duty Structure –

\* 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

\* Where, "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

Sec.89(4):

Refund of unutilised credit in case of zero rated supplies of Goods/Services under LUT (Sec. 16(3) of IGST Act, 2017) would be determined as per the formula:

Refund Amount = (Turnover of Zero rated supply of goods + Turnover of Zero rated supply of services) x Net ITC / Adjusted Total Turnover.

- (A) "**Refund amount**" means the maximum refund that is admissible;
- (B) "**Net ITC**" means input tax credit availed on inputs and input services during the relevant period;
- (C) "**Turnover of zero-rated supply of goods**" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking; (**Now Amended**)
- (D) "**Turnover of zero-rated supply of goods**" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, **whichever is less**, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both; (vide Nno 16/20 dated 23-03-2020)
- (E) "**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:-
- (F) 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;

- (G) "**Adjusted Total turnover**" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period; and the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-
- (i) the value of exempt supplies other than zero-rated supplies; and
  - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.

\*Where, In the case of refund on account of inverted duty structure "**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

## Calculation of Refund Claim pursuant to Rule 89 (4) of CGST Rules, 2017

PARTICULARS	QTY	RATE	AMOUNT	%
SALE OF GOODS				
EXPORT	2500	1250	31,25,000	73.53%
DOMESTIC	1500	750	11,25,000	26.47%
			42,50,000	

### INPUTS:

Inputs – 31,50,000 tax amount – 3,78,000/-

Input Services – 4,50,000 tax amount 81,000/-

Total = 4,59,000/-

Turnover of Zero Rated supplies - Lower of (a) & (b)

(a) FOB value of exports 31,25,000/-

(b) Value of like goods supplied domestically 28,12,500/-

(c) Therefore Turnover of Zero Rated Supplies of Goods = Rs 28,12,500/-

(d) Net ITC x Turnover of Zero Rated supplies  
Adjusted Total Turnover

## Eligible Refund after 23-03-2020

Eligible Refund (New Provision)

$$4,59,000 \times \frac{28,12,500}{42,50,000} = 3,03,750/-$$

## Eligible Refund before 23-03-2020

Eligible Refund (Old Provision)

$$4,59,000 \times \frac{31,25,000}{42,50,000} = 3,37,500/-$$

## Determination of Refund amount as per GSTIN Portal:

Common portal of GSTIN will calculate the refundable amount as the least of the following amounts:

- a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the CGST Rules [*formula is applied on the consolidated amount of ITC*, i.e. Central tax + State tax/Union Territory tax + Integrated tax];
- b) The balance in the electronic credit ledger of the applicant at the *end of the tax period for which the refund claim is being filed* after the return in FORM GSTR-3B for the said period has been filed; and
- c) The balance in the electronic credit ledger of the applicant at the *time of filing the refund application*.

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

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

*b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).*

*The order of debit described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications. However, for applications where this order is not adhered to by the applicant, no adverse view may be taken by the tax authorities. In such a scenario, RFD-03 will be issued and applicant have to again submit the refund application.*

*The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01 is generated. [Para 36 to 38 of 125/44/2019 – GST, dated 18-11-2019].*



## Certain Clarifications:

1. Board has issued master circular on refund No. 125/44/2019 – GST, dated 18-11-2019.
2. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund. [Para 9 of Circular No. 37/11/2018 – GST, dated 15-03-2018]
3. Procedure for rectification of errors made while filing the returns in Form GSTR-3B has been provided in Circular No. 26/26/2017 – GST, dated 29-12-2017.
4. Self-declaration for non-prosecution is not warranted with every claim of refund, in cases of exports of goods under LUT. [Para 7 of Circular No. 37/11/2018 – GST, dated 15-03-2018]
5. It has been clarified that tax payers can club the refund of different months across the successive financial years (Para 11 of Circular No. 37/11/2018 – GST, dated 15-03-2018 ). Restriction on bunching of refund claims across financial years shall not apply based on the pronouncement of Hon'ble Delhi High Court in Order dated 21.01.2020, in the matter of M/s Pitambra Books P. Ltd. vide circular no. 135/05/2020 – CGST, dated 31-03-2020.
6. Refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. [Para 5 of Circular No. 135/05/2020 – CGST, dated 31-03-2020].
7. Applicant have to furnish details of inward supplies / details of invoices reflecting in Form GSTR-2A in Annexure B. Further, applicant also have to mention HSN/SAC code which is mentioned on the inward invoices. In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply. [Para 6 of Circular No. 135/05/2020 – CGST, dated 31-03-2020].

