



CHAPTER 29

REFUNDS

**CHAPTER OVERVIEW**

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RELEVANT DEFINITIONS

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

Zero rated supply: Zero-rated supply shall have the meaning assigned to it in section 16 of IGST Act, 2017. As per section 16(1) of IGST Act, “zero rated supply” means **any** of the following supplies of goods or services or both, namely:

- a) Export of goods or services or both; or
- b) Supply of goods or services or both for authorized operations to a Special Economic Zone developer or a Special Economic Zone unit.

Input tax credit eligible in respect of Zero–Rated Supply: Subject to Section 17(5) of the CGST Act, input tax credit may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

Export of goods with its grammatical variations and cognate expressions, means **taking goods out of India to a place outside India.**

Deemed Inter-state supplies

- a) Supply of goods where supplier located in India and the place of supply outside India
- b) Supply of goods, when the supplier is located in India and the place of supply is outside India

Export of services means the supply of any service when:

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India ; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

Explanation 1 to Section 8:

Where a person has,—

- (i) an establishment in India and any other establishment outside India;
- (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) an establishment in a State or Union territory and any other establishment registered within that State or Union territory,



then, such establishments shall be treated as establishments of distinct persons.

Illustration: Determination of POS and Export of Service

A Ltd., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, A Ltd has approached ABC Consultants, Mumbai, to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.

The survey is to be solely based on oral replies of the surveyees; they will not be provided any sample by A Ltd, to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment. With reference to the provision of GST Law, determine the place of supply of the service. Also, explain whether the said supply will amount to export of service?

Solution:

As per Section 13(2) of the IGST Act, 2017 in case where the location of the supplier of services or the location of the recipient of services is outside India, the place of supply of services except the services specified in sub-section (3) to (13) shall be the location of the recipient of services.

The given case does not fall under any of such specific situations and thus, the place of supply in this will be determined u/s 13(2). Thus, the place of supply of service in this case is the location of recipient of services i.e., USA.

As per Section 2(6) of the IGST Act, 2017 export of services means the supply of any services when –

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

Since all the above 5 conditions are fulfilled in the given case, the same will be considered as export of service

Definition of turnover of zero-rated supplies of goods amended [Rule 89(4)(C)]

Lower of the two shall be taken:

- (i) Zero Rated Value of supply of goods as per GST Invoice or
- (ii) **1.5 times** the value of like goods domestically supplied by the same or, similarly placed supplier

	GST invoice value	Value of like goods supplied domestically	1.5 times the value of like goods supplied domestically	Value for purposes of refund claim
Case A	1,00,000	90,000	1,35,000	1,00,000
Case B	2,00,000	60,000	90,000	90,000



REFUND OF TAX [SECTION 54]

Principal situations leading to refund claims

A claim for refund may arise in the following situations:

- a) **Export/supply to SEZ developer/unit “on payment of IGST”**
- b) **Refund of unutilized ITC – Export/supply to SEZ developer/unit “without payment of IGST” or inverted duty structure**

- a) **Export/supply to SEZ developer/unit “on payment of IGST”**

Goods and/or services are exported or, goods and/or services are supplied to an SEZ developer/unit, on payment of IGST, subject to such conditions, safeguards and procedure as may be prescribed, and **refund of such IGST paid on goods and/or services supplied is claimed** [Section 16(3)(b) of IGST Act].

- b) **Refund of unutilized ITC – Export/supply to SEZ developer/unit “without payment of IGST” or inverted duty structure**

Accumulation of Input Tax Credit happens when the tax paid on inputs is more than the output tax liability. Such accumulation will have to be carried over to the next FY till such time as it can be utilised by the registered person for payment of output tax liability.

Two scenarios where refund of unutilized ITC can be claimed at the end of a tax period

- (i) **Zero rated supplies without payment of tax:** Supply of goods and/ or services to an SEZ developer/unit or export of goods and/or services under bond or Letter of Undertaking (LUT) **without payment of IGST**, subject to such conditions, safeguards and procedure as may be prescribed, and
- (ii) **Inverted duty structure:** 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.



Notified supplies by Government on which refund of unutilized ITC is not allowed [Notification No. 5/2017 CT (R) dated 28.06.2017]

Supply of construction of complex services specified in para 5(b) of Schedule II of the CGST Act, woven fabrics of silk/wool/cotton, knitted or crocheted fabrics, rail locomotives powered from an external source of electricity or by electric accumulators. However, this restriction will not be applicable to zero rated supplies, i.e. (a) exports of goods or services or both; or (b) supply of goods or services or both to a SEZ developer/unit.

Whether refund of unutilized ITC is allowed on export of fabrics to a manufacturer?

As regards export of fabrics, it is clarified that subject to the provisions of section 54(10), a **manufacturer of such fabrics** will be eligible for refund of unutilized ITC of GST paid on inputs **[other than the ITC of GST paid on capital goods]** in respect of fabrics manufactured and exported by him. **[Circular No. 18/18/2017 GST dated 16.11.2017].**

Cases where Refund of ITC is Not Allowed

- (i) Refund of unutilized ITC ***shall not be allowed*** if the goods exported out of India are ***subjected to export duty***.

Only those goods on which some export duty has to be paid at the time of export to be covered under the restriction imposed under second proviso to section 54(3)

Whether second proviso to section 54(3), prohibiting refund of unutilized ITC is applicable in case of exports of goods which are having Nil rate of export duty?

The term '**subjected to export duty**' means where the goods are actually leviable to export duty and suffering export duty at the time of export.

Therefore, goods in respect of which either Nil rate is specified in Second Schedule to the Customs Tariff Act, 1975 or which are fully exempted from payment of export duty by virtue of any customs notification or which are not covered under Second Schedule to the Customs Tariff Act, 1975, cannot be subjected to any export duty under Customs Tariff Act, 1975. Such goods would not be covered by the restriction imposed under the second proviso to section 54(3) for the purpose of availment of refund of accumulated ITC.

Accordingly, it is clarified that only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under said restriction. [Circular No. 160/16/2021 GST dated 20.09.2021]

- (ii) Refund of ITC ***shall not be allowed*** if the supplier of goods or services or both ***avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies***.

While claiming refund of accumulated ITC in case of zero rated supplies without payment of tax, a supplier can avail drawback of **only basic customs duty** and cannot claim drawback of any of the taxes under GST (CGST, IGST, SGST/UTGST). In other words, a supplier availing drawback of only basic customs duty shall be eligible for refund of unutilized ITC of CGST, IGST, SGST/UTGST, Compensation cess.



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It is further clarified that refund of eligible credit on account of SGST shall be available even if the supplier has availed of drawback in respect of CGST

[Circular No.24/24/2017 GST dated 21.12.2017 and Circular No. 37/11/2018 GST dated 15.03.2018].

Refund of accumulated ITC on account of reduction in GST rate on goods, not available [Circular No. 135/05/2020 GST dated 31.03.2020]

The issue which arose for consideration is whether an applicant can seek refund of unutilized ITC on account of inverted duty structure, u/s 54(3)(ii) of the CGST Act, 2017, in a case where the inversion is due to change in the GST rate on the same goods.

For example, an applicant trading in goods has purchased, say goods "X" attracting 18% GST. However, subsequently, the rate of GST on "X" has been reduced to, say 12%.

It is clarified that, in such cases, the input and output being the same, though attracting different tax rates at different points in time, do not get covered under section 54(3)(ii) of the CGST Act, 2017. Thus, refund of accumulated ITC under said clause would not be applicable in cases where the input and the output supplies are the same.

