

Chapter 12

Refunds

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54. Refund of tax

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

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

- (2) *A specialized agency of United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner prescribed, before the expiry of six months from the last day of the quarter in which such supply was received*
- (3) *Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilized input tax credit at the end of any tax period:*
- Provided that no refund of unutilized input tax credit shall be allowed in cases other than-*
- (i) *zero rated supplies made without payment of tax*
- (ii) *where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies, other than nil rated or fully exempt supplies, except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:*
- Provided Further that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.*
- Provided also that no refund of input tax credit shall be allowed if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies .*
- (4) *The application shall be accompanied by—*
- (a) *such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and*
- (b) *such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:*
- Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but, he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.*
- (5) *If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.*

- (6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis ninety percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.
- (7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.
- (8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—
- (a) refund of tax paid on zero rated supplies for **export**¹ of goods or services or both or on inputs or input services used in making such zero rated supplies for **exports**²;
 - (b) refund of unutilized input tax credit under sub-section (3);
 - (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
 - (d) refund of tax in pursuance of section 77;
 - (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
 - (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendation of the Council, by notification, specify.
- (9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any Court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).
- (10) Where any refund is due under the said sub-section(3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any Court, Tribunal or Appellate Authority by the specified date, the proper officer may—

¹ Inserted via The Central Goods & Services Tax Amendment Act, 2018 w.e.f 01.02.2019

² Inserted via The Central Goods & Services Tax Amendment Act, 2018 w.e.f 01.02.2019

- (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 erstwhile law.

Explanation- For the purposes of this sub-section the expression "specified date" shall mean the last date for filing an appeal under this Act.

- (11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceeding on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.
- (12) Where a refund is withheld under sub-section (11), the taxable person shall notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent, as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.
- (13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27 shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.
- (14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant if the amount is less than one thousand rupees.

Explanation. — For the purposes of this section -

- 1. "refund" includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (3).
- 2. "relevant date" means –
 - (a) in the case of goods exported out of India where a refund of tax paid is available in respect of the goods themselves or, as the case may be, the inputs or input services used in such goods, -
 - (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
 - (ii) if the goods are exported by land, the date on which such goods pass the frontier, or

- (iii) *if the goods are exported by post, the date of dispatch of goods by Post Office concerned to a place outside India;*
- (b) *in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;*
- (c) *in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of -*
- (i) *receipt of payment in convertible foreign exchange **or in Indian rupees where ever permitted by the Reserve Bank of India**³, where the supply of services had been completed prior to the receipt of such payment; or*
- (ii) *issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice;*
- (d) *in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of Appellate Authority, Appellate Tribunal or any Court, the date of communication of such judgment, decree, order or direction;*
- (e) ***in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises***⁴;
- (f) *in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof.*
- (g) *in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and*
- (h) *in any other case, the date of payment of tax.*

Extract of the CGST Rules, 2017

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

- 1) *Any person, except the persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him,*

³ Inserted vide The Central Goods & Services Act Amendment Act, 2018 w.e.f. 01.02.2019

⁴ Inserted via The Central Goods & Services tax Amendment Act, 2018 w.e.f 01.02.2019

other than refund of integrated tax paid on goods exported out of India, may file an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

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

Provided further that in respect of supplies to a Special Economic Zone unit or a Special

Economic Zone developer, the application for refund shall be filed by the –

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

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

- a) the recipient of deemed export supplies; or***
- b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund⁵***

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

- 2) *The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD-01, as applicable, to establish that a refund is due to the applicant, namely:-*
 - a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in subsection (6) of section 107 and sub-section (8) of section 112 claimed as refund;*
 - b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods;*

⁵ Substituted vide Notf no. 47/2017-CT dt. 18.10.2017

- c) a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the export of services;
- d) a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;
- e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;
- f) **a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer, in a case where the refund is on account of supply of goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer⁶**
- g) a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports;
- h) a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;
- i) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment;
- j) a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;
- k) a statement showing the details of the amount of claim on account of excess payment of tax;
- l) a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:

⁶ Substituted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019 w.e.f 01.02.2019

Provided that a declaration is not required to be furnished in respect of the cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;

- m) *a Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:*

Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of subsection (8) of section 54;

Explanation.– For the purposes of this rule-

- (i) *in case of refunds referred to in clause (c) of sub-section (8) of section 54, the expression –invoice // means invoice conforming to the provisions contained in section 31;*
- (ii) *where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.*
- 3) *Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed.*
- 4) *In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula –*

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

Where, -

- (A) *"Refund amount" means the maximum refund that is admissible;*
- (B) *"Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;*
- (C) *"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;*
- (D) *"Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-*

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

- ‘(E) “Adjusted Total Turnover||” means the sum total of the value of-
- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
 - (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-
 - (i) the value of exempt supplies other than zero-rated supplies; and
 - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period⁷;
- (F) – “Relevant period” means the period for which the claim has been filed.

4A) *In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R 1305 (E) dated the 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.*

- 4B) Where the person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax has –
- (a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017; or
 - (b) availed the benefit of notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or

⁷ Substituted vide Notf no. 39/2018-CT dt. 04.09.2018

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

the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted⁸

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

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

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

- a) *“Net ITC” shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and*
- b) *Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4)⁹*

90. Acknowledgement

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

⁸ Substituted vide Notf no. 54/2018-CT dt. 09.10.2018

⁹ Substituted vide Notf no. 74/2018-CT dt.31.12.2018

- 3) *Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.*
- 4) *Where deficiencies have been communicated in FORM GST RFD-03 under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under this rule along with the deficiencies communicated under sub-rule (3).*

91. Grant of provisional refund

- 1) *The provisional refund in accordance with the provisions of sub-section (6) of section 54 shall be granted subject to the condition that the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees.*
- 2) *The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90.*

Provided that the order issued in FORM GST RFD-04 shall not be required to be revalidated by the proper officer¹⁰

- 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.*

[Provided that the payment advice in FORM GST RFD-05 shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued¹¹.

92. Order sanctioning refund

- 1) *Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he*

¹⁰ 1 Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

¹¹ Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

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.

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

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

- 4) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue a payment 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.

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

Provided further that the payment advice in FORM GST RFD-05 shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.¹²

- 5) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or

¹² Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

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.

93. Credit of the amount of rejected refund claim

- 1) *Where any deficiencies have been communicated under sub-rule (3) of rule 90, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.*
- 2) *Where any amount claimed as refund is rejected under rule 92, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03.*

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

95. Refund of tax to certain persons

- 1) *Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued section 55 shall apply for refund in FORM GST RFD-10 once in every quarter, electronically on the common portal or otherwise, either directly or through a Facilitation Centre notified by the Commissioner, along with a statement of the inward supplies of goods or services or both in FORM GSTR-11.*
- 2) *An acknowledgement for the receipt of the application for refund shall be issued in FORM GST RFD-02.*
- 3) *The refund of tax paid by the applicant shall be available if-*
 - a) *the inward supplies of goods or services or both were received from a registered person against a tax invoice*
 - b) *name and Goods and Services Tax Identification Number or Unique Identity Number of the applicant is mentioned in the tax invoice; and*
 - c) *such other restrictions or conditions as may be specified in the notification are satisfied.*
- 4) *The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.*
- 5) *Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.*

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

- 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 and such*

application shall be deemed to have been filed only when:-

- a) the person in charge of the conveyance carrying the export goods duly files an a **departure manifest or** ¹³export 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-3or FORM GSTR3B, as the case may be;
- 2) The details of the relevant export invoices in respect of export of goods contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.
- Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:*
- Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in FORM GSTR-1 for the said tax period.*
- 3) Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3or FORM GSTR-3B, as the case may be from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.
 - 4) The claim for refund shall be withheld where,-
 - a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or
 - b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.
 - 5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the

¹³ Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.

- 6) *Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part B of FORM GST RFD-07.*
- 7) *Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount after passing an order in FORM GST RFD-06.*
- 8) *The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.*
- 9) *The application for refund of integrated tax paid on the services exported out of India shall be filed in FORM GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89*
- 10) The persons claiming refund of integrated tax paid on exports of goods or services should not have –
 - (a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or
 - (b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.

96A. Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking

- 1) *Any registered person availing the option to supply goods or services for export*

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

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

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

Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in FORM GSTR-1 for the said tax period.