## Certain Clarifications:

8. Any refund claim for a tax period may be filed only after furnishing all the returns in FORM GSTR-1 and FORM GSTR-3B which were due to be furnished on or before the date on which the refund application is being filed.
9. In cases, where zero-rated supplies were made before filing the LUT and refund claims for unutilized input tax credit got filed. In this regard, it is emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case. [Para 4 of Circular No. 37/11/2018 – GST, dated 15-3-2018 & Para 44 of Circular No. 125/44/2019 – GST, dated 18-11-2019.]
10. It is clarified that “Net ITC” in the formula provided will not include credit pertains to “Transitional Credit” as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of ‘Net ITC’ and thus no refund of such unutilized transitional credit is admissible. [Para 50 of Circular No. 125/44/2019 – GST, dated 18-11-2019.]

## Certain Clarifications:

11. Letter of Undertaking (LUT) for the FY 2020 - 2021 is to be obtained before the commencement of FY 2020 - 2021 or exports take place in the year 2020 - 2021. However, due to lock down in entire country, same was not obtained. Hence, it is clarified that in terms of N. No. 35/2020 – CT, time limit for filing of LUT for the year 2020 - 2021 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 201920 in the relevant documents. [Para 4 of Circular No. 137/072020 – GST, dated 13-04-2020]
12. GST Law provides that refund application have to be submitted within 2 years from the relevant date. If date for making application expires on 31-03-2020, and applicant do not able to submit application due to lock down in entire country, it has been clarified that due date for filing an application will be extended to 30-06-2020 in terms of N. No. 35/2020 – CT, dated 03-04-20. [Para 6 of Circular No. 137/072020 – GST, dated 13-04-2020]

## **Rule 96-Refund of Integrated Tax Paid on Exports**

- ☐ The shipping bill filed at the time of export shall be deemed to be an application filed for refund of integrated tax paid on goods exported outside India provided the following two conditions are satisfied;**
- ☐ The person in charge of the conveyance carrying the export goods duly files the export manifest covering shipping bill of the exporter.**
- ☐ The exporter should have filed a valid GSTR-3B**
- ☐ Details of relevant export invoices as submitted in GSTR-1 shall be transmitted electronically to ICEGATE in order to confirm that goods covered by said invoices are exported. Pending filing of GSTR-1, exporters can fill the export details in table 6A of GSTR-1**
- ☐ Upon electronic confirmation of export of goods and filing of returns, the proper officer of Customs shall process the refund claim and the amount shall be credited to the bank account of exporter through PFMS.**

## **The refund claim may be withheld by proper officer of Customs**

Under following circumstances, proper officer will withheld the payment of refund

- (a) Defaulted in furnishing any return;
- (b) Defaulted in payment of tax, interest or penalty which is not stayed by any Court or Tribunal or Appellate Authority by the specified date. Specified date means the last date for filing an appeal under this Act.

Proper officer will withheld the refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be or 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. [S. 54(10) & ( 11) ]

Refund Under Rule 96 is not allowed in following cases

Applicant claiming refund of integrated tax paid on export of goods or services should not have received goods and has availed any of the following benefits

☐ Benefit of Deemed Exports

☐ Received goods at a concessional rate of 0.1%

☐ Availed benefits under EOU

☐ has imported any goods under EPCG, Advance Authorization schemes

☐ In all these cases, the person exporting the goods should export without payment of Integrated tax under Bond/LUT.

In all these cases, the person exporting the goods should export without payment of Integrated tax under Bond/LUT

{“Explanation.- For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.”. }vide N.no 16/2020 dated 23-03-2020.(Amendment to Rule 96(10))

# NOTIFICATION NO. 16/2020 DATED 23.03.2020

## **New Rule 96B Inserted:**

### **“96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realized**

–(1) Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non realization of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded **shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:**

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

## NOTIFICATION NO. 16/2020 DATED 23.03.2020

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



**“UNDERTAKING**

*I hereby undertake to deposit to the Government the amount of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to section 16 of the IGST Act, 2017 read with rule 96B of the CGST Rules 2017.*

*Signature-*

*Name –*

*Designation / Status”.*

The Government of India as well as the Reserve Bank has been receiving representations from Exporters Trade bodies to extend the period of realization of export proceeds in view of the outbreak of pandemic COVID- 19. It has, therefore, been decided, in consultation with Government of India, to increase the present period of realization and repatriation to India of the amount representing the full export value of goods or software or services exported, from nine months to fifteen months from the date of export, for the exports made up to or on July 31, 2020. [Circular No. 27 / RBI / 2019 – 2020 / 206, dated 01-04-2020]

If the sales proceeds or any part thereof is not realized within the stipulated time prescribed under FEMA but Reserve Bank of India (RBI) writes off the requirement of realization of sale proceeds on merits, the refund amount would not be recovered from such exporters.