It may be noted that refund of accumulated ITC is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of the first proviso to section 54(3).

There may, however, be cases where though inputs and output goods are same but the output supplies are made under a concessional notification due to which the rate of tax on output supplies is less than the rate of tax on inputs.

In such cases, as the rate of tax of output supply is less than the rate of tax on inputs at the same point of time due to supply of goods by the supplier under such concessional notification, the credit accumulated on account of the same is admissible for refund under the provisions of clause (ii) of the first proviso to section 54(3), other than the cases where output supply is either Nil rated or fully exempted, and also provided that supply of such goods or services are not notified by the Government for their exclusion from refund of accumulated ITC under the said clause. [Circular No. 173/05/2022 GST dated 06.07.2022]

Refund of ITC under section 54(3) restricted to the extent of credit reflected in Form GSTR-2A & GSTR-2B

In wake of insertion of Rule 36(4) of the CGST Rules, 2017, it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in Form GSTR-1 and are reflected in the Form GSTR-2A of the applicant.

Section 16(2) and rule 36(4) have been amended to provide that said details of ITC will be reflected in Form GSTR-2B.



Issue: Whether the refund of the accumulated ITC under section 54(3) shall be admissible on the basis of the ITC as reflected in Form GSTR-2A or on the basis of that available as per Form GSTR-2B of the applicant?

Clarification: It is clarified that since availment of ITC has been linked with Form GSTR-2B w.e.f. 01.01.2022, availability of refund of the accumulated ITC u/s 54(3) for a tax period shall be restricted to ITC as per those invoices, the details of which are reflected in Form GSTR-2B of the applicant for the said tax period or for any of the previous tax periods and on which the ITC is available to the applicant. [Circular No. 197/09/2023 GST dated 17/07/2023]

Other Situations where refund can be claimed

- c) Refund of tax paid on the supply of goods regarded as **deemed exports** may be claimed.
- d) Refund of **any balance in the electronic cash ledger** after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made there under may be claimed [Section 49(6)].
- e) Refund on account of **issuance of refund vouchers for taxes paid on advances** against which goods or services have not been supplied, may be claimed [Section 31(3)(e)].
- f) Refund of **tax wrongly collected and paid to the Government** (i.e. CGST & SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice versa) [Section 77 of the CGST Act and section 19 of the IGST Act].
- g) Refund of the **IGST paid by tourist leaving India** on any supply of goods taken out of India by him [Section 15 of IGST Act].
- h) Tax becomes **refundable as a consequence of judgment**, decree, order or direction of the Appellate Authority, Appellate Tribunal or any Court.
- i) On **finalization of provisional assessment**, if any tax becomes refundable to assessee (on account of assessed tax on final assessment being less than the tax deposited by the assessee) [Section 60].
- j) Refund of taxes on **purchases made by UN bodies** or embassies etc. [Section 54(2)].
- k) Supplier has paid taxes in excess and such burden has not been passed on

Time limit within which refund claim can be filed

Any person claiming refund of any tax, interest, if any, paid on such tax or any other amount paid by him, **may make an application** before the **expiry of 2 years** from the '**Relevant Date**' in prescribed form and manner. [Section 54(1)]



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A registered person, claiming refund of any balance in the **electronic cash ledger** in accordance with the provisions of Section 49(6), may claim such refund **in such form in the return furnished u/s 39** and manner as may be prescribed. **[Section 54(1)] [Amended vide Finance Act 2022]**

A registered person may claim **refund of any unutilized input tax credit** at the end of any tax period in case of following:

- **zero rated supplies without payment of tax or**
- **accumulated ITC on account of inverted duty rate structure (except notified supplies of goods or services or both)**

at, the end of any tax period. **[Section 54(3)]**

Meaning of Relevant Date

Cases	Relevant Date
In case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs/input services used in such goods and	
Goods are exported by sea or air	Date on which the ship or the aircraft in which such goods are loaded , leaves India
Goods are exported by land	Date on which such goods pass the frontier
Goods are exported by post	Date of dispatch of goods by the Post Office concerned to a place outside India
In 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, and	
Supply of services had been completed prior to the receipt of such payment	Date of receipt of payment in convertible foreign exchange or in INR where permitted by the RBI.
Payment for the services had been received in advance prior to the date of issue of the invoice	Date of issue of invoice
In case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods	Date on which the return relating to such deemed exports is furnished
in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit	Due date for furnishing of return u/s 39 in respect of such supplies



Where tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal/any court	Date of communication of such judgment , decree, order or direction
In case of refund of unutilised ITC in case of inverted duty structure	Due date of return u/s 39 for the period in which refund claim arises
In the case where tax is paid provisionally under this Act/rules made thereunder	Date of adjustment of tax after the final assessment thereof
In the case of a person, other than the supplier	Date of receipt of goods or services or both by such person
Any other case	Date of payment of tax

Refund in case of Section 77 of CGST Act [Rule 89(1A)]

Rule 89(1A) inserted vide N/N 35/2021-CT dated 24.09.2021 clarifies that the refund under section 77 of CGST Act/ Section 19 of IGST Act, 2017 **can be claimed before the expiry of two years from the date of payment of tax under the correct head**, i.e. IGST paid in respect of subsequently held inter-State supply, or CGST/SGST in respect of subsequently held intra-State supply, as the case may be. However, in cases, where the taxpayer has made the payment in the correct head before the date of issuance of notification No.35/2021-Central Tax dated 24.09.2021, the refund application under section 77 of the CGST Act/ section 19 of the IGST Act **can be filed before the expiry of two years from the date of issuance of the said notification. i.e. from 24.09.2021.**

Example: A taxpayer “A” has issued the invoice dated 10.03.2018 charging CGST and SGST on a transaction and accordingly paid the applicable tax (CGST and SGST) in the return for March, 2018 tax period. The following scenarios are explained hereunder:

Sl. No	Scenario	Last date for filing the refund claim
1	Having realized on his own that the said transaction is an inter-State supply, “A” paid IGST in respect of the said transaction on 10.05.2021	Since “A” has paid the tax in the correct head before issuance of notification No. 35/2021-Central Tax, dated 24.09.2021, the last date for filing refund application in FORM GST RFD-01 would be 23.09.23 (two years from date of notification)
2	Having realized on his own that the said transaction is an inter-State supply, “A” paid IGST in respect of the said transaction on 10.11.2021 i.e. after issuance of notification No. 35/2021-Central Tax dated 24.09.2021	Since “A” has paid the correct tax on 10.11.2021, in terms of rule 89 (1A) of the CGST Rules, the last date for filing refund application in FORM GST RFD-01 would be 09.11.2023 (two years from the date of payment of tax under the correct head, i.e. IGST)



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3	Proper officer or adjudication authority or appellate authority of "A" has held the transaction as an inter-State supply and accordingly, "A" has paid the IGST in respect of the said transaction on 10.05.2019	Since "A" has paid the tax in the correct head before issuance of notification No. 35/2021-Central Tax, dated 24.09.2021, the last date for filing refund application in FORM GST RFD-01 would be 23.09.23 (two years from date of notification)
4	Proper officer or adjudication authority or appellate authority of "A" has held the transaction as an inter-State supply and accordingly, "A" has paid the IGST in respect of the said transaction on 10.11.2022 i.e. after issuance of notification No. 35/2021- Central Tax dated 24.09.2021	Since "A" has paid the correct tax on 10.11.2022, in terms of rule 89 (1A) of the CGST Rules, the last date for filing refund application in FORM GST RFD-01 would be 09.11.2024 (two years from the date of payment of tax under the correct head, i.e. IGST)

Refund under section 77 of the CGST Act / section 19 of the IGST Act would not be available where the taxpayer has made tax adjustment through issuance of credit note under section 34 of the CGST Act in respect of the said transaction.