- 3) *Where the goods are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.*
- 4) *The export as allowed under bond or Letter of Undertaking withdrawn in terms of sub-rule (3) shall be restored immediately when the registered person pays the amount due.*
- 5) *The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond.*
- 6) *The provisions of sub rule (1) shall apply, mutatis mutandis, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.;*

97A. Manual filing and processing

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

Relevant circulars, notifications, clarifications issued by Government

- 1) Notification No.37/2017-Central Tax dated 04.10.2017 issued by CBIC extending facility of LUT to all exporters
- 2) Notification No.39/2017-Central Tax dated 04.10.2017 issued by CBIC empowering State Tax officers for processing and granting of refund
- 3) Notification No. 48/2017-Central Tax dated 18-10-2017 issued by CBIC notifying deemed exports in exercise of powers conferred u/s 147
- 4) Notification 49/2017-Central Tax dated 18.10.2017 issued by CBIC detailing evidences to be produced by the supplier of deemed exports to claim refund
- 5) Notification 20/2018-Central Tax dated 28.03.2018 issued by CBIC extending the due date for filing an application for refund under section 55
- 6) Notification 2154/2018-Central Tax dated 18.04.2018/09.10.2017 issued by CBIC extending the to allow IGST refund claim of credit under Rule 89(5) to input services.
- 7) Notification 26/2018-Central Tax dated 13.06.2018 issued by CBIC substituting clause (a) in sub rule (3) in Rule 95.
- 8) Notification 26/2018-Central Tax dated 13.06.2018 issued by CBIC amending Form GST RFD -01 & GST RFS – 01A to make it in line with the changes made in the formula for calculating Refund under Inverted Duty Structure.
- 9) Notification 39/2018-Central Tax dated 04-09-2018 issued by CBIC making changes in definition of adjusted turnover for the calculation of refund and substituting Rule 96(10) imposing restrictions on refund of IGST paid on exports in certain cases.
- 10) Notification No. 5/2017-Central Tax (Rate) dated 28-06-2017 issued by CBIC notifying supplies of exporters who have received Capital goods in respect of which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure under EPCG scheme.
- 11) Notification No. 15/2017-Central Tax (Rate) dated 28-06-2017 issued by CBIC notifying supplies of services on which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure.

- 12) Notification No. 29/2017-Central Tax (Rate) dated 22-09-2017 issued by CBIC notifying supplies of goods in respect of which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure (Modifying 5/2017- Central Tax (Rate) dated 28-06-2017)
- 13) Notification No. 40/2017-Central Tax (Rate) dated 23-10-2017 issued by CBIC granting exemption for intra state supply of goods or services for export in excess of 0.05%
- 14) Notification no. 44/2017- Central Tax (Rate) dated 14-11-2017 issued by CBIC notifying supplies of goods in respect of which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure (Modifying 5/2017- Central Tax (Rate) dated 28-06-2017)
- 15) Circular No. 8/2017 dated 04.10.2017 issued by CBIC being clarifications on issues related to furnishing of Bond/LUT for exports
- 16) Circular No. 14/14/2017-GST dated 6-11-2017, issued by CBIC regarding procedure on procurement of supplies of goods from DTA by EOU/EHTP/STP/BTP
- 17) Circular No. 17/2017 dated 15.11.2017 issued by CBIC being clarifications on Manual filing and processing of refund claims in respect of zero-rated supplies
- 18) Circular No. 18/18/2017 dated 16-11-2017 issued by CBIC regarding refund of unutilized ITC of gst paid on inputs in respect of exporters of fabrics
- 19) ular No. 24/2017 dated 21.12.2017 issued by CBIC regarding manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger
- 20) Circular No. 30/436/2018 dated 25-01-13.03.2018 issued by CBIC providing clarification on regarding Processing of refund of unutilized ITC on supplies made to Indian Railways applications for UIN entities
- 21) Circular No. 37/2018 dated 15.03.2018 issued by CBIC clarifying export related refund issues.
- 22) Circular No. 40/1443/2018 dated 06-04-2018 issued by CBIC providing clarification on issues relating to furnishing of Bond/LUT
- 23) Circular No. 45/19/2018-GST dated 30.05.2018 issued by CBIC addressing queries relating various issues relating to refund.
- 24) Circular No. 48/2018 –GST dated 14-06-2018 issued by CBIC clarifying issues related to SEZ and refund of unutilized ITC for Job Workers for ISD/Composition dealer and non-resident.
- 25) Circular No. 56/2018-GST dated 24-08-2018 issued by CBIC providing clarifications on removal of restriction on refund of unutilized accumulated ITC on fabrics

- 26) Circular No. 59/33/218-GST dated 04-09-2018 issued by CBIC providing clarification on refund related issues.
- 27) Circular No. 70/2018 dated 26-10-2018 on refund claims after issuance of deficiency memo and re credit of electronic ledger and allowing refunds to exporters who have received capital goods under EPCG to claim refund of IGST paid on exports
- 28) Instruction No. 6/2017-Customs dated 2-06-2017 regarding filing and processing of shipping bills
- 29) Instruction 15/2017-Customs dated 9-10-2017 regarding refund of IGST paid on export of goods under Rule 96
- 30) Instruction No. 16/2017-Customs dated 9-10-2017 regarding refund of IGST paid on export of goods under Rule 96
- 31) Circular 22/2017-Customs dated 30-06-2017 regarding drawback during transition period from 01-07-2017 to 30-09-2017
- 32) Circular 24/2017-Customs dated 30-06-2017 regarding duty drawback for supplies made by DTA Units to SEZ in GST Scenario.
- 33) Circular 26/2017-Customs dated 01-07-2017 regarding export procedures under GST
- 34) Guidance Note for Importers and Exporters w.e.f. 01-07-2017 under GST
- 35) Circular No. 42/2017-Customs dated 7-11-2017 regarding refund of IGST paid on export of goods
- 36) Circular 5/2018-Customs dated 23-02-2018 refund of IGST paid on export regarding mismatch of invoice and alternative mechanism
- 37) Circular 6/2018-Customs dated 16-03-2018 refund of IGST paid on exports regarding EGM error related cases
- 38) Circular 8/2018-Customs dated 23-03-2018 regarding SB005 and SB006 errors in refunds
- 39) Letter F.No.450/35/2018-Cus IV dated 28-03-2018 regarding problems encountered in sanction of refunds
- 40) Circular 12/2018-Customs dated 29-05-2018 regarding sanction of pending IGST refund claims where records have not been transmitted from GSTIN to DG systems
- 41) Circular 15/2018-Customs dated 6-6-2018 clarifications on errors in grant of refund of IGST paid on exports
- 42) Circular 22/2018-Customs dated 18-07-2018 clarification of SB003 and SB005 errors
- 43) Circular 33/2018-Customs dated 19-09-2018 sanction of pending IGST refund claims where records have not been transmitted from GSTIN to DG(System)

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|-----|---|
| 44) | Circular 35/2018-Customs dated 1-10-2018 Advisory circular for registration of beneficiaries on ICEGATE |
| 45) | Circular 37/2018-Customs dated 9-10-2018 Cases where IGST refund have not been granted due to claiming higher rate of drawback or where higher rate and lower rate were identical |
| 46) | Circular 40/2018-Customs dated 24-10-2018 regarding IGST export refunds revised processing in certain cases including disbursal of compensation cess |
| 47) | Chapter twenty four of the compilation of the GST Flyers as issued by the CBIC on "Zero Rating" |
| 48) | Chapter twenty five of the compilation of the GST Flyers as issued by the CBIC on "Deemed Exports" |
| 49) | Chapter Thirty Four of the compilation of the GST Flyers as issued by the CBIC on 'Refunds under GST' |
| 50) | Chapter Thirty Five of the compilation of the GST Flyers as issued by the CBIC on 'Refund of Integrated Tax paid on account of zero rated supplies' |
| 51) | Chapter Thirty Six of the compilation of the GST Flyers as issued by the CBIC on 'Refund of unutilized Input Tax Credit' |
| 52) | Press Release on blockage of working capital of exporters dated 22-09-2017 |
| 53) | Press Release dated 29-11-2017 on exporters advised to file Table 6A and GSTR-3B for processing of IGST refunds and for refunds of unutilized input tax credit |
| 54) | Changes in duty drawback rates of certain export items effective from 25-01-2018 |
| 55) | Guide on IGST Refunds in ICES issued by DG Systems in Feb 2018 |

Related Provisions of the Statute

Section or Rule	Description
2(39)	Deemed Exports
2(42)	Drawback
17(2)	Taxable supplies include zero rates supplies
25(9)	Registration of UN agencies and notified persons for claiming refund
31(3)(e)	Refund Voucher where no supply is made
42(9)	Refund of Interest paid on acceptance of outward supplies
43(9)	Refund of Interest paid on acceptance of reduction of output tax liability

Section 49(6)	Refund of balance in electronic cash or credit ledger
Section 51(8)	Refund of tax deducted in excess or erroneously
Section 60(5)	Refund of provisionally paid tax
Section 65(7)	Audit of erroneous refund by tax authorities
Section 66(6)	Special Audit of erroneous refund
Section 73,74,75	Demand of erroneous refund
Section 77 of CGST, Section 19 of IGST and section 12 of UTGST	Tax wrongfully collected and paid to Central Government or State Government
122(1)(viii)	Prosecution for fraudulent obtention of refund
132(1)(b)	Prosecution for Issue of invoice resulting wrongful obtention of refund
132(1)(e)	Prosecution for fraudulent obtention of refund
142(1)	Refund of duty paid under existing law on return of goods
147	Deemed Exports
170	Rounding off of Refund