If exporter realized the export proceeds, in full or part, after the amount has been recovered from him as mentioned aforesaid, in such scenario, exporters have to submit the proper proof or evidence of realization of export proceeds within in a period of 3 months from the realization of proceeds before the proper officer and then he will refund the amount to the exporters. However, realization of export proceeds should be within the extended time period permitted by RBI.

The matching between the two data sources is done at invoice level and any mis-match of the laid down parameters results in one or more of the following errors/responses:

<b>SB000</b>	<b>Successfully validated</b>
SB001	Invalid SB details
SB002	EGM not filed
SB003	GSTIN mismatch
SB004	Record already received and validated
SB005	Invalid invoice number
SB006	Gateway EGM not available

SBO01	<p>This may occur due mention of wrong shipping bill number furnished in GSTR 1/Table 6A. The possible reason for such mismatch could be a clerical error made by the exporter at the time of filling of GSTR 1/Table 6A, which can be rectified by making amendments in GSTR 1 by using Form 9A. Form 9A has been made available by GSTN w.e.f. 15.12.2017 in exporter's login at the GST common portal.</p>
SB002	<p>Exporter has to approach their shipping line/airline/carrier to file the EGM immediately</p>
SB003	<p>This error occurs when GSTIN declared in the SB does not match with the GSTIN mentioned in the corresponding GST return. In this case too, the exporter has to make necessary changes in GSTR 1 by use of amendment Form 9A. Exporters should note that there is no provision of amendment in the shipping bill once the EGM is filed.</p>
SB004	<p>This error occurs due to duplicate/ repeat transmission of shipping bill-invoice record from GSTN. The previous transmission would have already been validated for IGST refund by ICES.</p>

<p>SB005</p>	<p>The details an exporter is required to enter in the “invoice” column while filing the SB pertains to the invoice issued by him compliant to GST Invoice Rules. The invoice number shall be matched with GSTN to validate exports and IGST payment. There should not be any difference between commercial invoice and GST invoice after implementation of GST since as per the GST law, IGST is to be paid on the actual transaction value of the supply between the exporter and the consignee, which should be the same as the one declared In the commercial invoice.</p> <p>If SB005 is due to a data entry mistake in GSTR 1, it can be amended in Form 9A. But any mistake in the SB cannot be amended once EGM is filed. Also, if the exporter has used a separate invoice in the SB, he cannot include that in his GSTR 1 in lieu of his GST invoice. Thus, SB005 error, as of now, cannot be corrected by any amendment either in GSTR-1 or in the Shipping Bill.</p>
<p>SB006</p>	<p>Error SB006 occurs due to discontinuance of transference copy of shipping bill. An alternate mechanism to treat final Bill of Lading as valid document for integrated with EGM should be followed – CBI&amp;C circular No. 08/2018-Customs dated 23-3-2018.</p> <p>In cases of exports through ICDs, if the gateway EGM is not filed electronically or it contains some error, response code SB006 appears. It is noticed that gateway EGM in case of many ICD shipping bills have been manually filed, leading to such refunds not being processed. While the Customs at gateway ports are pursuing this matter with the shipping lines, the exporters can also approach their shipping line to file the EGMs electronically.</p>

## Mismatch of invoice number (Error code SB005)

This is the most common error committed by the exporters, which occurs due to mismatch in invoice declared in shipping bill and GSTR 1 for the same supply. This can happen due to:

- (i) Typographical mistake while entering data in GSTR 1 or the SB.
- (ii) The exporter uses two sets of invoices, one invoice for GST and another invoice for exports resulting in mismatch of invoice numbers.