Application for refund of tax, interest, penalty, fees or any other amount [Rule 89]

Application form for claiming refund

Any person, except the persons covered by notification issued under section 55, claiming refund of **any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49** or any tax, interest, penalty, fees or any other amount paid by him, other than refund of IGST paid on goods exported out of India, may file electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 or **subject to the provisions of rule 10B**, an application electronically in **FORM GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner **[Rule 89(1)]**.

Shipping bill filed by an exporter shall be deemed to be an application for refund of IGST paid on the goods exported out of India [Rule 96]. There is no need for filing a separate refund claim.

(1A) Any person, claiming refund under section 77 of the CGST Act of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of 2 years from the date of payment of the tax on the inter-State supply, file an application electronically in prescribed form through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. [Rule 89(1A)]

**Filing of refund claim in special cases**

Supplies regarded as deemed exports	The application shall be filed by: a) the <i>recipient</i> of deemed export supplies, or b) the <i>supplier</i> of deemed export supplies in cases where the <i>recipient does not avail of ITC</i> on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1)].
Supplies TO a SEZ unit or a SEZ developer	The application for refund shall be filed by the - a) <i>supplier of goods</i> after such goods have been <i>admitted in full in the SEZ</i> for authorised operations, as endorsed by the specified officer of the Zone. b) <i>supplier of services</i> along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of SEZ [Second proviso to rule 89(1)].
Supplies by Casual Taxable person/Non-resident taxable person	Refund only granted if all returns are filed u/s 39 The amount of advance tax deposited by a casual taxable person or a non-resident taxable person u/s 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted to him, furnished all the returns required under section 39 Refund to be granted in the Final return Refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him u/s 27 at the time of registration, shall be claimed in the last return required to be furnished by him.

Documentary evidences for filing refund claim [Section 54(4) r/w Rule 89(2)]

The refund 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 there is no unjust enrichment*** (i.e. 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***).



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What if the amount of claim is less than ₹ 2 lakhs?

- No evidence necessary for applicant to furnish any declaration of value of claim is less than ₹ 2 lakhs.
- 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 there is no unjust enrichment** i.e. the incidence of such tax and interest had not been passed on to any other person.

What if the amount of claim exceeds ₹ 2 lakhs.?

A Certificate in Annexure 2 of Form GST RFD-01 by a Chartered Accountant or a Cost Accountant to the effect that **there is not unjust enrichment in the case of the applicant** [i.e. incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person].

Cases when no declaration by applicant or certificate required by CA/CMA

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

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

List of documentary evidences to be accompanied with application [Rule 89(2)]

The application for filing of refund claim shall be accompanied by any of the following documentary evidences as applicable, in **Annexure 1 of Form GST RFD-01** for refund claim, to establish that a refund is due to the applicant

Relevant case	Document
Refund out of order passed by appellate authority or proper officer etc.	<i>Reference number of the order</i> and a copy of the <i>order passed by the proper officer or an Appellate Authority or Appellate Tribunal or Court</i> resulting in such refund or reference number of the payment of the amount specified in Section 107(6) and Section 112(8) claimed as refund i.e. amount to be



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	deposited at the time of filing of appeal before Appellate Authority or Appellate Tribunal.
Refund is on account of export of services	Statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates (BRC/FIRC), as the case may be.
Refund is on account of export of goods <u>other than ELECTRICITY</u>	Statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices , It is important to note that realization of convertible foreign exchange is one of the conditions for export of services whereas in case of export of goods, realization of consideration is not a pre-condition. Consequently, documentary evidence in the form of a statement containing no. and date of relevant BRCs/FIRCs are not required here. [Circular No. 37/11/2018-GST dated 15.03.2018]
Refund is on account of export of <u>ELECTRICITY</u>	Statement containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement, along with the copy of statement of scheduled energy for exported electricity by Generation Plants issued by the Regional Power Committee Secretariat as a part of the Regional Energy Account (REA) under clause (nnn) of sub-regulation 1 of Regulation 2 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 and the copy of agreement detailing the tariff per unit, in case where refund is on account of export of electricity
Supply of goods made to a SEZ unit or a SEZ developer	Statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding goods admitted in full for authorized operations as endorsed by the specified officer of SEZ
Refund is on account of supply of services made to a SEZ unit or a SEZ developer	Statement containing the number and date of invoices, the evidence regarding receipt of services for authorized operations as endorsed by the specified officer of SEZ, and the details of payment, along with proof thereof, made by the recipient to the supplier for authorized operations as defined under the SEZ Act, 2005
Refund is on account of supply of goods or services made to a SEZ unit or a SEZ developer	Declaration to the effect that the SEZ unit or the SEZ developer has not availed of the ITC of the tax paid by the supplier of goods or services or both,
Refund is on account of deemed exports	A statement containing the number and date of invoices along with an: a) acknowledgment by the jurisdictional Tax officer of the Advance Authorisation (AA) holder or Export Promotion Capital Goods (EPCG) Authorisation holder, as the case may be, that the said deemed export



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	<p>supplies have been received by the said AA/EPCG Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient EOU that said deemed export supplies have been received by it.</p> <p>b) undertaking by the recipient of deemed export supplies that no ITC on such supplies has been availed of by him.</p> <p>c) undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund. [Notification No. 49/2017 CT dated 18.10.2017]</p>
Where the claim pertains to refund of any unutilised ITC accumulated on account of inverted duty structure, [output supplies being other than nil rated or fully exempt supplies]	Statement containing the number and the date of the invoices received and issued during a tax period
Where refund arises on account of finalisation of provisional assessment	Reference number of the final assessment order and a copy of the said order

Other evidences

- Statement showing the details of transactions considered as intra- State supply but which is subsequently held to be inter-State supply
- Statement showing the details of the amount of claim on account of excess payment of tax;
- Declaration to establish that there is not unjust enrichment in the case of the applicant [i.e. 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 ₹ 2 lakhs**.
- A Certificate in **Annexure 2 of FORM GST RFD-01** issued by a Chartered Accountant or a Cost Accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds ₹ 2 lakhs.

How to calculate refund of ITC in case of zero rated supply [Rule 89(4)]

Rule 89(4) stipulates that in the case of zero-rated supply of goods or services or both **without payment of tax under bond/LUT** in accordance with Section 16(3) of the IGST Act, 2017, refund of ITC shall be granted as per the following formula:



$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$

Meaning of terms

Refund amount	Maximum refund that is admissible
Net ITC	ITC availed on inputs and input services during the “ relevant period ” other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) [discussed below] or both
Turnover of zero-rated supply of goods	Lower of the two shall be taken: (i) Zero Rated Value of supply of goods made during relevant period without payment of tax under bond or letter of undertaking (ii) or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed supplier other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B)
Turnover of zero-rated supply of services	Value of zero-rated supply of services made without payment of tax under bond or LUT, calculated in the following manner <u>Meaning of zero-rated supply of services</u> a) Aggregate of the payments received during the relevant period for zero-rated supply of services ; and b) 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 c) by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.
Adjusted Total Turnover	It means the sum total of the value of: a) the turnover in a State/UT , as defined u/s 2(112), excluding turnover of services; & b) the turnover of zero-rated supply of services determined 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



REFUNDS

“Relevant period” means the period for which the claim has been filed.