IGST Act

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

54.1 Introduction

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

- any tax (which was excess paid);
- interest paid on such tax; or

- any other amount paid (which was not required to be paid);
- tax paid on zero rated supply of goods or services or both i.e. against exports and supplies to SEZ
- tax paid on inputs or input services “used” in the zero rated supply of goods and/or services including exports and supplies to SEZ;
- tax on the supply of goods regarded as deemed exports;
- unutilized input tax credit at the end of tax period in cases of:
 - exports, other than when
 - goods are subjected to export duty.
 - the supplier avails drawback of central tax or claims refund of integrated tax paid on such supplies.
 - input tax rate being higher than output tax rate, other than NIL rated or fully exempted.
- Supply which is not provided, either wholly or partially and for which invoice has not been issued or refund voucher has been issued.
- CGST and SGST paid for transaction HELD to be Inter-state transaction or IGST paid for transaction HELD to be Intra state transaction
- Refund to Casual Taxable Person/ Non Resident Taxable Person (subject to furnishing all returns for the period of currency of registration)

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

- a. Refund of duty/tax under existing law
- b. Refund in case of International Tourist
- c. Refund of Provisionally paid tax
- d. Refund of Compensation Cess
- e. Refund on account of Excess or Erroneous Deduction
- f. Refund on Inward Supplies to Canteen Stores Department
- g. Refund to Inward Supplies to UN and agencies
- h. Refund of Interest against restoration of ITC
- i. Refund of Interest against restoration of reduction in output tax liability

- j. Refund due to order of Appellate Authority/Court
- k. Refund of Central share in CGST & IGST in hilly areas
- l. Refund of tax under Seva Bhoj Yojna

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

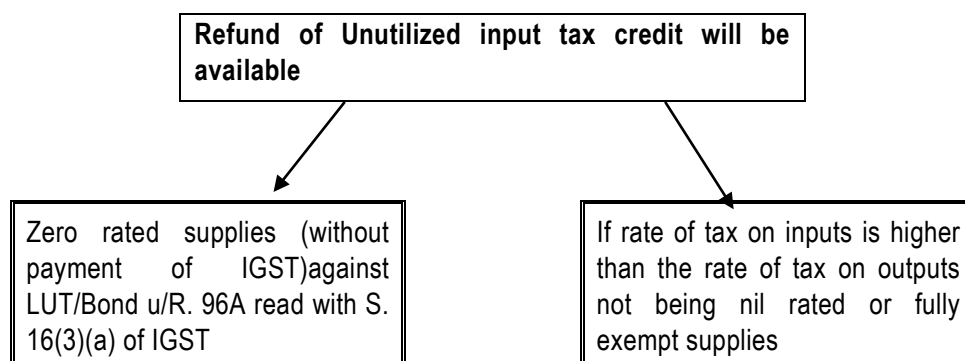
- a) tax, interest or any other amounts are physically paid in cash and
- b) in respect of exports / SEZ supplies/inverted duty rate in the form of input tax.

54.2 Analysis

- (i) This provision states that the application for refund shall be made before the expiry of two years from the relevant date. The definition of relevant date in different circumstances is discussed here. It is important to note that section 54 operates not only as the machinery provision for disbursement of refund arising under provisions such as section 55 of CGST Act, 16 of IGST Act among others, section 54 is also a substantive provision vesting the Registered Person with right to claim refund, for example, section 54(3). While it plays these roles, it also effectively bars any other avenue for claiming refund. This bar operates by not listing any residual provision for claiming refund. Conspicuous by its absence is the provision to claim refund of unutilized credit when a registration is being cancelled where there is still some credit remaining after satisfying credit reversal requirements under section 29(5). This is a significant aspect to note, that there is no residual avenue to claim refund in 'any other cases' in section 54.
- (ii) In case of taxable person claiming refund of any balance in the electronic cash ledger, it can be claimed in the return furnished under section 39.
- (iii) Following persons are entitled to a refund of tax paid by it on inward supplies of goods or services or both –
 - (a) A specialized agency of the United Nations Organization or
 - (b) Any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947,
 - (c) Consulate or Embassy of foreign countries or
 - (d) any other person or class of persons as notified under section 55.

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

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



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

- (a) If the goods exported out of India are subject to export duty;
- (b) If supplier claims refund of output tax paid under IGST Act.
- (c) If the supplier avails duty drawback of IGST/CGST on such supplies.

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

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

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

In order to ensure smooth transition to the GST regime, 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]

Note: Drawback allowed for certain duties/taxes

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.[Circular 37/11/2018 dated 15-03-2018 Para 2.1]

- (v) The application for refund should be accompanied by the documents which clearly establish that refund is due to applicant. These documents are prescribed by Rule 89(2), and details are discussed in Para 54.4
- (vi) Further the applicant is required to furnish documents and other evidences to establish that
 - (a) Amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was **collected from him** or (e.g. Purchase Invoices, Electronic Credit ledger, Returns)**OR**
 - (b) Amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was **paid by him** or (e.g. Sale Invoices, Electronic Cash Ledger, Challas for payment of tax, returns offsetting liability etc.)The applicant is also required to establish with the help of documentary and other evidence that the incidence of such tax and interest had not been passed on to any other person.
- (vii) If the amount of refund claim is less than rupees 2 lakh, it shall not be necessary for the applicant to furnish any documentary and other evidences bust self-declaration based on documentary and other evidences available with the claimant, certifying that he has not passed on the incidence of such tax and interest would suffice to claim refund.

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

As per **Explanation (ii) to Rule 89(2)**, where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

- (viii) The refund relating to an application if found complete in all respects, will be sanctioned within sixty days from the date of receipt of application.
- (ix) The refund will be sanctioned to the claimant, in the following cases –
- refund of tax paid on export of goods or services or both
 - refund of tax on inputs or input services used in making exports
 - refund of unutilized input tax credit accumulated on account of inverted duty structure;
 - the tax / interest / other amounts paid by the applicant, if he had not passed on the incidence of tax to any other person; or
 - refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued or where a refund voucher has been issued
 - refund of tax in pursuance of section 77 which means a registered person who has paid CGST and SGST/UTGST on a transaction considered by him as INTRA-STATE supply but held to be INTER-STATE supply;
 - the tax or interest borne by notified class of applicants (done by Central/State Government on the recommendation of the council);

The above categories of refunds shall be paid to the applicant and shall not go to consumer welfare fund irrespective of the fact there is contrary

- (a) Judgment , Decree, Order or direction of appellate Tribunal or any court
- (b) Provision in the CGST Act
- (c) Rule made under CGST Act
- (d) Law for the time being in force

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

- (x) In case of refund claimed is on account of zero rated supply of goods and/or services, the proper officer may refund, on provisional basis, ninety percent of the total amount claimed (**excluding input tax credit not yet finalized**). This refund of 90% will be on a provisional basis, and will be subject to conditions, limitations and safeguards. Remaining 10% may be refunded after due verification of documents furnished by the applicant.

Note: As per **Rule 91**, provisional refund shall be granted subject to the condition that the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an erstwhile law where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

As per Para 7 of **Circular 37/11/2018 dated 15-03-2018**, The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 4th October, 2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 4th October, 2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted

Note: The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund is due to the applicant then he shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90 (refer para 54.10) i.e. RFD-02.

Note: Also, the proper officer shall issue a payment advice in FORM GST RFD-05 for the amount sanctioned 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.

Note: As per **Circular 24/24/2017-GST dated 21-12-2017**, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in FORM RFD-01A on the common portal.

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

- A person defaults in furnishing any return;
 - A person is required to pay any tax, interest or penalty ordered, which is not stayed by Court or Appellate Authority within the last date for filing an appeal under this act.
- (xii) The deduction from refund due may be tax, interest, penalty, fee or any other amount which remains unpaid under
- (a) GST Act or
 - (b) erstwhile law.
- (xiii) In cases where the refund is a consequence of an order and such order is in –
- appeal; or
 - further proceeding; or
 - Where any other proceeding under this Act is pending

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

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

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

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

- (xv) No refund shall be granted or paid to an applicant or consumer welfare fund, whether it is final refund or provisional refund(provisional refund is granted in case of refund of unutilized ITC against zero rated supplies) if the amount is less than rupees one thousand. As per Para 8.2 of Circular 59/2018 dated 4-9-18, limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. Officers have been directed to reject claims of refund from the electronic credit ledger

for less than one thousand rupees and recredit such amount by issuing an order in FORM GST RFD-01B.

- (xvi) The Government vide **Notification No. 20/2018- Central Tax (Rate) dated 26-07-2018** has allowed for refund of accumulated input tax credit on account of inverted duty structure on fabrics variants (10 categories of fabrics) which was earlier restricted and not available for such benefit. This allowance of refund becomes effective from date of August 1, 2018, with a condition that the balance of accumulated input tax credit lying unutilized upto the month of July 2018 shall lapse. Thus, refund of inverted duty structure is available for the 10 variants of fabrics from August 1, 2018 and hence the Input tax credit on procurements prior to this effective date is to be reversed as refund for such credit was not available.

