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REFUND UNDER GST

1 Introduction: Section 54 of CGST Act contains the provisions for refund. It is not properly drafted so as to easily understand who is eligible to claim refund and refund of what. Therefore, these notes are prepared on the basis of relevant Rules, Notifications and Circulars. As the provisions of State Act are identical to Central Act, the Section and Rules only of Central Act are mentioned. Only where it has become necessary, the reference of IGST Act is mentioned.

2 Section 54(2) provides for refund of tax paid on inward supplies of goods or services or both to following persons.

- a) A specialized agency of the United Nations Organization (UNO)
- b) Multilateral Financial Institution and organization notified under the United Nations (Privileges and Immunities) Act, 1947
- c) Consulate or embassy of foreign countries
- d) Any other person or class of persons as notified (section 55 of CGST Act)

3 Section 54(3) provides for refund of any unutilized ITC at the end of any tax period to following registered persons:

- a) Who made zero rated supplies without payment of tax which includes the following:-
 - (i) Export of goods made without payment of Tax.
 - (ii) Export of Services made without payment of Tax.
 - (iii) Supplies of Good / Services made to SEZ Unit without payment of Tax.
 - (iv) Supplies of Good / Services made to SEZ Developer without payment of Tax.
- b) Registered persons covered under Inverted Duty Structure except who are notified.

4 No refund of unutilized ITC shall be allowed in cases where the goods exported are subjected to export duty.[Second proviso to Section 54(3)]

5 No refund of ITC shall be allowed, if the supplier of goods or services or both avails of drawback in respect of Central Tax or claims refund of IGST paid on such supplies. [Third proviso to Section 54(3)]

6 Section 54(8) provides that refundable amount shall be paid to the applicant if such amount is relatable to:

- a) Refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports.
- b) Refund of unutilized ITC under Section 54(3).
- c) Refund of tax paid on a supply which is not provided, either wholly or partially and for which invoice has not been issued, or where a refund voucher has been issued.
- d) Refund of tax in pursuance of Section 77 i.e. of tax wrongfully collected and paid to Central & State Government.
- e) 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.
- f) Tax or interest borne by such other class of applicant as the Government may on the recommendation of the Council by notification, specify.

7 Refund of IGST paid on goods or services exported. (Rule 96):

(1) In case of goods:

- (i) Shipping Bill filed shall be deemed to be an application.
- (ii) This refund will be processed by the system designated by the Customs or proper officer of Customs.
- (iii) Refund of each shipping bill or bill of export shall be electronically credited to bank account of the applicant.

(2) In case of services the application shall be in FORM GST RFD-01 and it will be dealt with in accordance with the provisions of Rule 89.

(3) Clause (a) and (b) of sub-rule (10) of Rule 96 provides some restrictions on refund of goods as well as of services.

8 Refund to deemed exporter

- i) The recipient of Deemed Export of 0.1% paid

ii) Refund to Deemed exporter (who has charged 0.1%) of Tax paid if the actual Exporter does not avail ITC on such supplies and furnishes undertaking that the supplier may claim the Refund.

- 9 Refund to international Tourist:-**Section 15 of the IGST Act provides that an international tourist procuring goods in India, may while leaving the country seek refund of IGST paid by them. The term, “tourist” has been defined and refers to any person who is not normally resident in India and who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.
- 10 Refund of tax to retail outlets** established in departure area of an international Airport beyond immigration counters making tax free supply of **indigenous goods** to an outgoing international tourist **will be as per Rule 95A**, upon filing application monthly/quarterly, electronically in **FORM GST RFD 10B** along with a self-certified compilation of information of invoices. **As per Explanation to aforesaid rule, outgoing international tourist** means, a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.
- 11 Refund to Input Service Distributor (ISD):** Procedure has been clarified by Circular No.45/19/2018-GST dated 30.05.2018.
- 12 Refund to a person paying tax u/s 10:** Procedure has been clarified by Circular No.45/19/2018-GST dated 30.05.2018.
- 13. Refund to Non-resident taxable person:** Procedure has been clarified by Circular No.45/19/2018-GST dated 30.05.2018.
- 14 Refund to Canteen Stores Department(CSD):** Procedure has been clarified by Circular No.60/34/2018-GST dated 04.09.2018.
- 15 Refund of excess balance in the electronic cash ledger.**
- 16 Refund of excess payment of tax** as specified in sub-section (1) and (2) of Section 77.
- 17 Refund of tax paid on intra-state supplies which is subsequently held to be inter-state supply and vice versa.**
- 18 Refund on account of assessment/provisional assessment/appeal/any other order.**
- 19 Refund on account of “any other” ground or reason.**
- 20 Consumer Welfare Fund** [Section 54(5) Rule 97]: Refund amount determined shall be credited to consumer welfare fund (barring exceptions specified in clause (a) to (f) of Section 57). Every claim of refund need to pass the test of

unjust enrichment. For crossing the bar of unjust enrichment, if the refund claim is less than Rs.2 Lakhs, a 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 Rs. 2 Lakhs, a certificate from a Chartered Accountant/Cost Accountant shall be given.