If SB005 is due to a data entry mistake in GSTR 1, it can be amended in Form 9A. But any mistake in the SB cannot be amended once EGM is filed. Also, if the exporter has used a separate invoice in the SB, he cannot include that in his GSTR 1 in lieu of his GST invoice. CB&IC had issued many clarifications to overcome the problems of SB005 errors. Circular No's. 42/2017 – Customs, dated 07-11-2017, 6/2018 – Customs, dated 16-03-2018, 8/2018 – Customs, dated 23-03-2018, 15/2018 – Customs, dated 06-06-2018, 22/2018 – Customs, dated 18-07-2018, 40/2018 – Customs, dated 24-10-2018, 01/2019 – Customs, dated 02-01-2019, 25/2019 – Customs, dated 27-08-2019, 26/2019 – Customs, dated 27-08-2019, 131/1/2020 – GST, dated 23-01-2020 and 22/2020 – Customs, dated 21-04-2020

In some cases, exporter pays IGST but by mistake mentions 'NA' in shipping Bill instead of 'P'. In such case, refund should be granted after verifying payment of IGST based on GST returns – CBI&C circular No. 08/2018-Customs dated 23-3-2018.

### Other Reasons (Code SB000)

SB000 (Successfully Validated) is the response code which comes when all the decided parameters like GST1N, SB number, invoice number etc. match between GSTN and Customs databases. This code implies that the SB is ready for inclusion in the IGST refund scroll. However, it might happen that even with SB000, the SB does not appear in the refund scroll. This could be due to:

- (i) The exports might have been made under bond or LUT, hence not eligible for refund.
- (ii) If a shipping bill covers multiple invoices, few of the invoices might have been successfully validated with code SB000 whereas other invoices might be containing other types of error/s.
- (iii) Composite rate of drawback has been claimed for that SB during the transitional period between 01.07.2017 to 30.09.2017, thus making the SB ineligible for IGST refund.
- (iv) Where the IGST claimed amount is less than Rs. 1000/-.

In all the above cases, the scroll amount shall automatically become zero and the SBs shall not be included in the refund scroll.

There can be instances where the SBs will figure in the temporary IGST scroll but not in the final scroll. This could happen if there is an alert/suspension on the IEC in ICES or if the account of the IEC is not validated by Public Finance Management System (PFMS). In case of multiple errors in the refund claim, each such error would be required to be corrected individually in order to get refund. In some cases the IGST Refund could not be disbursed due to Indian Financial System Code (IFSC) not being accepted by Public Financial Management System (PFMS) /not registered at PFMS, in this regards, JNCH (Nhava Sheva) has issued Public Notice No. 38/2018, dated 12-03-2018, for guidance to the trade / exporters.



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

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

## Rule 96A-Refund of Integrated Tax Paid on Exports under Bond/LUT

This Rule provides that any registered person availing the option to export goods or services without payment of integrated tax is required to furnish a bond or LUT in Form GST RFD-11 binding himself;

- ☐ To pay tax within 15 days after the expiry of three months from the date of issue of invoice for export if goods are not exported out of India
- ☐ To pay tax within 15 days after the expiry of one year from the date of invoice if payment for such service is not received in CFE
- ☐ Failure to export the goods or services or pay integrated tax within the time limit specified above will result in bond/LUT being withdrawn for recovery of tax.
- ☐ The withdrawn bond/LUT shall be restored when the registered persons pays the amount due.
- ☐ If the goods or services are ultimately exported, then refund can be claimed by following the procedure under Rule 96

# Re-Credit of ITC Rejected as Refund Claims

If any refund claim filed of availed ITC, the amount debited in electronic credit ledger shall be re-credited with the amount of refund claim that has been rejected.

☐ Where a deficiency memo is issued in Form GST RFD-03, the amount if any debited in electronic credit ledger shall be re-credited.

☐ Re-credit shall be issued by an order in Form GST PMT-03.

## Interest on Delayed Refunds

Section 56 provides that if there is any delay in sanctioning refund claim beyond 60 days from the date of receipt of application complete in all aspects, interest at such rate not exceeding six percent as notified shall be paid.

☐ The notified rate of interest is 6%. (Notification 13/2017-Central Tax) .

☐ The officer sanctioning refund claim shall make an order for payment of interest in payment advice in Form GST RFD-05, specifying the amount of refund delayed, the period of delay and the amount of interest payable.

## **Interest on amount refundable consequent to order passed in an appeal or further proceedings**

- 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 60 days from the date of receipt of application** filed consequent to such order, interest shall be payable on such refund.
- Interest is **payable on such refund @ 9% p.a.**
- Interest is payable from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund. [Proviso to Section 56 of CGST Act].