The Government has clarified that the restriction is applicable only for input tax credit on goods, the said restriction does not apply on input tax credit on input services and capital goods. (Circular no 56/2018 dated 24.08.2018)

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

The relevant date is identified as follows:

- Refund of tax paid on goods exported or tax paid on inputs/input service
 - If exported by sea or air ->date when the ship or the aircraft leaves India; or
 - If exported by land ->date when such goods pass the Customs frontier; or
 - If exported by post ->date of dispatch of goods by concerned Post Office to a place outside India.
- Deemed exports supply of goods->the date on which the return relating to such deemed exports is furnished.
- Refund of tax paid on such services exported itself or tax paid on inputs/input service
 - If supply of service is completed prior to the receipt of payment->date of receipt of payment in convertible foreign exchange or in Indian rupees where ever permitted by RBI;
 - If payment for the service received in advance prior to the date of issue of invoice -> date of issue of invoice.
- Refund of tax as a consequence of judgment, decree, order or direction of Appellate authority, Appellate Tribunal or any Court -> date of communication of such judgement/decreed/order/ direction.

- Refund of unutilized input tax credit accumulated due to inverted duty rate—due date for furnishing return for the tax period in which such claim for refund arises;
- Provisionally paid tax - the date of adjustment of tax after the final assessment.
- In the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- In any other case, the date of payment of tax

To summarise the above:

Situation of Refund	2 years from the Relevant Date as under
On account of excess payment	Date of payment of tax
On account of Export of Goods by Sea or Air	Date on which Ship or Air craft in which goods are loaded, <u>leaves India</u>
On account of Export of Goods by Land	Date on which goods <u>pass</u> the customs frontiers of India
On account of Export of Goods by	Date of <u>despatch</u> of goods by <u>post office concerned to a place outside India.</u>
On account of Export of Services before payment	Date of <u>receipt</u> of convertible foreign exchange or India rupees, where permitted by RBI.
Export of service against advance payment	Date of <u>issue of invoice</u>
On account of deemed exports	Date of <u>filing return</u>
On account of finalization of provisional assessment	Date of the <u>adjustment</u> of the tax after the final assessment.
In pursuance of an order in favour of the taxpayer by the Appellate Authority/ Appellate Tribunal / Court	Date of <u>communication</u> of the judgement/order/direction
On account of accumulated unutilised input tax credit of GST under inverted duty	Due date of furnishing of return for the period in which claim for refund arises
Claim of refund by a person not being a supplier, [e.g. UIN Holder or recipient claiming refund for deemed exports u/R 89(1) clause(a) to 3 rd Proviso]	Date of receipt of goods or services by such person or UIN holder
Claim of refund by a Casual/Non-resident taxable person	Relevant date is Date of payment of tax. But refund to be claimed in last return to be furnished by casual/non resident taxable person

54.3 Manner and Timing of Refund

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

S.No.	Scenarios	Manner to claim refund
1	Refund of any tax, interest, penalty, fees or any other amount paid	File an application electronically in FORM GST RFD-01 through the common portal. Till RFD-01 is available on the portal, Form GST RFD-01A (as per Rule 97A) to be used for filing of refunds manually.
2	Refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49	Such a refund may be made through the return furnished for the relevant tax period in FORM GSTR-3 or FORM GSTR-4 or FORM GSTR-6 or FORM GSTR-7

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

In other words, the refunds may be filed manually and the processing of refund with respect to any notice, reply or order, among others, can also be issued / filed manually.

Note:

Frequency of filing refund application

As per Circular 24/2017 dated 21-12-17, that 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 refers), such persons shall apply for refund on a quarterly basis.

In case of casual taxable person and non-resident taxable person, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under at the time of registration, shall be claimed in the last return required to be furnished by him.

Hence casual taxable person or non-resident taxable person need not file monthly or quarterly refunds and has to file refund only in last of his returns.

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

- a) Exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters
- b) The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years

Refund to be claimed after filing of returns applicable to claimant

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

However, In terms of **Circular No. 45/19/2018 dated 30.05.2018**, Para 3.3, it has been clarified that for an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, the return as filed by them in terms of the rules applicable to them, i.e. FORM GSTR-4 for a composition taxpayer, FORM GSTR-6 for an ISD and FORM GSTR-5 for a non-resident taxable person shall be sufficient instead of filing of the details in FORM GSTR 1 & FORM GSTR 3B.

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

In respect of supply of goods to SEZ Unit/Developer application for refund shall be filed after such goods have been admitted in full in SEZ for authorized operations. An endorsement by the specified officer of the SEZ is required as evidence of admission of goods in full for authorized operations.

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

Note:

The above discussion does not include:

- a) The manner of filing refund application for refund of IGST paid on zero rated supplies, which are discussed in Para 54.7
- b) The manner of filing refund application by person covered by section 55, which is discussed in Para 55.

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

While filing the return in **FORM GSTR-3B** for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero rated

supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of **FORM GSTR-3B** whilst they have shown the correct details in Table 6A or 6B of **FORM GSTR-1** for the relevant tax period and duly discharged their tax liabilities. Such registered persons are unable to file the refund application in **FORM GST RFD-01A** for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricts the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of **FORM GSTR-3B** (zero rated supplies) filed for the corresponding tax period. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01A** on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period. **[Para 4.1,4.2 of Circular 45/19/2018-GST dated 30-05-2018]**

54.4 Documentary Evidences:

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

S.No.	Scenarios	Documents
1	Refund of Pre-deposit as per sub-section (6) of section 107 and sub-section (8) of section 112 [Pre deposit is made for entertaining the appeal against the order]	Reference number of the order <u>and</u> a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or OR Reference number of the payment of the pre-deposit amount.
2	Refund on account of export of goods	A statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices. Note: Insistence on 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 [Para 12 of Circular 37/11/2018-GST dated 15-03-2018]
3	Refund on account of export of services	A statement containing the number and date of invoices and the relevant Bank Realisation

		Certificates or Foreign Inward Remittance Certificates				
4	Refund on account of supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer	<p>A statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement by the specified officer of the Zone</p> <p>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</p>				
5	Refund on account of supply of Service made to a Special Economic Zone unit or a Special Economic Zone developer	<p>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</p> <p>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</p>				
6	Refund on account of deemed exports (where refund is claimed by the Supplier)	<p>A statement containing the number and date of invoices along with the following documents notified under Notification No. 49/2017 – Central Tax dated 18th October, 2017:</p> <p>(a) Proof of receipt of Goods by the Eligible Recipient:</p> <table border="1"> <thead> <tr> <th>In case of Supply to</th> <th>Document required</th> </tr> </thead> <tbody> <tr> <td>Advance Authorisation</td> <td>Acknowledgment that Holder has received</td> </tr> </tbody> </table>	In case of Supply to	Document required	Advance Authorisation	Acknowledgment that Holder has received
In case of Supply to	Document required					
Advance Authorisation	Acknowledgment that Holder has received					

		Holder or EPCG Holder	the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,
		EOUs	Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it
			(b) Undertaking from the Recipient of the Deemed Export that the Recipient has not taken Input Tax Credit of the GST paid by the Supplier (c) Undertaking from the Recipient of the Deemed Export that they shall not claim the refund of the GST paid by the Supplier.
7	Refund on account of deemed exports (where refund is claimed by the Recipient of Deemed Exports)		A statement containing the number and date of invoices along with further documents as may be notified. However, no documents has been notified by the Government when the Recipient is claiming the Refund. It may be prudent for the Recipient to obtain an undertaking from the Supplier that Supplier has not claimed refund of the GST paid on the Deemed Exports
8	Refund on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies		A statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54
9	Refund arises on account of the finalisation of provisional assessment		The reference number of the final assessment order and a copy of the said order

10	Refund as per Section 77 (tax wrongly collected and paid to Central or state government)	A statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply
11	Refund claimed does not exceed two lakh rupees (tax paid but the incidence has not been passed on to the other person)	A declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person
12	Refund claimed exceed two lakh rupees (tax paid but the incidence has not been passed on to the other person)	A Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person
<p>Self-Declaration or CA Certificate for non-passing on of incidence of tax, interest or any other amount is not required in following cases:</p> <ol style="list-style-type: none"> 1. Refund of tax paid on account of export of goods or services 2. Refund of unutilized ITC for export of goods or inverted duty rate structure. 3. Refund of tax paid on a supply which has not been provided. 4. Refund of CGST and SGST HELD to be IGST or vice versa 5. Refund of Tax or Interest borne by notified applicants. 		

Documents required in case of export of goods:

<p>As per Para 14.2 of Circular 37/11/2018 dated 15-03-2018, List of documents required for processing refund claim on export of goods or services without payment of tax</p> <ul style="list-style-type: none"> ○ 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 <p>List of Documents required for processing of refund claim of Export of Services with payment of tax</p> <ul style="list-style-type: none"> ○ 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

o Undertaking / Declaration in FORM RFD-01A

Note: Hence as per Circular 37/11/2018 dated 15-03-2018, Invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax; and invoices relating to inputs and input services were to be submitted for processing of claims for refund of input tax credit where goods or services are exported without payment of integrated tax. However **As per Circular 59/33/2018 dated 04-09-2018, Para 2.3:** 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. The proper officer shall rely upon FORM GSTR-2A as an evidence of the account of the supply by the corresponding supplier in relation to which the input tax credit has been availed by the claimant. It may be noted that there may be situations in which FORM GSTR-2A may not contain the details of all the invoices relating to the input tax credit availed, possibly because the supplier's FORM GSTR-1 was delayed or not filed. In such situations, the proper officer may call for the hard copies of such invoices if he deems it necessary for the examination of the claim for refund. 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.