- 21 Provisional Refund** [Section 54(6) Rule 91]: In case of zero rated supplies of goods or services or both (other than such category of registered persons as may be notified by the Government on the recommendation of the Council), provisional refund of 90% can be granted by excluding ITC provisionally accepted. This is subject to a condition that the applicant for the last five years is not prosecuted for any offence where the tax evaded was not more than Rs.2.50 lakhs.
- 22 Refund of advance tax paid by casual taxable person** will not be refunded unless all returns are filed. [Section 54(13)]
- 23 Credit of rejection of refund** to electronic credit register. It will be made as per Rule 93. The Explanation to aforesaid rule provides that a refund shall be deemed to be rejected if the appeal is finally rejected or if the claimant gives an undertaking in writing that he will not file an appeal.
- 24 No Refund if amount is below Rs. 1,000/-.** [Section 54(14)]
- 25 Interest on delayed Refunds**[Section 56 Rule 94]
- 26 Bond or letter of undertaking for export of goods or services.(Rule 96A):**
- (1) Any registered person can avail the option to supply goods or services for export without payment of IGST.
 - (2) Prior to export, a bond or letter of undertaking in FORM GST RFD-11 shall be furnished to the jurisdictional Commissioner binding himself to pay tax with interest specified u/s 50(1):
 - (i) If the goods are not exported.
 - (ii) If the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees wherever permitted by RBI.
 - (3) Details of export invoices contained in FORM GSTR-1 shall be electronically transmitted to the system designated by Customs.
 - (4) Confirmation of goods exported shall be electronically transmitted to the common portal from the said system.
 - (5) Where the goods are not exported within the time specified and if such person fails to pay the amount mentioned in sub-rule (1), the export so allowed under

bond/LUT shall be withdrawn and said amount shall be recovered as provided u/s 79.

- (6) Upon payment of the aforesaid amount the export allowed under bond/LUT shall be restored.
- (7) The Board by notification may specify the conditions and safeguards under which LUT may be furnished in place of bond.
- (8) The provisions of sub-rule (1) shall apply in respect of zero rated supply of goods or services or both to SEZ developer or SEZ unit without payment of IGST.

27 Following persons shall make application for refund:

- i) Supplies to SEZ unit or to SEZ Developer (Second proviso to Rule 89(1).
- ii) Supplier of goods after such goods have been admitted in full in SEZ for authorized operations, as endorsed by specified officer of the Zone.
- iii) Supplier of Services along with evidence regarding receipt of services for authorized operations as endorsed by the specified officer of the Zone.
- iv) Casual Taxable Person or Non-resident Taxable Person, after adjusting the tax payable out of Advance deposited at the time of Registration. It shall also be claimed in the last Return (Last Proviso to Rule 89(1).

28 Manual filing and processing (Rule 97A):The procedure prescribed for electronic filing etc. For manual filing of the application, intimation, reply, declaration, statement, notice, order or certificate.

29 Refund Application shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD -01 to establish that a refund is due to the applicant:

- a) If the Refund is arising out of result of any order passed by the proper officer / appellate authority / Appellate Tribunal / court, then
 - i) The reference number of the order **AND**
 - ii) Copy of the order resulting in such refund or reference number of the payment of the amount specified in section 107(6), 112(8).
- b) In case of export of Goods :-
 - i) A statement containing the number and date of shipping bills **OR**
 - ii) Bills of exports with number and date.
- c) In case of export of Services:-
 - i) A statement containing the number and date of invoices **AND**
 - ii) The relevant bank Realisation Statement **OR**
 - iii) Foreign Inward Remittance Certificate

- d) In case of supply of Goods to SEZ unit or to SEZ Developer:-
- i) A statement containing the number and date of invoices **AND**
 - ii) Evidence regarding the endorsement Specified **AND**
 - iii) A declaration to the effect that tax has not been collected from the SEZ unit / SEZ developer.

(e & f) In case of supply of Services to SEZ unit or SEZ Developer:-

- i) A statement containing the number and date of invoices **AND**
- ii) Evidence regarding the endorsement Specified in second proviso to sub-rule (1) **AND**
- iii) Details of Payment along with the proof thereof **AND**.
- iv) A declaration to the effect that tax has not been collected from the SEZ unit or the SEZ developer.

g) In case of Deemed Export:-

- i) A statement containing the number and date of invoices;
- ii) Along with such other evidence as may be notified.

h) In case of Invert Duty Structure:-

- i) A statement containing the number and the date of the invoices received and issued during a tax period.

i) In case of Provisional Assessment:-

- a) Reference number of the final assessment order **OR**
- b) A copy of the said order where the refund arises on account of the finalisation of provisional assessment.