Manner of calculation of ‘Adjusted Total Turnover’ under rule 89(4) clarified consequent to Explanation inserted to said sub-rule [Circular No. 197/09/2023 GST dated 17/07/2023]

Explanation to rule 89(4) inserted vide N/N 14/2022 CT dated 05.07.2022 provides that the value of goods exported out of India shall be taken as –

(i) FOB value declared in Shipping Bill/Bill of Export form

or

(ii) Value declared in tax invoice/bill of supply,

whichever is less.

The issue which arose for consideration is whether while computing "Adjusted Total Turnover" in the formula u/r 89(4), the value of goods exported out of India has to be considered as per above Explanation.

It is clarified that consequent to incorporation of above Explanation, while calculating "Adjusted Total Turnover", the value of goods exported out of India to be included will be same as being determined as per the said Explanation.

How to calculate refund of ITC in case of deemed exports [Rule 89(4A)]

Rule 89(4A) stipulates that in the case of supplies received on which the supplier has availed the benefit of deemed exports under Notification No. 48/2017 CT dated 18.10.2017, refund of ITC, availed in respect of other inputs/input services used in making zero-rated supply of goods or services or both, shall be granted.

Following supplies are notified as deemed exports u/s 147 [Notification No. 48/2017 CT dated 18.10.2017]

- a) Supply of goods by a registered person against Advance Authorisation
- b) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
- c) Supply of goods by a registered person to Export Oriented Unit
- d) Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.



How to calculate refund of unutilized ITC on account of zero rated supplies without payment of tax [Rule 89(4B)]

Rule 89(4B) stipulates that where the person claiming refund of unutilised ITC on account of zero rated supplies without payment of tax has –

- received supplies on which the supplier has availed the benefit of **Notification Nos. 41/2017 IT(R) or 40/2017 CT(R)** both dated 23.10.2017, or
- availed the benefit of Notification Nos. 78/20177 Cus. or 79/20178 Cus. both dated 13.10.2017,

the refund of ITC, 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

N/N 40/2017 CT(R) or N/N 41/2017 IT(R) – Supply of taxable goods by registered supplier to registered recipient for export then exemption is available as in excess of amount calculated @ 0.05% (CGST) or 0.1% (IGST) subject to prescribed conditions.

Example 1: A company is manufacturing laptops has 200 units valued each @ 50,000, CGST and SGST payable @ 9% each. ITC on such inputs and input services used in manufacturing was ₹ 1,00,000 each for CGST and SGST. Out of total units of laptop, company has exported 140 units under LUT and remaining 60 laptops were sold within India. Determine refund amount.

Answer:

Example 2 : A company furnished following information and ask you to compute refund eligible in respect of zero rated supply

ITC on input	2,50,000
ITC on input services	50,000
ITC on capital goods	2,00,000
Value of goods under LUT	15,00,000
Value of goods in India	35,00,000
Payment received towards service supplied for export (includes Rs. 50,000 of advance) towards services to be supplied after current period	5,50,000
Service supplied for export in relevant period for which payment received in prior period	50,000
Taxable value of service in India	5,00,000
Value of exempt supply of goods	2,00,000

Answer:



REFUNDS

How to calculate refund of ITC in case of inverted duty rate structure [Rule 89(5)]

Rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula -

Maximum Refund amount:

Add:
$$\frac{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$

Less: Tax payable on such inverted rated supply of goods and services \times **Net ITC**
ITC availed on inputs and input services

Net ITC means ITC availed on inputs during the relevant period

other than the ITC availed for which refund is claimed under 89(4A) or 89(4B) or both; and

Adjusted Total turnover has the same meaning as assigned in Rule 89(4) above.

Note: No refund allowed for inverted rate for goods like woven fabrics, knitted or crocheted fabrics, rail locomotives and railway coaches, vehicles etc. [N/N. 5/2017 CT(R)]

Example 3: Determine amount of refund available on account of inverted tax structure

ITC availed on inputs	3,60,000
ITC availed on input services	36,000
Turnover of inverted rated supply of goods (taxable @ 5%)	30,00,000
Turnover of other supply of goods (including exempted supplies ₹ 5 lakhs)	15,00,000

Answer:

**Acknowledgment of refund claim [Rule 90]**

Claim for refund from the electronic cash ledger	An acknowledgment in Form GST RFD 02 shall be made available to the applicant through the Common Portal electronically, clearly indicating the <i>date of filing of the claim</i> for refund [Rule 90(1)]
Other refund claims	<ul style="list-style-type: none">a) The application shall be forwarded to the proper officer.b) The proper officer shall, within a period of 15 days of filing of the said application, scrutinize the application for its completeness.c) Where the application is found to be complete in terms 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 claim for refund

Deficiencies in refund claim

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** [Rule 90(3)].

The time period from the date of filing of the refund claim till the date of communication of the deficiencies in the prescribed form by the proper officer, shall be excluded from the period of '2 years' as specified under section 54(1), in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies. **[Proviso to Rule 90(3) inserted vide Notification No. 15/2021 CT dated 18.05.2021]**

Facility of withdrawal of refund application by taxpayer introduced [Rule 90(5) and (6)]

Earlier the taxpayers had no option to withdraw their refund applications, if they had committed any mistakes, while filing the application. A functionality has now been implemented for the taxpayer [by inserting sub-rules (5) and (6) to rule 90 of the CGST Rules], to withdraw an already filed refund application, by filing an application in prescribed form upto a specified time. Newly inserted sub-rules provide as follows:

Rule 90(5): The applicant may, at any time before issuance of provisional refund sanction order or final refund sanction order or payment order or refund withhold order or show-cause notice, in respect of any refund application filed, withdraw the said application for refund by filing an application in the prescribed form in **FORM GST RFD-01W**.

Rule 90(6): On submission of such withdrawal application in **FORM GST RFD-01W**, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing refund application in **FORM GST RFD-01**, shall be credited back to the ledger from which such debit was made.



REFUNDS

Grant of provisional refund [Section 54(6) read with Rule 91]

- a) 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
- b) other than such category of registered persons as may be notified by the Government on the recommendations of the Council,
- c) **refund on a provisional basis, 90% of the total amount so claimed,**
- d) in such manner and **subject to such conditions, limitations and safeguards as may be prescribed**** and
- e) thereafter make an order under section 56(5) for **final settlement** of the refund claim after due verification of documents furnished by the applicant.

Conditions, limitations and safeguards prescribed to claim refund [Rule 91]

- a) The provisional refund shall be granted subject to the condition that the person claiming refund has, **during any period of 5 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 ₹ 2.5 crores.
- b) 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 in accordance with the provisions of section 54(6), 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 7 days from the date of the acknowledgement.
- c) The proper officer shall issue a payment order 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 on the basis of a consolidated payment advice.
- d) The payment order in **FORM GST RFD-05** shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued
- e) The Central Government shall disburse the refund based on the consolidated payment advice issued

Order of refund [Section 54(5)/ (7) r/w Rule 92]

Section 54(5) stipulates that if, on receipt of any such application, the proper officer is satisfied that the whole/part of the amount claimed as refund is refundable, he may make an order in **Form RFD-06** accordingly and the amount so determined **shall be credited to the Consumer Welfare Fund.**

Time limit to pass refund order

Refund order shall be issued by the proper officer within **60 days** from the date of receipt of application complete in all respects [Section 54(7)].