The claimant shall also submit the details of the invoices on the basis of which input tax credit had been availed during the relevant period for which the refund is being claimed, in the **format enclosed as Annexure-A manually** along with the application for refund claim in FORM GST RFD-01A and the Application Reference Number (ARN). The claimant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said Annexure for enabling the proper officer to determine the same.

Annexure A:

S. No.	GS TIN of Supplier	Name of Supplier	Invoice Details			Type	Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Ces	Eligible for ITC	Amount of Eligible ITC
			Invoice No.	Date	Value							
1	2	3	4	5	6	7	8	9	10	11	12	13

54.5 Refund Amount to be debited to Electronic Credit Ledger

As per Rule 89(3), where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed. As per **Circular 59/33/2018 dated 4-09-2018**, the amount to be debited to electronic credit ledger is least of the following:

- a) Amount calculated as per Rule 89(4) or 89(5)
- b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
- c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

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

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

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

54.6 Formula for computation of refund

Computation of Refund of Unutilized ITC on Export

As provided in Rule 89(4)& Rule 89(5) is as under:

- (a) In the case of zero-rated supply of goods or services or both **without payment of tax under bond or letter of undertaking**, refund of input tax credit shall be granted as per the following formula (for the procedure, refer para 54.8) -

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

(A) "Refund amount" means the **maximum refund** that is admissible

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

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

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

(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

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

(E) – Adjusted Total Turnover || means the sum total of the value of-

- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

excluding-

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

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

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

Computation of Refund of Inverted Duty Structure

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

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

- (a) Net ITC shall mean input tax credit availed **on inputs** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- (b) Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4).

Note: In terms of **Notification 21/2018** – Central Tax dated 18th April 2018,

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

Notification **26/2018 dated 13-06-2018**, further reiterated the above amendments in formula for inverted duty rated refunds and also made it applicable retrospectively w.e.f. 01-07-2017.

Note: Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 (as modified by 29/2017-Central Tax(Rate) dated 22-09-2017 and 44/2017-Central Tax (Rate) dated 14-11-2017) specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. It includes fabrics items and items related to railways. However, in case of fabric processors (Job worker), the output supply is the supply of job work services and not of goods (fabrics). Hence, in terms of **Circular No 48/22/2018**, it is clarified that the fabric processors (Job Worker) shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

Note: **Notification 20/2018-Central Tax (Rate) dated 26-07-2018**, has further amended notification 5/2017-Central Tax (Rate) dated 28-06-2017 to provide that

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

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

- (d) In the case of zero-rated supply of goods or services or both on **payment of IGST tax**, refund of entire amount of IGST shall be available (refer para 54.7)
- (e) In the case of supplies received on which the supplier has availed the benefit of Notification No. 48/2017-Central Tax dated the 18th October, 2017 (deemed exports), refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted (Rule 89(4A))
- (f) In the case of supplies received on which the supplier of the person claiming refund of unutilized ITC on account of zero rated supplies without payment of tax has availed the benefit of Notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017 (concessional rate of tax at 0.05% on intra-State supply of taxable goods by a registered supplier to a registered recipient for export) or Notification No. 41/2017 Integrated Tax (Rate) dated the 23rd October, 2017 (concessional rate of tax at 0.1% on inter-State supply of taxable goods by a registered supplier to a registered recipient for export) or person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax himself has availed the benefit of Notification No. 78/2017-Customs dated the 13th October, 2017 (goods imported by EOUs) or Notification No. 79/2017-Customs dated the 13th October, 2017 (import of goods under

Advanced authorization/EPCG schemes) or all of them, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted (Rule 89(4B))

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

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

Shipping Bill Deemed to be application

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

When refund application deemed to have been filed

Such application shall be deemed to have been filed only when: -

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

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

Transmission of export data to Customs designated portal

The details of the relevant export invoices in respect of export of goods contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India. Details of export invoices are available at ICEGATE portal.

Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended, then in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the details of information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the

same shall be transmitted electronically by the common portal to the system designated by the Customs:

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

Cautions to ensure transmission of Data to Customs designated Portal

Data Matching

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

- Invoice No. and Date (Tax invoice and not commercial invoice).
- Select from drop down list (WPAY- with payment of tax)/WOPAY-without payment of tax.
- Shipping Bill No. & Date.
- While 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.
- 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.

Value Differences

Where the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund. **[Para 9.9.1 of Circular 37/11/2018 dated 15-03-2018]**

IGST Paid Differences GSTR-1 and 3B

It is one of validation check by 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. To ensure that the GST System transmits the export

invoice data, in case of export of goods with payment of IGST, to ICEGATE for refund, Exporters should make payment of Tax and File Return as under:

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

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]**

Auto Drafting of GSTR-1

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

- a. File GSTR-3B for a Tax Period
- b. Fill Table 6A of Form GSTR-1 available on the Common Portal. Refund will be processed based on this Table 6A
- c. As and when Form GSTR-1 is filed, the data relating to exports will be auto-populated from the above Table 6A

Processing of IGST Refund Claim

Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be, from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

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

Withholding of Refund of integrated tax paid on exports

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

Refund of IGST to Government of Bhutan in lieu of Exporter

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

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

Present Rule 96(10) imposing restrictions on grant of refund of IGST on Exports was first introduced as R. 96(9) by Notification 75/2017 dtd 29-12-17 retrospectively from 23-10-17. Then it was re numbered to 96(10) and further amended vide Notification 3/2018 dated 23-01-18 again retrospectively w.e.f. 23-10-17. Then it was re modified vide notification No. 39/2018, dtd. 04.09.2018. w.e.f. 23-10-17. Notifications 53/2018 dated 9-10-18 has modified R. 96(10) from 23-10-17 and notification 54/2018 dated 9-10-18 has amended this Rule prospectively w.e.f. 9-10-18. The impact of changes has been explained in Circular No. 70/44/218-GST dated 26-10-18

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

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

However if the benefit of above notifications has been obtained by the supplier of exporter, then exporter shall not be eligible to claim refund of IGST paid on exports. Further if the supplier of exporter has availed benefit of 40/2017-CTR or 41/2017-CTR [Concessional rate of

tax @ 0.05%/0.1% respectively] or 48/2017 [Deemed exports], then also exporter shall not be eligible to claim refund of IGST paid on exports.

From 9-10-2018 and onwards

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

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

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

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

- Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in **FORM GST RFD-11** to the jurisdictional Commissioner (vide circular no 2/2/2017-GST the power has been delegated to Deputy/Assistant Commissioner).

Conditions of LUT

- The registered person shall bind himself to pay the tax due along with the interest specified under sub-section (1) of section 50 (18%) within a period of —
 - (a) fifteen days after the expiry of three months, or such further period as may be allowed by the Commissioner,] from the date of issue of the invoice for export, if the goods are not exported out of India; or
 - (b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange

The Government has clarified & emphasized that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and

circumstances of each case. The same principle should be followed in case of export of services. (Circular No. 37/11/2018-GST dated 15th March, 2018)

- In the event, goods are not exported within the time specified above and the registered person fails to pay the IGST amount, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.
- The export as allowed under bond or Letter of Undertaking withdrawn shall be restored immediately when the registered person pays the amount due.

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

LUT/Bond not required for exempt supplies

- In terms of Circular No. 45/19/2018 dated 30.05.2018, it has been clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax, LUT/bond is not required. A registered 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. Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.

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

- (a) a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020; or
- (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year.

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

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

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

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

- 1) A registered person prosecuted for any offence under GST or any existing laws in force with tax evaded exceeding Rs.2.5 crores
- 2) Registered person who fails to pay tax due along with interest within:

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

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

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

Bond

A registered person who is not eligible to furnish an LUT for reasons discussed above, shall execute a Bond. The Bond shall be accompanied by Bank Guarantee for 15% of the Bond amount. Bond shall be furnished on non-judicial stamp paper of the value as applicable in the state in which the bond is being furnished. The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports 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.

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

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

LUT to be submitted on portal

Further, the registered person (exporters) shall fill and submit FORM GST RFD-11 on the common portal. 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. 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. No document needs to be physically submitted to the jurisdictional office for acceptance of LUT. (Circular No. 40/14/2018-GST dated 06.04.2018)

Jurisdictional officer for acceptance of LUT

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

administrative mechanism for assigning of taxpayers to the respective authority is implemented.

LUT for supplies to Nepal and Bhutan

Acceptance of 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.[Circular 8/8/2017 dated 4-10-17]. Supply of services having place of supply in Nepal or Bhutan against payment in Indian rupees is exempt under Notification 9/2017-IGST inserted vide Notification No. 42/2017-Integrated Tax (Rate), dated 27-10-2017.