(j) Where intra-State supply is subsequently held to be inter-State supply- A statement showing the details of such transactions.

(k) In case of excess payment of tax- A statement showing the details of said amount.

(l) Where the Refund is less than Rs. 2 Lakh- A declaration that the incidence of Tax, Interest or any other amount claimed as refund has not been passed on to any other person. **This declaration is not required in following cases covered by Section 54(8)(a)(b)(c)(d)(f):-**

- a) Refund in case of Zero rated Supplies
- b) Refund because of Inverted Duty Structure
- c) Refund of tax on a supply where it was not wholly completed and refund voucher issued
- d) Refund of Tax paid wrongly i.e. instead of IGST , CGST & SGST paid or visa versa
- f) The tax & Interest to be borne by classes of Persons notified

- (m) where refund exceeds Rs. 2 Lakhs- A Certificate issued by CA or CMA in Annexure 2 of GST RFD -01, to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed to any other person, in case where the amount of refund claimed exceeds two lack rupees.

30 Computation of refund amount and important definitions:

- 1) **Zero Rates Supplies without Payment of Tax-** Refund of ITC shall be granted as per following Formula:- Rule 89(4)

Refund Amount = (Turnover of Zero-rated supply of goods + Turnover of Zero Rated supply of Service) * Net ITC / Adjusted Total Turnover

- "Refund amount" means the maximum refund that is admissible;
- While computing Refund Section 17(5) should be considered.
- "Net ITC" means input tax credit availed on inputs and input services during the relevant period **other than** the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;
- The Reason for the above is to reduce the ITC for which refund is claimed as Deemed Exporter under sub-rules (4A) or (4B) or both.
- "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, **other than** the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;
- The Reason for the above is to reduce Turnover of Deemed Export under sub-rules (4A) or (4B) or both from Gross Export and consider only Zero Rated Supplies of Goods on which Tax is not Paid.
- "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-
- Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

- In other Words, turnover of zero-rated supply of services without Payment of Tax includes total payments received during the relevant period + That Advance Received in earlier Tax Period for Zero Rated Supply and for which Supply has been completed. **BUT does not include the advance received for which supply has not been completed.**
- Adjusted Total Turnover means the sum total of the value of-
 - (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and CGST, SGST, IGST & CESS.
 - (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, **Means**
 - payments received during the relevant period + That Advance Received in earlier Tax Period for Zero Rated Supply and for which Supply has been completed **EXCLUDING**
 - Advance received for which supply has not been completed;

From the above, following to be reduced:-

- (i) the value of exempt supplies (Exempt Supplies includes NIL Rated and Non Taxable Supply) 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. (This mean turnover of Deemed Export supplies of Goods on which Refund is claimed.)
 - Relevant period means the period for which the claim has been filed.

2) **Inverted duty structure:-** Refund of ITC shall be granted as per following formula:-

- Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.
- For the Calculation of this refund amount the meaning of “Net ITC” and “Adjusted Total Turnover” is the same which are used for calculating Refund for Zero Rates Supplies without Payment of Tax.

31 Time period & type of Refund Application Form: From 26.09.2019 all applications to be filed electronically. Refer Circular No. 125/44/2019 – GST dt. 18.11.2019.

| Persons | GST Form | Time period etc. |
|--|--|--|
| Persons other than persons notified u/s 55 and export of goods made with payment of Tax | GST-RFD-01 | Within two years from the relevant date. Various Dates have been specified as relevant date in clause (2) of the Explanation provided after sub-section (14) to Section 54. |
| Refund of tax to any person notified u/s 55 will be as per Rule 95 | FORM GST RFD 10, along with a statement of inward supplies of goods or services or both in FORM GST RFD 11 | Application once in every quarter, within eighteen months from the last date of the quarter in which such supply was received. Section 54(2), Notification No. 20/2018 – Central Tax dt. 28.03.2018. |
| Refund of balance in Electronic cash ledger | GST-RFD-01 | Claim to be made through Form GSTR -03 or 3B, GSTR -4 or GSTR -7 |
| Duty Free Shops/Duty Paid Shops (Retail outlets) | GST-RFD-10B | Introduced vide Notification No.31/2019-CT dt 28.06.2019 wef 01.07.2019 |
| If defect Memo in Form GST-RFD-03 is issued | Fresh application | Within two years |
| Acknowledgment | Form GST-RFD -02 | It will be issued by proper officer after satisfaction that the application is correct. |
| Withholding the refund | | Section 54(10) (11) |
| Interest on withheld Refund | | Section 54(12) |
| Provisional refund | | |
| Final Order of refund | | Will be made under Section 54(6) read with Rule 92. |