The time limit of 60 days shall be counted from the date of filing claim for refund as mentioned in the **acknowledgment** received for refund claim [Section 54(7) read with rule 90(1) and 90(2)].

Where the proper officer is satisfied that the amount refundable under rule 92(1)/(1A)/(2) is payable to the applicant under section 54(8)*	He shall make an order in Form RFD-06 and issue a payment order in FORM GST RFD-05 for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund on the basis of consolidated payment advise [Rule 92(4)]. The Central Government shall disburse the refund based on the consolidated payment advice issued under Rule 92(4).
Where the proper officer is satisfied that the amount refundable under rule 92(1)/(1A)/(2) is not payable to the applicant under section 54(8)*	He shall make a refund order in Form RFD-06 and issue a payment order in Form RFD-05 for the amount of refund to be credited to the Consumer Welfare Fund [Rule 92(5)]

**Section 54(8) lists the circumstances in which the refundable amount is to be paid to the applicant instead of being credited to the Consumer Welfare Fund.*

Refund to be granted both in cash and credit, based on original mode of payment [Rule 92(1A)]
[N/N. 16/2020 CT dated 23.03.2020]

Refund of tax shall now be made proportionately, in cash and by recrediting the credit, based on original mode of payment. The amount refundable in cash shall be paid by issuance of order in **Form GST RFD-06** and the amount attributable to credit as ITC shall be recredited in the electronic credit ledger by issuing **Form GST PMT-03**.

- (i) The proper officer shall make a refund order in **Form GST RFD-06** sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and
- (ii) for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue **Form GST PMT-03** re-crediting the said amount as ITC in electronic credit ledger.

The above provision shall not apply to the refund of tax paid on zero-rated supplies or deemed export. The consequential amendments have been made in rule 92(4) & 92(5).



REFUNDS

Principal of Unjust Enrichment [Section 54(8) & (9)]

Theory of unjust enrichment postulates that **only the person who has NOT passed the incidence of tax will be eligible to claim the refund**. 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'

Under unjust enrichment, a presumption is always drawn that the businessman will shift the incidence of tax to the final consumer. This is because GST is an indirect tax whose incidence is to be borne by the consumer. **It is for this reason that every refund claim if sanctioned is first transferred to the Consumer Welfare Fund.**

If the claim of refund (barring specified exceptions) passes the test of unjust enrichment, **it is paid to the applicant**. The GST law makes this test inapplicable in case of refund of unutilized ITC, refund on account of zero rated supplies, refund of payment of wrong tax (IGST instead of CGST + SGST and vice versa), refund of tax paid on a supply, which is not provided or when refund voucher is issued or if the applicant shows that he has not passed on the incidence of tax to any other person [Discussed below in detail]. In all other cases, the test of unjust enrichment needs to be satisfied for the claim to be paid to the applicant.

If the refund claim is upto ₹ 2 lakh	Self-declaration of the applicant to the effect that the incidence of tax has not been passed to any other person will suffice to process the refund claim.
For refund claims exceeding ₹ 2 lakhs	Certificate from a Chartered Accountant/Cost Accountant will have to be given

Cases where refundable amount shall be paid to the applicant [Section 54(8)]

The refundable amount shall, **instead of being credited to the Consumer Welfare Fund, be paid to the applicant**, if such amount is relatable to:

- 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;
- refund of unutilized ITC in case of zero rated supplies made without payment of tax or accumulated ITC on account of inverted duty structure;
- refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued.
- refund of tax in pursuance of section 77, i.e. tax paid tax on a transaction treated to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa.;
- the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.



Overriding impact of Section 54(8) [Section 54(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)**. Instead, refundable amount shall be credited to Consumer Welfare Fund.

Withholding of refund claim [Section 54(10), (11) & (12)]

Where the proper officer/Commissioner is of the opinion that the amount of refund is liable to be withheld u/s 54(10)/(11), he passes an order in **Part A of FORM GST RFD-07**, informing the applicant the reasons for withholding of such refund [Rule 92(2)]

Provided that where the proper officer or the Commissioner is satisfied that the refund is no longer liable to be withheld, he may pass an order for release of withheld refund in **Part B of FORM GST RFD- 07**. [Proviso to Rule 92(2)]

Default in payment of tax and filing of returns [Section 54(10)]

Section 54(10) stipulates that where any **refund of unutilized ITC is due in case of zero-rated supplies made without payment of tax or inverted duty structure, 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: [Vide Finance Act 2022 it is applicable to any refund granted under the Act]

- a) **withhold payment of refund due** until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;
- b) **deduct from the refund due**, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

**Specified date shall mean the last date for filing an appeal under this Act.

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

- a) 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 to the applicant in **Form GST RFD 08**.
- b) Applicant will be required to furnish a reply within 15 days of the receipt of such notice in **Form GST RFD 09**.
- c) The proper officer shall, after considering the reply furnished by applicant and after giving him an opportunity of being heard, make an order IN **Form GST RFD 06**, sanctioning the amount of refund in whole or part, or rejecting the said refund claim. The said order shall be made available to the applicant electronically and the provisions of rule 92(1) relating to order sanctioning refund shall, mutatis mutandis, apply to the extent refund is allowed.



REFUNDS

d) No application for refund shall be rejected without giving the applicant an opportunity of being heard.

Refund Order being withheld as it is subject matter of appeal [Section 54(11)]

Where an order giving rise to a refund is the *subject matter of an appeal* or further proceedings or where any other 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 proceedings on account of malfeasance or fraud committed, **he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.**

Interest @ 6% if as a result of appeal proceedings, he becomes entitled to refund [Section 54(12)]

Where a refund is withheld u/s 54(11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to *interest @ 6% p.a.*, if as a result of the appeal or further proceedings he becomes entitled to refund.

Minimum refund claim [Section 54(14)]

No refund shall be paid to an applicant, *if the amount is less than ₹ 1,000*. The limit of ₹ 1,000 shall apply **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**.

[Circular No. 59/ 33/ 2018 GST dated 04.09.2018]

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

- a) Where any deficiencies in refund claim have been communicated under rule 90(3), the amount earlier debited under rule 89(3) shall be re-credited to the electronic credit ledger **[Rule 93(1)]**.
- b) 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 [Rule 93(2)]**.
- c) 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 [Explanation to rule 93].

REFUND IN CASE OF GOODS OR SERVICES EXPORTED OUT OF INDIA

Exports of goods and services are zero rated. The exporter has the option either to

- (i) Export under bond/LUT **without payment of IGST** and claim refund of ITC or
- (ii) **Pay IGST** at the time of export and claim refund thereof



Refund of IGST paid on goods or services exported out of India on payment of IGST [Rule 96]

Refund Application

The **shipping bill** filed by an exporter of goods shall be **deemed to be an application for refund of IGST** 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 a departure manifest or an export manifest or an export report** covering the number and the **date of shipping bills** or bills of export; and
- (b) the applicant **has furnished a valid return in FORM GSTR-3 or FORM GSTR-3B**, as the case may be;

Provided that if there is any mismatch between the data furnished by the exporter of goods in Shipping Bill and those furnished in statement of outward supplies in Form GSTR-1, such application for refund of IGST paid on the goods exported out of India shall be deemed to have been filed on such date when such mismatch in respect of the said shipping bill is rectified by the exporter

- (c) the applicant has undergone Aadhaar authentication in the manner provided in rule 10B

In case of export of services: The application for refund of IGST 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.