54.9 Refund in case of Deemed Exports

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

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

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

Analysis

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

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

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

Person claiming refund

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

However, the Supplier may also file the refund application if

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

Special Procedures with Respect to Supply of Goods to EOUs

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

Procedure to be adopted by the EOU:

Steps	Particulars	Form No, if any / Due Date	Explanation
Step 1	Issuance of Prior Intimation	Form-A	The EOU shall give prior intimation of goods to be procured from the Supplier in Form-A. The Intimation must be serially number and must prepared in Triplicate and sent to: (1) the Registered Supplier undertaking the Supply (2) the jurisdictional GST Officer in charge of the Supplier (3) the jurisdictional GST Officer in charge of the EOU
Step 2	Supply of goods by the Supplier		The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
Step 3	Endorsement of Invoice by EOU on receipt of goods		On receipt of such supplies, the EOU, shall endorse the tax invoice and send a copy of the endorsed tax invoice to – (1) the Registered Supplier undertaking the Supply

			<p>(2) the jurisdictional GST Officer in charge of the Supplier.</p> <p>(3) the jurisdictional GST Officer in charge of the EOU.</p> <p>Such endorsement is the Proof of Deemed Export Supplies by a registered person to the EOU</p>
Step 4	EOU shall maintain records for receipt, use and removal of Goods	Form-B	<p>EOU shall maintain the record of Receipt, use and Removal of Goods in Form-B</p> <p>The data is required to be maintained in Digital form.</p> <p>The Record must be updated immediately and accurately and open for Verification by the Proper office</p>
Step 5	Monthly submission of Form-B to the GST Officer	Due date - 10th of the Following month	A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month in a CD or Pen drive, as convenient to the said unit.

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

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

a) Proof of receipt of Goods by the Eligible Recipient viz:	
Supply to	Document required
Advance Authorisation Holder or EPCG Holder	Acknowledgment that Holder has received the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,
EOUs	Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it
b) Undertaking from the recipient of the Deemed Export that the Recipient has not taken Input Tax Credit of the GST paid by the Supplier	

- c) Undertaking from the recipient of the Deemed Export that they shall not claim the refund of the GST paid by the Supplier.

54.10 Rule 90 - Acknowledgement and Deficiency memo

- (a) **Acknowledgment where application relates to a claim for refund from the electronic cash ledger-** on receipt of the application for refund, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period of 60 days for passing an order by proper officer shall be counted from such date of filing.
- (b) **Acknowledgment where the application for refund, other than claim for refund from electronic cash ledger-** such applications shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application scrutinize the application for its completeness and where the application is found to be complete, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically/manually, clearly indicating the date of filing of the claim for refund and the time period 60 days for passing an order by proper officer shall be counted from such date of filing.
- (c) **Deficiency Memo:** Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically/manually, requiring him to file a fresh refund application after rectification of such deficiencies, with 15 days from the date of receipt of application. Hence The older application shall lapse once the deficiency notice is given in RFD-03.
- (d) If deficiencies have been communicated in FORM GST RFD-03 under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under CGST Act also.

Note: A clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the CGST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. It is therefore, clarified that there can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application, 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 actions to be taken 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

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

54.11 Rule 92 provides for Order sanctioning refund-

Rule No	Scenarios	Procedures
92(1)	When entire refund is payable	➤ Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in FORM GST RFD-06 sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him on a provisional basis under sub-section (6) of section 54
Proviso to 92(1)	In cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any erstwhile law	➤ the proper officer shall pass an order giving details of the adjustment, which shall be issued in Part A of FORM GST RFD-07.
92(2)	Where the proper officer or the Commissioner is of the opinion that the amount of refund is liable to be withheld under ➤ the provisions of sub-section (10) [when the applicant is required to pay tax, interest or penalty	➤ the proper officer shall pass an order in Part B of FORM GST RFD-07 informing him the reasons for withholding of such refund

	<p>which has not been stayed by any court] or,</p> <ul style="list-style-type: none"> ➤ sub-section (11) of section 54 [when any matter of appeal is pending and refund shall affect the revenue 	
92(3)	<p>Where the proper officer is satisfied that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant</p>	<ul style="list-style-type: none"> ➤ the proper officer shall issue a notice in FORM GST RFD-08 to the applicant; ➤ the Applicant shall furnish a reply in FORM GST RFD-09 within a period of fifteen days of the receipt of such notice and ➤ after considering the reply, the proper officer shall make an order in FORM GST RFD-06 sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically ➤ Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.
92(4)	<p>Refund credited to the account of applicant</p>	<ul style="list-style-type: none"> ➤ Where the proper officer is satisfied that the amount is payable to the applicant, he shall make an order in FORM GST RFD-06 then he shall issue a payment advice in FORM GST RFD-05 for refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration and as specified in the application for refund.
92(5)	<p>Refund credited to Consumer Welfare Fund</p>	<ul style="list-style-type: none"> ➤ Where the proper officer is satisfied that the amount refundable is not payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue an advice in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund

Note: As per notification 39/2017-Central Tax and further modified by notification 10/2018-Central Tax dated 23-01-2018, state tax officers have been authorized to act as proper officer for the purpose of section 54 and 55 for the sanction of refund. Regarding refund of IGST paid on exports, State officer have been authorized to deal refund of IGST on export of service but can't deal IGST refund on export of goods. All other types of refunds can be dealt by state tax officer for the purpose of S. 54 & 55 of CGST.

Disbursal of Refund Amount

Circular 59/2018 dated 4-9-18 A few cases have come to notice where a tax authority, after receiving a sanction order from the counterpart tax authority (Centre or State), has refused to disburse the relevant sanctioned amount calling into question the validity of the sanction order on certain grounds. E.g. a tax officer of one administration has sanctioned, on a provisional basis, 90 per cent. Of the amount claimed in a refund application for unutilized ITC on account of exports. On receipt of the provisional sanction order, the tax officer of the counterpart administration has observed that the provisional refund of input tax credit has been incorrectly sanctioned for ineligible input tax credit and has therefore, refused to disburse the tax amount pertaining to the same. It is clarified that the remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order and not in withholding of the disbursement of the sanctioned amount. If any discrepancy is noticed by the disbursing authority, the same should be brought to the notice of the counterpart refund sanctioning authority, the concerned counterpart reviewing authority and the nodal officer, but the disbursal of the refund should not be withheld. It is hereby clarified that neither the State nor the Central tax authorities shall refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except under sub-section (11) of section 54 of the CGST Act. It is further clarified that any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.

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

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

Where any amount claimed as refund is rejected under rule 92, the amount debited to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03. A refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal. Also, where any deficiencies have been communicated in FORM GST RFD-03, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.

Note: Re credit of Electronic Credit Ledger in case of Rejection of Refund claim [Circular No. 59/2018 dated 4-09-2018]

- 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, re credit 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, wilful-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 74(5), if amount and interest along with penalty @ 25% is paid within 30 days from issue of SCN, the proceedings shall be dropped.
- f) Show cause notices are not required to be issued (and consequently no orders are required to be issued in **FORM GST RFD-04/06**) in cases where refund application is not re-submitted after the issuance of a deficiency memo (in **FORM GST RFD-03**).

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

As per Circular 70/44/2018 dated 26-10-18, presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in **FORM GST RFD-03** is issued to taxpayers, re-credit in the electronic credit ledger (using **FORM GST RFD-01B**) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself.

54.13 Registers, Steps and Procedure for refund to be followed for manual processing of refunds

[Circular 17/17/2017 dated 15-11-2017]

Refunds Registers

Refunds Received Register

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 acknowledgment 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

Refunds Register for provisional Sanction**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/UTI	II	Cess	
1	2	3	4	5	6	7	8	9

Refunds Register for Final Sanction of refunds**Table 3**

Date of issue of notice, if any for rejection of refund in FORM	Date of receipt of reply, if any to SCN in FORM	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 RFD-05	Amount of refund rejected				Date of issue of order for adjustment of sanctioned refund/withholding
			C	ST/UT	I	Ces		C	ST/UT	II	Ces	
1	2	3	4	5	6	7	8	9	10	11	12	13

Steps to be followed for refund claim [Para 3.2 of Circular 17/2017 dated 15-11-17]

1. Entry to be made in the Refund register for receipt of refund applications
2. Check for completeness of application as well as availability of the supporting documents in totality
3. All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in the format prescribed in the Forms appended to the CGST Rules, and shall be done manually (i.e. not on the common portal) within the timelines prescribed in the rules;

4. Processing for grant of provisional refund shall be completed within 7 days as per the CGST Rules and details to be maintained in the register for provisional refunds. Bifurcation of the taxes to be refunded under CGST (CT) /SGST (ST) /UTGST (UT) /IGST (IT) /Cess shall be maintained in the register mandatorily
5. After the sanction of the provisional refund, final order is to be issued within sixty days (after due verification of the documentary evidences) of the date of receipt of the complete application form. The details of the finally sanctioned refund and rejected portion of the refund along with the breakup (CT / ST / UT / IT/ Cess) to be maintained in the final refund register;
6. The amount not sanctioned and eligible for re-credit is to be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**. The actual credit of this amount will be done by the proper officer in **FORM GST RFD-01B**.