## 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 prescribed form.
- Such order shall specify therein:
  - ✓ the **amount of refund** which is delayed,
  - ✓ the **period of delay** for which interest is payable and
  - ✓ the **amount of interest** payable.
- Such interest shall be electronically credited to any of the bank accounts of the applicant

# REFUND TO UN BODIES, EMBASSIES, ETC. [SECTION 55 READ WITH SECTION 54(2) OF CGST ACT]

**Following persons have been notified who are entitled to refund u/s 55:**

1. United Nations or a specified international organization
2. Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein.

**Time Limit for filing refund claim [Section 54(2) read with rule 95(1)]**

Application for refund can be made **once in every quarter, but before the expiry of 6 months** [increased to **'18 months'**] from the last day of the quarter in which such supply was received.

**Form and documents for filing the refund claim of Section 55 [Rule 95(1)]**

- in a **different prescribed form**, once in every quarter
- along with a **Statement of the Inward Supplies of goods or services or both** in **Form GSTR-11**

## **Acknowledgment for refund claim [Rule 95(2)]**

An acknowledgement for receipt of the application for refund shall be issued in a prescribed form.

## **Conditions to be satisfied for sanction of refund [Rule 95(3) & (4)]**

Refund of tax paid by the applicant shall be available if **'all'** the following conditions are satisfied-

- the inward supplies of goods or services or both were received from a registered person against a tax invoice.
- name and GSTIN/UIN of the applicant is mentioned in the tax invoice.
- such other restrictions or conditions as may be specified in the notification are satisfied.

## **Supremacy provision in case of inconsistency [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 these rules, such treaty or international agreement shall prevail.

## CONSUMER WELFARE FUND [SECTIONS 57 & 58 OF CGST ACT]

Amount of refund is paid to the applicant in case where there is no unjust enrichment. Otherwise, the said amount is credited to the Consumer Welfare Fund.

### Amount to be credited to Consumer Welfare Fund

Section 57 of the CGST Act stipulates that the Government shall constitute a Fund, to be called the **Consumer Welfare Fund** and there shall be credited to the Fund:

- a) Amount of refund determined by an order passed under section 54(5),
- 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. Such manner has been prescribed under rule 97 of the CGST Rules, 2017.

### Utilisation of Consumer Welfare Fund [Section 58 of the CGST Act, 2017 read with rule 97 of the CGST Rules, 2017]

All sums credited to the Consumer Welfare Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.



# REFUND OF INTEGRATED TAX PAID ON SUPPLY OF GOODS TO TOURIST LEAVING INDIA [SECTION 15 OF IGST ACT]

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.

The term “**tourist**” means a person not normally resident in India who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.

*Provisions for this section are notified by the government but functionality yet to be started.*

# CIRCULAR 135/05/2020 DATED 31-03-2020

## ➤ **Bunching of refund claims across Financial Years**

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

## ➤ **Refund of accumulated input tax credit (itc) on account of reduction in GST Rate.**

An applicant trading in goods has purchased, say goods “X” attracting 18% GST. However, subsequently, the rate of GST on “X” has been reduced to, say 12%. It is being claimed that accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act.

# CIRCULAR 135/05/2020 DATED 31-03-2020

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

*Circular No. 125/44/2019-GST dated 18.11.2019, in para 3, categorizes the refund applications to be filed in FORM GST RFD-01 as under:*

- a) Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;*
- b) Refund of tax paid on export of services with payment of tax; .*
- c) Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;*
- d) Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;*
- e) Refund of unutilized ITC on account of accumulation due to inverted tax structure;*
- f) Refund to supplier of tax paid on deemed export supplies;*
- g) Refund to recipient of tax paid on deemed export supplies;*
- h) Refund of excess balance in the electronic cash ledger;*
- i) Refund of excess payment of tax;***
- j) Refund of tax paid on intra-State supply which is subsequently held to be inter State supply and vice versa;***
- k) Refund on account of assessment/provisional assessment/appeal/any other order;***
- l) Refund on account of “any other” ground or reason.***

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

# CIRCULAR 135/05/2020 DATED 31-03-2020

## ➤ Guidelines for refunds of Input Tax Credit under Section 54(3)

It has been decided that the ***refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.***

## ➤ New Requirement to mention HSN/SAC in Annexure 'B'

References have also been received from the field formations that HSN wise details of goods and services are not available in FORM GSTR-2A and therefore it becomes very difficult to distinguish ITC on capital goods and/or input services out of total ITC for a relevant tax period. It has been recommended that a column relating to HSN/SAC Code should be added in the statement of invoices relating to inward supply as provided in Annexure–B of the circular No. 125/44/2019- GST dated 18.11.2019 so as to easily identify between the supplies of goods and services.