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.**

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 u/s 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.

Refund of IGST

Upon the receipt of the information regarding the furnishing of a **valid return in Form GSTR 3B**, the system designated by the Customs/ proper officer of Customs, **shall process the claim of refund in respect of export of goods.**

An amount of **IGST** paid in respect of **each shipping bill/ 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.



REFUNDS

Withholding of refund of IGST: [Rule 96(4)]

The claim for refund shall be withheld where:

- (a) request has been received from the jurisdictional Commissioner of CGST/SGST/UTGST to withhold the payment of refund due to the person claiming refund in accordance with the provisions of section 54(10)/(11); or **[Rule 96(4)(a)]**
- (b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962. **[Rule 96(4)(b)]**
- (c) the Commissioner in the Board or an officer authorised by the Board, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue. **[Rule 96(4)(c)]**

Where refund is withheld in accordance with the provisions of clause (a) or clause (c) of sub-rule (4), such claim shall be transmitted to the proper officer of CGST, SGST or UTGST, as the case may be, electronically through the common portal in a system generated Form GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission. **[Rule 96(5A)]**

Where refund is withheld in accordance with the provisions of clause (b) of sub-rule (4) and the proper officer of the Customs passes an order that the goods have been exported in violation of the provisions of the Customs Act, 1962, then, such claim shall be transmitted to the proper officer of CGST, SGST or UTGST, as the case may be, electronically through the common portal in a system generated Form GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission. **[Rule 96(5B)]**

The application for refund in Form GST RFD-01 transmitted electronically through the common portal in terms of sub-rules (5A) and (5B) shall be dealt in accordance with the provisions of rule 89. [Rule 96(5C)]

Special Case of Export to Bhutan

The Central Government may pay refund of the IGST to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf. **Where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the IGST.**

**Conditions required to be fulfilled to claim refund of IGST paid on export of goods/services**

Person claiming refund of IGST paid on export of goods/ services should not have:

- (i) received supplies on which the benefit of deemed exports under Notification No. 48/2017 CT dated 18.10.2017 or benefit of Notification Nos. 41/2017 IT(R) or 40/2017 CT(R) both dated 23.10.2017 has been availed, or
- (ii) availed the benefit of N/N 78/2017 Cus. or 79/2017 Cus. both dated 13.10.2017, except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.

An explanation has been inserted to this clause which clarifies that the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid IGST and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications. **[Notification No. 16/2020 CT dated 23.03.2020]**

Refund of IGST paid on export of goods or services under bond or Letter of Undertaking (LUT) [Rule 96A]**Refund Application**

Exporter has to execute the bond or LUT **prior to export**, binding himself to pay tax along with **interest @ 18%** as under:

Export of goods	Export of services
If goods are not exported out of India within 3 months and 15 days or such further period as may be allowed by the Commissioner from the date of invoice for export	If export proceeds (of service) in freely convertible foreign exchange is not received within a period of 1 year and 15 days from the date of export invoice.

These provisions are also applicable in respect of zero rated supply of goods and/or services to a SEZ unit/Developer without payment of IGST.

Failure to export goods and pay the tax due along with interest within the period specified above results in withdrawal of the facility of export without payment of IGST and recovery of the said amount under section 79 of the CGST Act. **The facility, however, can be restored on payment of the said amount [Notification No. 37/2017 CT dated 04.10.2017].**

All registered persons are eligible to furnish a LUT **in place of a bond except those who have been prosecuted for cases involving an amount exceeding ₹ 250 lakhs** [Notification No. 37/2017 CT dated 04.10.2017]

The details of the export invoices should be submitted in GSTR-1. These details 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



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However, 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.

Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of rule 96A(1) [Circular No. 197/09/2023 GST dated 17/07/2023]

There are instances where exporters have voluntarily made payment of due IGST, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frame as prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A.

A doubt arose as to whether subsequent to export of the said goods or as the case may be, realization of payment in case of export of services, the said exporters are entitled to claim not only refund of unutilized ITC on account of export but also refund of the IGST and interest so paid in compliance of the provisions of rule 96A(1)

In this context, it has been clarified vide Circular No. 125/44/2019 GST dated 18.11.2019 that exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of 3 months, payment of IGST 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.

Further, in Para 44 of the aforesaid Circular, it has been emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made.

The above clarifications imply that as long as goods are actually exported or as the case may be, payment is realized in case of export of services, even if it is beyond the time frames as prescribed in rule 96A(1), the benefit of zero-rated supplies cannot be denied to the concerned exporters. **Accordingly, it is clarified that in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized ITC in terms of section 54(3), if otherwise admissible.**

It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, as the case may be, the said exporters would be entitled to claim refund of the IGST so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of services, within the time frame prescribed in clause (a) or (b), as the case may be, of rule 96A(1).

It is further being clarified that no refund of the interest paid in compliance of rule 96A(1) shall be admissible.



Conditions & safeguards under which a Letter of Undertaking may be furnished in place of a bond

Circular No. 08/08/2017 GST dated 04.10.2017 as amended vide Circular No. 40/14/2018 GST dated 06.04.2018 has clarified the following with regard to furnishing of bond/LUT for export without payment of tax:

a) Validity of LUT:

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

b) Form for bond/LUT:

- The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner/ Managing Director/ Company Secretary /proprietor /a person duly authorised by Board of Directors of such company or proprietor.
- The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.

c) Documents for LUT: No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.

d) Acceptance of LUT/bond: An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond, 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.

e) Bank guarantee: Since the facility of export under LUT has been extended to **all registered persons**, bond will be required to be furnished by those persons who have been prosecuted for cases involving **an amount exceeding ₹ 250 lakhs**. A bond, in all cases, shall be accompanied by a bank guarantee of **15% of the bond amount**.



f) Clarification regarding running bond:

- (i) The exporters shall furnish a **running bond** where the **bond amount would cover the amount of self-assessed estimated tax liability** on the export.
- (ii) The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount.
- (iii) 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.**
- (iv) The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter.
- (v) The record of such entries shall be furnished to the Central tax officer as and when required.

g) Sealing by officers:

- (i) Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done.
- (ii) A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

h) Realization of export proceeds in Indian Rupee:

- (i) Attention is invited to para A (v) Part I of RBI Master Circular No. 14/2015-16 dated 1st July, 2015 (updated as on 5th November, 2015), which states that ***“there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999.*”**
- (ii) Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), **all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.**
- (iii) However, **export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan”**

**Conclusion**

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ unit/Developer 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 unit/Developer 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

i) Jurisdictional officer:

In exercise of the powers conferred by sub-section section 5(3) of the CGST Act, it is hereby stated that the ***LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter.***

The exporter is at liberty to furnish the LUT/bond ***before either the Central Tax Authority or the State Tax Authority*** till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

EXPORT OF GOODS & SERVICES TO NEPAL & BHUTAN

EXPORT OF GOODS	EXPORT OF SERVICES
Export of goods to Nepal and Bhutan will be treated as zero rated and consequently will also qualify for all the benefits available to zero rated supplies under the GST regime.	<p><u>Prior to 27.10.2017:</u></p> <p>If service was supplied to recipient in Nepal/Bhutan, IGST was payable <u>if payment was not received in foreign exchange.</u></p> <p><u>W.e.f. 27.10.2017:</u></p> <p>Supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees have been exempted from payment of tax.</p> <p>Further, such services, though exempted, are also not included in the value of exempt supply for the purpose of reversal of ITC under rules 42 and 43 of CGST Rules [Newly inserted Explanation to rule 43(2) of CGST Rules]. Therefore, <i>ITC attributable to such exempt supply of services</i> is not required to be reversed.</p>



Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised [Rule 96B]

Applicability:

Where any refund of unutilised input tax credit on account of export of goods or of IGST paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the FEMA, 1999, including any extension of such period,.