Detailed procedure for manual processing of refund claims

1. Filing of refund application in **FORM GST RFD- 01A** online on the common portal (only when refund of unutilized ITC is claimed)
2. Filing of printout of **FORM GST RFD-01A**
3. Initial scrutiny of the Documents by the proper officer
4. Issue acknowledgement manually within 15 days in **FORM GST RFD-02**
5. Grant of provisional refund within seven days of issue of acknowledgement
6. Detailed scrutiny of the refund application along with submitted documents
7. Steps to be taken If the sanction-able amount is less than the applied amount
8. Pre-Audit
9. Final sanction of refund
10. Payment of interest if any

54.14 Comparative review

These provisions are broadly similar to the provisions contained in erstwhile Central Indirect Tax law. However, they are restrictive when compared to the refund mechanism under earlier State Value Added Tax law. The GST Law provides refund of unutilised credit in certain specified circumstances where the State VAT Laws provide for refund of unutilised credit under any circumstances.

54.15 Issues and Concerns

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

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

- Zero rated supply includes within its ambit, inter alia, export of goods
- Motor spirit, although non-taxable, would fall within the meaning of goods as defined in Section 2(52) of the CGST Act
- Section 17(2) of the CGST Act states that a supplier shall be entitled to avail input tax credit to the extent of input tax as is attributable to taxable supplies including zero rated supplies.
- Section 16(2) of the IGST Act states that input tax credit may be availed for making zero rated supplies notwithstanding the fact that such supply may be an exempt supply subject to restrictions on ITC in Section 17(5).
- Exempt supply has been defined in Section 2(47) of the CGST Act to include non-taxable supply.
- Section 54(3) of the CGST Act specifies that refund of unutilised input tax credit shall be allowed in case of zero rated supplies effected without payment of tax unless such export are subjected to export duty. Thus, refund on export of non-taxable goods may be sought by the registered person.

This position is clarified by CBIC wherein it is stated that as per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. It is also categorically stated that the requirement of Bond/LUT cannot be insisted upon in such cases. (Circular No 45/2018 dated 30.05.2018)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54.16 FAQs

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

Ans. Generally, Yes. The refund claim has to be filed within two years from the relevant date.

However, if the tax or interest thereon or amount claimed as refund is paid under protest, the time limit is not applicable.

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

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

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

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

Q4. What would be the time limit for sanctioning refund?

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

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

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

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

Ans. Yes. The minimum amount of refund payable should be ` 1000/- or more.

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

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

54.17 MCQs

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

- (a) 70%
- (b) 65%
- (c) 80%
- (d) 90%

Ans. (d) 90%

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

- (a) Date of payment of GST
- (b) Last day of the financial year
- (c) Date of providing of service
- (d) None of the above

Ans. (a) Date of payment of GST

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

- (a) Due to purchase of huge stocks
- (b) Credit cannot be used for any reason.
- (c) Due to Exports and input tax rate of inputs being higher than output tax rate
- (d) Due to Exports only.

Ans. (c) Due to Exports and input tax rate of inputs being higher than output tax rate

Q4. Relevant date for computing time limit to claim refund in case of deemed exports supply of goods is –

- (a) Date of filing returns relating to such deemed exports;
- (b) Date of goods leaving India;
- (c) Date of payment of Tax;
- (d) Date of receipt of consideration in Foreign Exchange;

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

Statutory Provisions

55. Refund in certain cases

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

Extract of the CGST Rules, 2017

95 Refund of tax to certain persons

- 1) Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued section 55 shall apply for refund in FORM GST RFD-10 once in every quarter, electronically on the common portal or otherwise, either directly or

through a Facilitation Centre notified by the Commissioner, along with a statement of the inward supplies of goods or services or both in FORM GSTR-11.

- 2) *An acknowledgement for the receipt of the application for refund shall be issued in FORM GST RFD-02.*
- 3) *The refund of tax paid by the applicant shall be available if-*
 - a) *the inward supplies of goods or services or both were received from a registered person against a tax invoice*
 - b) *name and Goods and Services Tax Identification Number or Unique Identity Number of the applicant is mentioned in the tax invoice; and*
 - c) *such other restrictions or conditions as may be specified in the notification are satisfied.*
- 4) *The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.*
- 5) *Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.*

Relevant circulars, notifications, clarifications issued by Government:

- 1) Notification No. 6/2017-Central Tax (Rate) dated 28-06-2017 issued by CBIC for refund of 50% of CGST on supplies of goods to Canteen Stores Department
- 2) Notification No. 16/2017-Central Tax (Rate) dated 28-06-2017 issued by CBIC notifying specialized agencies entitled to claim refund
- 3) Notification 26/2018-Central Tax dated 13.06.2018 issued by CBIC substituting clause (a) in sub rule (3) in Rule 95.
- 4) Circular No. 36/2018 dated 13.03.2018 issued by CBIC regarding Processing of refund applications for UIN entities
- 5) Circular No. 43/2018 dated 13.04.2018 issued by CBIC addressing queries relating to processing of refund applications for UIN entities
- 6) Circular No. 60/34/2018-GST dated 04-09-2018 issued by CBIC regarding processing of refund applications of CSD
- 7) Circular No. 63/37/2018-GST dated 14-09-2018 issued by CBIC providing clarification regarding processing of refund claims filed by UIN Entities
- 8) Chapter Thirty Four of the compilation of the GST Flyers as issued by the CBIC on 'Refunds under GST'
- 9) Press Release on Acceptance of Unique Identity Number of Foreign Diplomatic Missions / UNO while making sales or supplies dated 13-11-2017
- 10) Press Release on Advisory to UIN Entities claiming GST Refunds dated 9-11-2018

Related Provisions of the Statute

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

55.1 Introduction

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

55.2 Analysis

This section provides that –

- (i) The Government, is vested with powers to notify certain agencies on the recommendation of the Council, to be entitled to claim refund.
- (ii) The agencies that can be notified are –
 - (a) any specialized agency of the United Nations Organization or
 - (b) any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947,
 - (c) any other person or class of persons as may be specified.
- (iii) In addition to the above, Consulate or Embassy of foreign countries would also be eligible for refund.
- (iv) The agencies mentioned above would be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them. The refund claim is subject to such conditions and restrictions as may be prescribed,

55.3 Procedure for refund of tax

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

- (a) The FORM GSTR-11 along with FORM GST RFD-10 has to be filed separately for each of those quarters for which refund claim is being filed.
- (b) All the entities claiming refund shall submit the duly filled in print out of FORM RFD-10 to the jurisdictional Central Tax Commissionerate. All refund claims shall be processed and sanctioned by respective Central Tax offices. In order to facilitate processing of refund claims of UIN entities, a nodal officer has been designated in each State. Application for refund claim may be submitted before the designated Central Tax nodal officers in the State in which the UIN has been obtained.

- (c) The print version of FORM GSTR-11 generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated FORM GSTR-11 does not have invoice-level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with refund application.
- (d) The recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers / vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.
- (e) Refunds can be claimed by UIN entities only those inward supplies which are in accordance with reciprocity letter issued by MEA.
- (f) UIN entities should submit hard copies of invoices where UIN is not mentioned. One-time waiver is hereby given from recording the UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April, 2018 to March, 2019, subject to the condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer
- (g) UIN entities must submit the copy of the 'Prior Permission letter' and mention the same in the covering letter while applying for GST refund on purchase of vehicles.
- (h) The eligibility of refund for the personnel and officials posted in the Embassy/Mission/Consulate shall be determined based on the principle of reciprocity.
- g) UIN entities should give declaration as per Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts .
- h) The CSD are required to apply for refund on a quarterly basis. Till the time the online utility for filing the refund claim is made available on the common portal, the CSD shall apply for refund by filing an application in FORM GST RFD-10A (Annexure-A to this Circular) manually to the jurisdictional tax office. The said form shall be accompanied with the following documents:
 - (i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD;
 - (ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed;
 - (iii) Copies of the valid return filed in FORM GSTR-3B by the CSD for the period covered in the refund claim;

(iv) Copies of FORM GSTR-2A of the CSD for the period covered in the refund claim along with the attested hard copies of the invoices on which refund is claimed but which are not reflected in FORM GSTR-2A;

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

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

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

Checklist for processing UIN refunds

- (a) Covering letter for each quarterly refund
- (b) Final copy of **FORM GST RFD- 10** with Application Reference Number (ARN)
- (c) Final copy of **FORM GSTR – 11**
- (d) Statement of invoices as per Annexure D
- (e) Certificate in case of goods that the goods have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts
- (f) Undertaking in case of services that the services have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts
- (g) Copy of letter issued by the Protocol Division of the Ministry of External Affairs based on the principle of reciprocity
- (h) Photocopies of only those invoices where UIN has not been recorded on the invoices by the supplier.
- (i) A cancelled cheque of the bank account as mentioned in **FORM GST RFD-10** (to be submitted with only the first refund claim filed)

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

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

55.4 FAQs

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

Ans. Any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 and any other person or class of persons as may be specified in this behalf, are the agencies that can be notified.

2. What refund are the agencies specified above entitled to claim under this section?

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

55.5 MCQs

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

- (a) Government on the recommendations of the GST Council
- (b) Board
- (c) GST Council
- (d) None of the above

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

Statutory Provisions**56. Interest on delayed refunds**

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

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

Explanation.- For the purpose of this section, where any order of refund is made by an Appellate Authority, Tribunal or any Court against an order of the proper officer under sub-

section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or, by the Court shall be deemed to be an order passed under the said sub-section (5).