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

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

# NOTIFICATION NO. 16/2020 DATED 23.03.2020

## Rule 89(4)(C) Substituted:- ( Refund)

*“Turnover of zero-rated supply of goods” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or **the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less**, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;”.*

Circular No	Date	File No	Subject
42/2017	07-11-2017	F. No: 450/119/2017-Cus.IV	Refund of IGST paid on export of goods under rule 96 of CGST Rules,2017
5/2018	23-02-2018	F.No. 450/119/2017-Cus.IV	Refund of IGST on Export– Invoice mis-match Cases – Alternative Mechanism with Officer Interface - reg.
6/2018	16-03-2018	F.No. 450/119/2017-Cus.IV (Pt.)	Refund of IGST on Export-EGM Error related cases.
8/2018	23-03-2018	F.No. 450/119/2017-Cus.IV	Refund of IGST on Export- Extension of date in SB005 alternate mechanism cases & clarifications in other cases-reg.
12/2018	29-05-2018	F. No. 450/119/2017-CusIV	Sanction of pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems -reg.
15/2018	06-06-2018	F.No: 450/119/2017-Cus-IV	Refund of IGST on export of Goods-Extension of date in SB005 alternate mechanism cases and Clarification in other cases -reg.



22/2018	18-07-2018	F. No: 450/119/2017-CusIV	Refund of IGST on export of goods on payment of duty- Clarification in case of SB003 errors and extension of date in SB005 & other cases using officer Interface for rectification of errors-reg.
21/2018	18-07-2018	F. No: 450/119/2017-CusIV	Refund of IGST on export of Goods on payment of duty- Setting up of Help Desks -reg.
33/2018	19-09-2018	F.No.450/119/2017-Cus-IV	Sanction of pending IGST refund claims where the records have not been transmitted from GSTN to DG (System)
37/2018	09-10-2018	F.No.450/119/2017-Cus IV	Cases where IGST refund have not been granted due to claiming higher rate of drawback or where higher rate and lower rate were identical
40/2018	24-10-2018	F.No:450/119/2017-Cus-IV	IGST Export Refunds – extension in SB005 alternate mechanism and revised processing in certain cases including disbursal

Circular No	Date	File No	Subject
			of compensation Cess – reg.
1/2019	02-01-2019	F. No: 450/119/2017-Cus-IV	IGST Export Refunds–resolution of errors– reg.
16/2019	17-06-2019	F. No. 450/119/2017-Cus-IV	IGST refunds- mechanism to verify the IGST payments for goods exported out of India in certain cases- reg.

- Circular No. 17/17/2017 - GST dated 15.11.2017
- Circular No. 24/24/2017— GST dated 21.12.2017
- Circular No. 37/11/2018— GST dated 15.03.2018
- Circular No. 45/19/2018— GST dated 30.05.2018(Corrigendum – 18.07.2019)
- Circular No. 56/30/2018— GST dated 24.08.2018
- Circular No. 59/33/2018— GST dated 04.09.2018
- Circular No. 70/44/2018— GST dated 26.10.2018
- Circular No. 79/53/2018— GST dated 31.12.2018
- Circular No. 94/13/2019— GST dated 28.03.2019
- Circular No. 104/23/2019— GST dated 28.06.2019
- Circular No. 106/25/2019— GST dated 29.06.2019
- Master circular 125/44/2019 – dated 18.11.2019
- Circular No. 135/2020 dated 31.03.2020
- Circular No. 137/2020 dated 13.04.2020
- N.No 16/2020 CT (R) dated 23-03-2020.

# Relevant Case Laws

## Case Laws

- Vasu Clothing Pvt Ltd. UOI (Duty free Shops)
- Star rays v UOI 9Gst Portal glitches)
- STBA(Regd) v UOI
- Afflatus International v UOI (Opportunity of Hearing)
- Zaveri & Co.(Rule 96(10))
- Amit Cotton Industries V Principal CC(withheld of refund for avail of draw back)



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- Disclaimer

*The views expressed are solely of the author and the content of this document is solely for information purpose and not to be construed as a professional advice. In cases where the reader has any legal issues, he/she must in all cases seek independent legal advice.*

*Thank  
you*



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