

AVAILABILITY OF REFUND IN TEXTILE SECTOR

DISCLAIMER:

The views expressed in this article are of the author(s). The Institute of Chartered Accountants of India may not necessarily subscribe to the views expressed by the author(s).

The information cited in this article has been drawn from various sources. While every effort has been made to keep the information cited in this article error free, the Institute or any office of the same does not take the responsibility for any typographical or clerical error which may have crept in while compiling the information provided in this article.

GST has made some sea changes in the way the textile industry works. Post GST era is very typical in terms of compliances for the industry, as earlier only the big players or apparel retailers were required to do indirect tax compliances. Moreover, when Govt. denied the refund to the sector even with the existence of inverted duty structure the same added to the various problems to the industry. However, the same is not true for different processes of the sector. Textile processing involves various elements. This article aims at eliminating the confusion surrounding the allowability of GST refunds to different activities of this sector.

Major activities of the textile sector:-

1. Yarn Processing and Fabric Making
2. Textile Processing (Process House)
3. Apparel Manufacturing

The availability of refund is discussed herewith in respect of each activity through a step by step process

Question: Whether these activities are Goods or Service?

Definitions of Goods and Service

(52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(68) "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

Textiles and Apparels

From going through above definitions it is very much clear that all the fabrics and apparels are goods being movable property and are taxable as goods only. In case of goods we need to see the tariff under which they fall, to ascertain the tax rate and their leviability.

Processing of Textiles

The processing of textiles is done on the fabrics received from others. The process house carries out various processes such as dyeing, printing, finishing, polishing etc. Complete process is done on the goods received from others. Thus it qualifies essentially for the service and that too in the Job Work Service.

The same is also classified as service under Classification of Services issued by the CBEC as follows:-

| Heading | Description |
|-------------|---|
| Group 99882 | Textile, wearing apparel and leather manufacturing services |
| 998821 | Textile manufacturing services |

Thus textile processing by processes houses is essentially a service u/s sec 2(102) of CGST Act 2017 and provisions related to service shall apply to it.

Tax rates

Question: What is the tax chargeable on textile fabrics and Apparels?

For this we should refer notification No. 1/2017 of Central Tax Rate, which specifies the tax rate of GST on Goods. This notification reads as follows in relation to textile fabrics and apparels.

Schedule I – 2.5%

| S. No. | Chapter / Heading / Sub-heading / Tariff item | Description of Goods |
|--------|---|---|
| 211. | 5208 to 5212 | Woven fabrics of cotton |
| 212. | 5301 | All goods i.e. flax, raw or processed but not spun; flax tow and waste (including yarn waste and garneted stock) |
| 213. | 5302 | True hemp (<i>Cannabis sativa</i> L), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garneted stock) |
| 214. | 5303 | All goods i.e. textile bast fibres [other than jute fibres, raw or processed but not spun]; tow and waste of these fibres (including yarn waste and garneted stock) |
| 215. | 5305 to 5308 | All goods [other than coconut coir fibre] including yarn of flax, jute, other textile bast fibres, other vegetable textile fibres; paper yarn |
| 216. | 5309 to 5311 | Woven fabrics of other vegetable textile fibres, paper yarn |
| 217. | 5407, 5408 | Woven fabrics of manmade textile materials |
| 218. | 5512 to 5516 | Woven fabrics of manmade staple fibres |
| 222. | 61 | Articles of apparel and clothing accessories, knitted or crocheted, of sale value not exceeding Rs. 1000 per piece |
| 223. | 62 | Articles of apparel and clothing accessories, not knitted or crocheted, of sale value not exceeding Rs. 1000 per piece |
| 224. | 63 | Other made up textile articles, sets, worn clothing and worn textile articles and rags, of sale value not exceeding Rs. 1000 per piece |

Schedule II – 6%

| S. No. | Chapter / Heading / Sub- heading / Tariff item | Description of Goods |
|-----------|---|--|
| (1) | (2) | (3) |
| 169. | 61 | Articles of apparel and clothing accessories, knitted or crocheted, of sale value exceeding Rs. 1000 per piece |
| 170. | 62 | Articles of apparel and clothing accessories, not knitted or crocheted, of sale value exceeding Rs. 1000 per piece |
| 171. | 63 | Other made up textile articles, sets, worn clothing and worn textile articles and rags, of sale value exceeding Rs. 1000 per piece |

Tax Rate:-

In case of Textile Fabrics:- In all cases of fabrics tax rate is 5%.

In case of Apparels where the sale value per piece is below Rs.1000/- tax rate is 5% and otherwise the same is 12%.

In case of exports tax rate will be zero rated i.e. rate of tax will be zero automatically once it is classified as exports.

In Case of Textile Process

For this we should refer notification No. 11/2017 and 20/2017 of CGST Rate, which specified the levy of GST on Services. These read as follows in relation to textile processing at entry No 26.

(i) Services by way of job work in relation to-

(a) Printing of newspapers;

(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”;

(c)

Tax Rate is 2.5% for CGST i.e. 5% for CGST+SGST or IGST

Taxability of Inputs and Input Services

Question: What is the tax chargeable on Inputs and Input Services received by textile industry and whether the credit is available?