Recovery of erroneous refund:

The person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, with applicable interest within **30 days** of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with Section 73 or 74 of the Act, as is applicable for recovery of erroneous refund, along with interest u/s 50.

Write-off of sale proceeds by RBI

Where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under FEMA, 1999, but the RBI writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

Subsequent recovery of export proceeds by the exporter

Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him and the applicant produces evidence about such realisation within **3 months** from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

Bank Account for credit of refund [Rule 96C]

For the purposes of Rule 91(3), Rule 92(4) and Rule 94, "bank account" shall mean such bank account of the applicant which is in the name of applicant and obtained on his Permanent Account Number:

Provided that in case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with the Aadhaar number of the proprietor. **[Notification No. 35/2021 – CT dated 24/09/2021]**

**Clarification on refund related issues [Circular No. 166/22/2021-GST dated 17th Nov 2021]**

- (1) **Whether Section 54(1) of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?**

No, Section 54(1) of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.

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

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

- (3) **Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51 /52 of the CGST Act can be refunded as excess balance in cash ledger?**

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

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

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

It is clear that clause (b) of Explanation (2) u/s 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, **irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.**

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



Prescribing manner of filing an application for refund by unregistered persons [Circular 188/20/2022 dated 27/12/2022]

Representations have been received requesting for providing a facility to such unregistered buyers/ recipients for claiming refund of amount of tax borne by them in the event of cancellation of the contract/agreement for supply of services of construction of flat/ building or on termination of long-term insurance policy.

Section 54(1) of the CGST Act already provides that any person can claim refund of any tax and interest, if any, paid on such tax or any other amount paid by him, by making an application before the expiry of two years from the relevant date in such form and manner as may be prescribed. Further, in terms of clause (e) of sub-section (8) of section 54 of the CGST Act, in cases where the unregistered person has borne the incidence of tax and not passed on the same to any other person, the said refund shall be paid to him instead of being credited to Consumer Welfare Fund (CWF).

Filing of refund application

The unregistered person, who wants to file an application for refund u/s 54(1) of CGST Act, in cases where the contract/agreement for supply of services of construction of flat/ building has been cancelled or where long-term insurance policy has been terminated, shall obtain a temporary registration on the common portal using his Permanent Account Number (PAN). While doing so, the unregistered person shall select the same state/UT where his/her supplier, in respect of whose invoice refund is to be claimed, is registered. Thereafter, the unregistered person would be required to undergo Aadhaar authentication in terms of provisions of rule 10B of the CGST Rules. Further, the unregistered person would be required to enter his bank account details in which he seeks to obtain the refund of the amount claimed. The applicant shall provide the details of the bank account which is in his name and has been obtained on his PAN.

The application for refund shall be filed in **FORM GST RFD-01** on the common portal under the category 'Refund for unregistered person'. The applicant shall upload statement 8 (in pdf format) and all the requisite documents. The refund amount claimed shall not exceed the total amount of tax declared on the invoices in respect of which refund is being claimed. The applicant shall also upload any other document(s) to support his claim that he has paid and borne the incidence of tax and that the said amount is refundable to him.

Separate applications for refund have to be filed in respect of invoices issued by different suppliers. Further, where the suppliers, in respect of whose invoices refund is to be claimed, are registered in different States/UTs, the applicant shall obtain temporary registration in the each of the concerned States/UTs where the said supplier are registered

Refund claim allowed only when time limit for issuance of credit note has expired

Where the time period for issuance of credit note under section 34 of the CGST Act has not expired at the time of cancellation/termination of agreement/contract for supply of services, the concerned suppliers can issue credit note to the unregistered person. In such cases, the supplier would be in a position to also pay back the amount of tax collected by him from the unregistered person and therefore, there will be no need for filing refund claim by the unregistered persons in these cases. Accordingly, the refund claim can be filed by the



unregistered persons only in those cases where at the time of cancellation/termination of agreement/contract for supply of services, the time period for issuance of credit note under section 34 of the CGST Act has already expired.

Relevant date for filing of refund:

The time period of two years from the relevant date has been specified for filing an application of refund. Further, the relevant date in respect of cases of refund by a person other than supplier **is the date of receipt of goods or services or both by such person**

It has been decided that for the purpose of determining relevant date in terms of clause (g) of Explanation (2) under section 54 of the CGST Act, **date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier** will be considered **as the date of receipt of the services by the applicant**

Minimum refund amount

Section 54(14) of the CGST Act provides that no refund u/s 54(5) or 54(6) shall be paid to an applicant, if amount is less than ₹ 1,000. Therefore, no refund shall be claimed if the amount is less than ₹ 1,000.

Issue of order

The proper officer shall process the refund claim filed by the unregistered person in a manner similar to other RFD-01 claims. The proper officer shall scrutinize the application with respect to completeness and eligibility of the refund claim to his satisfaction and issue the refund sanction order in FORM GST RFD-06 accordingly. The proper officer shall also upload a detailed speaking order along with the refund sanction order in FORM GST RFD-06.

Proportionate refund

In cases where the amount paid back by the supplier to the unregistered person on cancellation/termination of agreement/contract for supply of services is less than amount paid by such unregistered person to the supplier, only the proportionate amount of tax involved in such amount paid back shall be refunded to the unregistered person.



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

Introduction

Supplies made to UN bodies and embassies may be exempted from payment of GST as per international obligations. However, **this exemption has been operationalized by way of a refund mechanism**. So, a taxable person making supplies to such bodies would charge the tax due and remit the same to Government account.

Who is entitled to refund u/s 55?

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

- (i) any specialized agency of the United Nations Organisation; or
- (ii) any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947; or
- (iii) Consulate or Embassy of foreign countries; and
- (iv) 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 inward supplies of goods or services or both received by them.

Who all are notified persons by Government u/s 55?

Following persons have been notified, subject to fulfilment of specified conditions:

- (i) United Nations or a **specified international organization****; and
- (ii) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein.

Further, in exercise of said power, **Canteen Stores Department (CSD)**, under the Ministry of Defence, has been notified as a person who shall be entitled to claim a **refund of 50% of the applicable CGST/IGST** paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD

****Specified international organisation means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947, to which the provisions of the Schedule to the said Act apply.**

**Time period for filing refund claim [Section 54(2) r/w Rule 95(1)]**

The eligible persons can claim refund of the taxes paid by them on their purchases. The claim has to be made before the expiry of 2 years from the last day of the quarter in which such supply was received. [Amended vide Finance Act 2022]

Form and documents for filing the refund claim [Rule 95(1)]

- (i) Persons eligible to claim refund u/s 55 shall submit the application for refund in **Form GST RFD-10**, electronically or **otherwise** on the common portal, **once in every quarter**
- (ii) along with a Statement of the Inward Supplies of goods or services or both in **Form GSTR-11**

Acknowledgment for refund claim [Rule 95(2)]

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

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

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;

A proviso has been inserted retrospectively, with effect from 01.04.2021, to said sub-rule to provide that where UIN of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorised representative of the applicant, is submitted along with the refund application in prescribed form. Thus, if UIN is not mentioned in the tax invoice, then refund shall be available to the applicant on submission of the attested copy of such invoice in the prescribed form; and

- c) such other restrictions or conditions as may be specified in the notification are satisfied.