Extract of the CGST Rules, 2017

94 Order sanctioning interest on delayed refunds

Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a 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.

Relevant circulars, notifications, clarifications issued by Government:

- 1) Notification No.13 /2017 – Central Tax dated 28.06.2017 notifying interest rates.
- 2) Chapter Thirty Four of the compilation of the GST Flyers as issued by the CBIC on 'Refunds under GST'

56.1. Introduction

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

56.2. Analysis

- (i) The section provides that interest is payable if –
 - Tax paid becomes refundable under section 54(5) to the applicant; and
 - It is not refunded within 60 days from the date of receipt of application for refund of tax under Section 54(1)
- (ii) Interest is liable to be paid from the due date for payment of refund till the date of sanction or grant of refund.
- (iii) For the above delay, the Government has specified 6% as the rate of interest vide Notification No.13 /2017 – Central Tax dated 28.06.2017.

Illustration:

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

- (iv) Explanation to section provides that in cases where the orders of Appellate Authority / Tribunal / Court sanctions refund in an appeal, against the order of refund sanctioning authority, the order of Appellate Authority / Tribunal / Court will be considered as orders passed by refund sanctioning authority. In other words, by virtue of such order, the

refund has become due and the interest will then be computed from the date of completion of 60 days from the date of original refund claim made. For all such claims the Government has specified 9% as the rate of interest vide Notification No.13 /2017 – Central Tax dated 28.06.2017.

Illustration:

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

(v) **Rule 94 provides for Order sanctioning interest on delayed refunds-** where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a payment advice in FORM GST RFD-05, specifying the following:

- (a) Amount of refund which is delayed,
- (b) the period of delay for which interest is payable and
- (c) the amount of interest payable,

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

56.3. Comparative review

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

56.4. FAQs

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

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

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

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

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

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

56.5. MCQs

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

- (a) Section 54
- (b) Section 44
- (c) Section 41
- (d) Section 45

Ans. (b) Section 54

Q2. Interest U/s56 has to be paid for delayed refunds, if the refund is not granted within.....

- (a) 90 days
- (b) 3 months
- (c) 60 days
- (d) None of the above

Ans. (c) 60 days

Statutory Provisions**57. Consumer Welfare Fund**

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

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

Extract of the CGST Rules, 2017**97 Consumer Welfare Fund**

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

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

Provided further that an amount equivalent to fifty per cent. of the amount of cess determined under sub-section (5) of section 54 read with section 11 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), shall be deposited in the Fund.

- 2) *Where any amount, having been credited to the Fund, is ordered or directed to be paid to any claimant by the proper officer, appellate authority or court, the same shall be paid from the Fund.*
- 3) *Accounts of the Fund maintained by the Central Government shall be subject to audit by the Comptroller and Auditor General of India.*
- 4) *The Government shall, by an order, constitute a Standing Committee (hereinafter referred to as the Committee') with a Chairman, a Vice-Chairman, a Member Secretary and such other members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Fund for welfare of the consumers.*
- 5)
 - (a) *The Committee shall meet as and when necessary, generally four times in a year;*
 - (b) *the Committee shall meet at such time and place as the Chairman, or in his absence, the Vice-Chairman of the Committee may deem fit;*
 - (c) *the meeting of the Committee shall be presided over by the Chairman, or in his absence, by the Vice-Chairman;*
 - (d) *the meeting of the Committee shall be called, after giving at least ten days' notice in writing to every member;*
 - (e) *the notice of the meeting of the Committee shall specify the place, date and hour of the meeting and shall contain statement of business to be transacted thereat;*
 - (f) *no proceeding of the Committee shall be valid, unless it is presided over by the Chairman or Vice-Chairman and attended by a minimum of three other members.*
- 6) *The Committee shall have powers -*
 - a) *to require any applicant to get registered with any authority as the Central Government may specify;*
 - b) *to require any applicant to produce before it, or before a duly authorised officer of the Central Government or the State Government, as the case may be, such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;*
 - c) *to require any applicant to allow entry and inspection of any premises, from which*

- activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or the State Government, as the case may be;*
- d) to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;*
 - e) to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum along with accrued interest, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;*
 - f) to recover any sum due from any applicant in accordance with the provisions of the Act;*
 - g) to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;*
 - h) to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars*
 - i) to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of the nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;*
 - j) to identify beneficial and safe sectors, where investments out of Fund may be made, and make recommendations, accordingly;*
 - k) to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;*
 - l) to make guidelines for the management, and administration of the Fund*
- 7) The Committee shall not consider an application, unless it has been inquired into, in material details and recommended for consideration accordingly, by the Member Secretary.*
- 8) The Committee shall make recommendations:-*
- a) for making available grants to any applicant;*
 - b) for investment of the money available in the Fund;*
 - c) for making available grants (on selective basis) for reimbursing legal expenses incurred by a complainant, or class of complainants in a consumer dispute, after its final adjudication;*
 - d) for making available grants for any other purpose recommended by the Central Consumer Protection Council (as may be considered appropriate by the Committee);*

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

Explanation.- For the purposes of this rule,

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

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

Relevant circulars, notifications, clarifications issued by Government

- 1) Chapter Thirty Four of the compilation of the GST Flyers as issued by the CBIC on 'Refunds under GST'
- 2) Notification 21/2018-Central Tax dated 18.04.2018 issued by CBIC substituting Rule 97 with the existing provisions of Consumer Welfare Fund
- 3) Notification 26/2018-Central Tax dated 13.06.2018 issued by CBIC inserting the second proviso to Rule 97(1).

Related Provisions of the Statute

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

57.1 Introduction

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

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

57.2 Analysis

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

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

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

In case of any amount that has been credited to the fund that is now ordered or directed to be to be paid to a claimant by the proper officer, appellate authority or court, then, the same shall be paid from the fund.

57.3 Audit of the Accounts of the Fund

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

57.4 Constitution of the Committee

Rule 97 of the CGST Rules provides that The Government shall constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other Members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers. The Committee shall meet as and when necessary, generally four times in a year.

57.5 Meeting of the Committee

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

- The committee shall meet as and when necessary, generally four times a year.
- The committee shall meet at such time and place as the Chairman, or in his absence, the Vice Chairman may deem fit.
- The meetings of the Committee shall be précised by the Chairman, or in his absence by the Vice Chairman of the Committee
- A committee meeting shall be called after giving a minimum ten days' notice in writing to every member.
- The notice of the meeting of the Committee is required to specify the place, date and hour of the meeting along with a statement of business to be transacted thereat.
- A meeting shall not be valid, unless it is presided over by the Chairman, or in his absence, the Vice Chairman and attended by a minimum of three other members.

57.6 Powers of the Committee

The Committee shall have the following powers:

- To require any applicant to get registered with any authority as the Central Government may specify;
- to require any applicant to produce before it, or before a duly authorised officer of the Central Government or the State Government, as the case may be, such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;

- to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or the State Government, as the case may be;
- to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;
- to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum along with accrued interest, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;
- to recover any sum due from any applicant in accordance with the provisions of the Act;
- to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;
- to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;
- to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of the nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;
- to identify beneficial and safe sectors, where investments out of Fund may be made, and make recommendations, accordingly;
- to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;
- to make guidelines for the management, and administration of the Fund.

57.7 Utilisation of funds by the Committee

Rule 97 of the CGST Rules also provides that any utilisation of amount from the Consumer Welfare Fund under sub-section (1) of section 58 shall be made by debiting the Consumer Welfare Fund account and crediting the account to which the amount is transferred for utilisation.

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

57.8 Comparative review

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

57.9 MCQs

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

- (a) Investor Protection and Education Fund
- (b) Consumer Protection Fund
- (c) Consumer Welfare Fund
- (d) Refund Claim Fund

Ans. (c) Consumer Welfare Fund

Q2. The overall objective of the Consumer Welfare Fund is

- (a) To facilitate a simplified refund mechanism.
- (b) to promote and protect the welfare of the consumers and strengthen the consumer movement in the country.
- (c) To boost the overall growth of the economy
- (d) Both (a) and (c)

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

Statutory Provisions

58. Utilization of the Fund

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

Relevant circulars, notifications, clarifications issued by Government:

- 1) Chapter Thirty Four of the compilation of the GST Flyers as issued by the CBIC on 'Refunds under GST'

Related Provisions of the Statute

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

58.1 Introduction

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

58.2 Analysis

- (i) It should be ensured that the monies credited to the fund shall be utilized to provide assistance to protect the welfare of consumers as per the rules made by the Government
- (ii) The Government shall maintain proper and separate records in relation to the Fund in consultation with the Comptroller and Auditor-General of India.

58.3 Comparative review

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

58.4 FAQs

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

Ans. The Government shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India. From these records, it can be ascertained if the amount in the fund were utilised for the welfare of the consumers.

58.5 MCQs

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

- (a) the Government
- (b) the authority specified by the Government
- (c) the assessee who is claiming refund
- (d) (a) or (b)

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