Main Inputs in the textile process are yarns which are of 2 types, taxability of which are as follows:-

Schedule I – 2.5%

| S. No. | Chapter / Heading / Sub-heading / Tariff item | Description of Goods |
|--------|---|--|
| 202. | 5004 to 5006 | Silk yarn |
| 203. | 5007 | Woven fabrics of silk or of silk waste |
| 204. | 5104 | Garneted stock of wool or of fine or coarse animal hair, shoddy wool |
| 205. | 5105 | Wool and fine or coarse animal hair, carded or combed |
| 206. | 5106 to 5110 | Yarn of wool or of animal hair |
| 207. | 5111 to 5113 | Woven fabrics of wool or of animal hair |
| 208. | 5201 to 5203 | Cotton and Cotton waste |
| 209. | 5204 | Cotton sewing thread, whether or not put up for retail sale |
| 210. | 5205 to 5207 | Cotton yarn [other than khadi yarn] |

Schedule II – 6%

| S. No. | Chapter / Heading / Sub-heading / Tariff item | Description of Goods |
|--------|---|---|
| (1) | (2) | (3) |
| “132A | 5401 | Sewing thread of manmade filaments, whether or not put up for retail sale |
| 132B | 5402, 5403, 5404, 5405, 5406 | Synthetic or artificial filament yarns |
| 132C | 5508 | Sewing thread of manmade staple fibres |
| 132D | 5509, 5510, 5511 | Yarn of manmade staple fibres”; |

(As amended by notification No 34/2017 (Central Tax Rate) dated 13.10.2017)

Schedule III – 9%

| S. No. | Chapter / Heading / Sub-heading / Tariff item | Description of Goods |
|------------|---|---|
| 159 | 5402, 5404, 5406 | All goods other than synthetic filament yarns”, shall be substituted |
| 160 | 5403, 5405, 5406 | All goods other than artificial filament yarns”, shall be substituted |

(As amended by notification No 34/2017 (Central Tax Rate) dated 13.10.2017)

Natural fibre yarns such as cotton and silk are taxable @5% and synthetic and manmade fibre yarns are taxable @ 12%.

Taxability of Input Services

As discussed above processes relating textile fabrics are taxable @5%

The table in notification no 11/2017, contains a column No 5 which specifies the conditions, which are to be followed to avail the rate of tax specified. The condition appended in column no 5 are mandatory in nature in order to pay tax as per the rate of tax specified in column No 4.

In case of Textile processing there is no condition specified, thus this rate is absolute and no conditions are to be satisfied. There are conditions in this table attached to other entries like entry No. 11 such as GTA there is a condition specified as follows:-

| SI No. | Chapter, Section or Heading | Description of Service | Rate (per cent.) | Condition |
|--------|-----------------------------|---|------------------|--|
| (1) | (2) | (3) | (4) | (5) |
| | | (iii) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). <i>Explanation.-</i> “goods transport agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. | 2.5 | Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)] |

Thus, a GTA service provider i.e. transporter cannot take any Input Tax Credit if the tax rate is to be taken as 5% (2.5% for CGST and 2.5% for SGST). However, the credit of Input Tax is available to the recipient of service in case of GTA service.

No such condition is specified in case of textile processing. Thus, all the fabrics/apparel processing done are covered under Entry no 26 of this notification and the same is taxable at the rate of 5% and credits are also available to all the recipient of services.

Refund of Overflow of Credit

Question: Whether refund is available for overflow of credit in case of textile fabrics/apparels or textile processing

For checking the allowability of refund we need to go through the refund provisions contained in sec 54 of CGST Act which read as follows: -

Sec 54

(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:

.....

(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)

We can see from subsection (3) that refund can be allowed only if it is a zero rated supply or if supply is under an inverted duty structure i.e. where Inputs are taxed at higher rate and output are taxed at lower rate.

In case of textile processing house various inputs such as dyes, colours, finishing agents, detergents are purchased at higher rate of taxes such as 18% and 28%. Further Input services of contractors are also taken at 18%. While the output services are eligible for tax @5%.

In case of textile fabrics and apparels various inputs such as yarns and other services are taxable @ 18%. While the output is eligible for tax @5%/12%.

Looking into this we can very well say that textile fabrics, apparels and textile processes are eligible for refund u/s 54(3) r/w sec 54(8). Refund will be 100% of Input Tax in case of exports and in case of domestic sales, it will be the amount of overflowed credit.

Now, there is another point in this discussion that in sec 54(3) it is also stated that in respect of the refunds the Govt can specify category of goods and services against the supply of which refund would not be eligible.

The Govt vide notification No 5/2017 of Central Tax has notified certain goods which are not eligible for refund of unutilised Input Tax Credit. The notification reads as follows: -

*In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, **hereby notifies the goods, the description of which is specified** in column (3) of the Table below and falling under the tariff item, heading, sub-heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, **in respect of which no refund of unutilised input tax credit shall be allowed**, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).*

Let us see those entries in that notification which are relevant to textile business.

| S. No. | Tariff heading, item, 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 |
| 7. | 60 | Knitted or crocheted fabrics [All goods] |

Thus, according to this notification, only the supply of **fabrics** is out of the purview of refunds under GST **as the restriction is only for Goods specified under headings 50 to 55 & 60.**

All the apparels are covered under chapter 61-63 and textile processing under chapter 99; and there is no restrictions for refunds to these goods.

There is another notification for such restriction which is notification No 15/2017 which is as follows: -

*In exercise of the powers conferred by sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that no refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 of the said Central Goods and Services Tax Act, in case of supply of services specified in **sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act.***

This notification covers only the construction services which are specified in schedule II clause 5(b).

Thus as per the above discussion the scenario of refund could be finalised as follows: -

| Sl. No. | Process | Refund Allowed or not | Remarks |
|---------|--------------------|-----------------------|---------------------------------------|
| 1. | Textile Fabrics | No Refund | Notification no 05/2017 (Central Tax) |
| 2. | Textile Processing | Refund allowed | |
| 3. | Apparels | Refund allowed | |

It is only the supply of fabrics where refund is not allowed, otherwise refunds are allowed in all other cases of textile sector.

Impact on the Industry

There is a huge impact of this refund process, on the way industry runs, especially in the synthetic cloth sector. This impact has been described as below: -