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

Supremacy provision in case of inconsistency [Rule 95(5)]

Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.



INTEREST ON DELAYED REFUNDS [SECTION 56 OF CGST ACT]

Interest on amount refundable consequent to order passed by Proper Officer u/s 54(5)	<p>Where any tax ordered to be refunded under section 54(5) to any applicant is not refunded within 60 days from date of receipt of application under section 54(1), interest shall be payable to the applicant</p> <p>Rate: 6% p.a.</p> <p>Period: Delay beyond 60 days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed.</p>
Interest on amount refundable consequent to order passed in an appeal or further proceedings	<p>Where any claim of refund arises from an order passed by an Adjudicating Authority or Appellate Authority or Appellate Tribunal or Court which has attained finality and the same is not refunded within 60 days from the date of receipt of application filed consequent to such order, interest shall be payable on such refund</p> <p>Rate: 9% p.a.</p> <p>Period: from the date immediately after the expiry of 60 days from the date of receipt of application u/s section 54(1) till the date of refund of such tax.</p>

Order sanctioning interest on delayed refunds [Rule 94]

- (i) Where any interest is due and payable to the applicant u/s 56, the proper officer shall make an order along with a payment order in **Form GST RFD-05**.
- (ii) Such order shall specify therein:
 - the **amount of refund** which is delayed,
 - the **period of delay** for which interest is payable and
 - the **amount of interest** payable.
- (iii) Such 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

**Clarification on certain refund related issues****Clarification with regard to refund of excess balance in the electronic cash ledger**

No time period for filing refund claim	The provisions of section 54(1) regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.
No certificate/declaration required to establish that there is no unjust enrichment	In case of refund of excess balance in electronic cash ledger, neither a declaration by the applicant nor a certificate by a Chartered Accountant/ Cost Accountant is required to be furnished, to establish that there is no unjust enrichment (i.e. for not passing the incidence of tax to any other person).
TDS/TCS deposited in electronic cash ledger can be refunded as excess balance in cash ledger	<p>The amount deducted/collected as TDS/TCS by TDS/TCS deductors under the provisions of sections 51/52 and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose for discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers.</p> <p>Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under the CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to section 54(1) read with section 49(6).</p>



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

Introduction

Consumer Welfare Fund was created to promote and protect the welfare of consumer, create consumer awareness and strengthen consumer movement in the country, particularly in rural areas. Amount of refund which is not payable to the applicant is credited to the Consumer Welfare Fund.

Amount of refund is ***paid to the applicant in case where there is no unjust enrichment***; i.e. the incidence of tax has not been passed by the supplier to the recipient as also in the circumstances where the principle of unjust enrichment is not applicable [specified in section 54(8)].

Otherwise, the said amount is credited to the Consumer Welfare Fund.

Amount to be credited to Consumer Welfare Fund

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

- a) Amount of refund determined by an order passed u/s 54(5),
- b) any income from investment of the amount credited to the Fund; and
- c) such other monies received by it,

in such manner as may be prescribed under rule 97 of the CGST Rules, 2017.

Amounts to be credited to/paid from Consumer Welfare Fund [Rule 97]

- a) All amounts of duty CGST/ SGST/ IGST/ UTGST/ cess and income from investment along with other monies specified in section 12C(2) of the erstwhile Central Excise Act, 1944, section 57 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017, section 21 of the UTGST Act, 2017 and section 12 of the GST (Compensation to States) Act, 2017 **shall be credited to the Fund** [discussed earlier in this chapter] **[Rule 97(1)]**.
- b) An amount equivalent to 50% of the amount of IGST determined under section 54(5) of the CGST Act, read with section 20 of the IGST Act, shall be deposited in the Fund **[Proviso to rule 97(1)]**.
- c) An amount equivalent to 50% of the amount of compensation cess determined under section 54(5) of the CGST Act, read with section 11 of the GST (Compensation to States) Act, shall be deposited in the Fund. **[Second Proviso to rule 97(1)]**
- d) Any amount, having been credited to the Consumer Welfare Fund, ordered or directed as payable to any claimant by orders of the proper officer, Appellate Authority or Appellate Tribunal or Court, shall be paid from the Fund **[Rule 97(2)]**.



- e) The Committee shall make available to the Board 50% of the amount credited to the Fund each year, for publicity or consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is **not less than ₹ 25 crs. p.a.**

Utilisation of Consumer Welfare Fund [Section 58 of the CGST Act, 2017 r/w Rule 97 of the CGST Rules, 2017]

- a) All sums credited to the Consumer Welfare Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed [Section 58(1) of the CGST Act].
- b) The Government shall, by an order, constitute a Standing Committee who shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers [Rule 97(4)].

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

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

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

Manual filing and processing [Rule 97A]

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.

Bunching of refund claims across financial years permitted [Circular No. 135/05/2020 GST dated 31.03.2020]

It has been clarified that while filing the refund claim, an applicant may, at his option, file a refund claim for a tax period or by clubbing successive tax periods. Earlier, there was a restriction on bunching of refund claims across financial years; now the said restriction has also been relaxed.

For instance, a registered person opting to file Form GSTR-1 on quarterly basis can apply for refund on a quarterly basis or clubbing successive quarters and these quarters may spread across different financial years. Thus, he can file refund claim for quarters: Jan-Mar, Apr-Jun and July-Sep, while filing the refund claim



Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws [Circular No. 137/07/2020 GST dated 13.04.2020]

Issues	Clarification
<p>An advance is received by a supplier for a service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST</p> <p>Issue: Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?</p>	<p>Supplier is required to issue a “credit note” u/s 34. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to Section 34. There is no need to file a separate refund claim.</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through Form GST RFD-01”.</p>
<p>Advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received.</p> <p>Issue: Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?</p>	<p>If no invoice has been issued u/s 31(2), he is required to issue a refund voucher u/s 31(3)(e).</p> <p>The taxpayer can apply for refund of GST paid on such advances by filing Form GST RFD-01 under the category “Refund of excess payment of tax”.</p>
<p>Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?</p>	<p>Supplier to issue a credit note u/s 34 which shall be declared in the return for the month of issue. The tax liability shall be adjusted in the return. There is no need to file a separate refund claim.</p> <p>Where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through Form GST RFD-01.</p>

**Forms relating to Refund**

Form No.	Particulars
GST-RFD-01	Application for Refund
GST-RFD-01 A	Application for Refund (Manual)
GST-RFD-01 B	Refund Order details
GST-RFD-02	Acknowledgment
GST-RFD-03	Deficiency Memo
GST-RFD-04	Provisional Refund Order
GST-RFD-05	Payment Order
GST-RFD-06	Refund Sanction/Rejection Order
GST-RFD-07	Order for Complete adjustment of sanctioned Refund
GST-RFD-08	Notice for rejection of application for refund
GST-RFD-09	Reply to show cause notice
GST-RFD-10	Application for Refund by any specialized agency of UN or any Multilateral Financial Institution and Organization, Consulate or Embassy of foreign countries, etc.
GST-RFD-10A	Application for refund by Canteen Stores Department
GST-RFD-10B	Application for refund by Duty Free Shops/ Duty Paid Shops (Retail Outlets)
GST-RFD-11	Furnishing of bond or Letter of Undertaking for export of goods or services