Refunds Under GST

CA. Deep Koradia

BHUJ BRANCH OF WIRC OF ICAI

Types of Refunds:

A. Refund of **unutilized input tax credit (ITC)** on account of exports of **Goods and Services** without payment of tax [Sec 54]

B. Refund of **tax paid on export of Goods** with payment of tax [Sec 54]

C. Refund of **tax paid on export of Services** with payment of tax [Sec 54]

D. Refund of unutilized ITC on account of supplies made to **SEZ Unit/SEZ Developer without payment of tax [Sec 54]**

E. Refund of tax paid on supplies made to **SEZ Unit/SEZ Developer with payment of tax** [Sec 54]

F. Refund of unutilized ITC on account of accumulation due to **Inverted Tax Structure** [Sec 54]

G. Refund to **supplier** of tax paid on **deemed export supplies [Sec 148, NN 48-2017 CT]**

H. Refund to **recipient** of tax paid on **deemed export supplies [Sec 148, NN 48-2017 CT]**

I. Refund of **excess balance in the electronic cash ledger [Sec 54(1)]**

J. Refund of **excess payment of tax** [Sec 54]

K. Refund of tax paid on **intra-State supply which is subsequently held to be inter-State supply** and vice versa [Sec 54(8)(d) & Sec 77]

L. Refund on account of assessment/provisional assessment/appeal/any other order

M. Refund on account of "any other" ground or reason

Can Refund Be claimed at the time of Filling Annual Return OR At the time of Assessment?

Big NO

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Things Related to GST Refund

"Export of Goods and Services Without Payment of Taxes"

- **CGST Act, 2017 - Section 54, 56** & Relevant Definitions

- **IGST Act, 2017 – Section 16** & Relevant Definitions [2(5) - Export of Goods, 2(6) - Export of Services, 2(14) - **location of the recipient of services, 2(15) - location of the supplier of services.**

- CGST Rules, 2017 – **Rule 89 to Rule 97A** along with Forms

- **Circular 110-2019 Dated 03.10.2019** - If Application Filled for Refund NIL by mistake, then one may apply under Any Other Category.

- **Circular 111-2019 Dated 03.20.2019** - Refund in RDF01 after favorable order in appeal

- **Circular 125-2019 Dated 18.11.2019** - Fully electronic refund process through FORM GST RFD-01 [Master Circular]

- **Circular 131-2020 Dated 23.01.2020** - Standard Operating Procedure (SOP) to be followed by exporters -reg.

- **Circular 135-2020 Dated 31.03.2020** - Clarification on refund related issues [Read with Circular 125-2019]

- **Circular 137-2020 Dated 13.04.2020** - Circular clarifying issues in respect of challenges faced in implementation of provisions of GST issued

- **Circular 139-2020 Dated 10.06.2020** - ITC on Imports, ISD, RCM not to be matched with 2A

- **Circular 147-2021 Dated 12.03.2021** – Clarification of taking ITC by Purchaser of Deemed export, Zero rated supply by mistake shown In 3.1(a) of GSTR-3B mistake allowed till 31-03-2021, Calculation of ATTO incase export value is more than 150% of domestic sale

- **Circular 160-2021 Dated 20.09.2021** – if Export duty is NIL, refund is allowed

- **Cirular 161-2021 Dated 20.09.2021** - Clarification relating to export of services-condition (v) of section 2(6) of the IGST Act 2017

- **Cirular 162-2021 Dated 22.09.2021** - Clarification in respect of refund of tax specified in section 77(1) of the CGST Act

- **Circular 166-2021 Dated 17.11.2021** - Clarification for refund related issued for cash ledger and deemed exports

- **Circular 168-2021 Dated 30.12.2021** - Use ANY OTHER Category to file refund incase of Merger of UTs

- **DO NOT READ** CIRCULARS 17-2017, 24-2017, 37-2017, 45-2018, 59-2018, 70-2018, 79-2018 & 94-2018 as these circulars are for older method of Refund i.e. RFD-01A

| Law | • CGST Act, 2017 - Section 54, 56 & Relevant Definitions |
| | • IGST Act, 2017 – Section 16 & Relevant Definitions |

| Rules | • CGST Rules, 2017 – Rule 89 to Rule 97A (Relevant to "Export of Goods & Export of Services made without payment of Taxes") |

| Forms | • Process Flow of Form RFD-01 to RFD-11 |

| Pre-req. | • Pre-requisites before filing for Refund |
| | • Checklist of the refund |

| RFD-01 | • Practical Example of filling RFD-01 Online |

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Law

- CGST Act, 2017 - Section 54, 56 & Relevant Definitions
- IGST Act, 2017 – Section 16 & Relevant Definitions

Types of Refunds from Unutilized ITC – 54(3)

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

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

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

(ii) where the credit has accumulated on account of rate of tax ....

What if?

- Goods are subject to Export Duty?

- availed of Duty Draw Back in respect of central tax?

- Export of Exempted Goods?

- Aadhar Authentication is not done as per Rule 10B?

- Returns for which due date is gone is not yet filled?

Zero Rated Supply [Section 16 of IGST Act]

(1) "zero rated supply" means any of the following supplies of goods or services or both, namely: -

(a) **export of goods** or **services or both**; or

(b) supply of goods or services or both [1][for authorized operations] **to a Special Economic Zone developer or a Special Economic Zone unit**.

"Export of Goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place 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;

Relevant Date – Goods Exported outside India

(a) in the 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 or input services used in such goods,-

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(ii) if the goods are exported by land, the date on which such goods pass the frontier; or

(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

Relevant Date – Services Exported outside India

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of-

(i) receipt of payment in convertible foreign exchange [6][or in Indian rupees wherever permitted by the Reserve Bank of India] , where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

Rules

- CGST Rules, 2017 – Rule 89 to Rule 97A (Relevant to "Export of Goods & Export of Services made without payment of Taxes")

Refund Formula

Refund Amount =

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

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What if?

- One has taken the benefit of NN 48-2017 CT [Purchase of Deemed Exports]?

- One has taken the benefit of NN 40-2017 CT Rate [Purchase of Goods @ 0.10%]?

- One has taken the benefit of NN 78-2017-Customs OR 79-2017-Customs [Import of goods against AA and EPCG License]?

- Purchase and Export are in different months? Clubbing of periods possible?

Definitions

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

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

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

Examples:

Turnover of zero-rated supply of services: Relevant Period April 2020

	Particulars	Amount
1	Total Payment Received During April 2020	100
2	Services Supplied During April 2020 For which Payment has been received earlier in March 2020	20
3	Out of Total payment Recd as per "1", Amount received as advance for which Supply of Services has not been completed	30
	Zero Rated Supply of Services for the Purpose of Rule 89(4) = [1+2-3] = [100+20-30]	90

Turnover of zero-rated supply of Goods: Relevant Period April 2020

	Particulars	Amount
1	Actual Export Invoice Value (Qty 1)	100
2	Value of Similar Item sold in domestic market by same or similar supplier	50
3	1.5 Times of Sr No 2 (As per definition, Max 1.5 Times to be taken)	75
	Value of Zero Rated Supply of Goods [1 or 3 whichever is lower]	75

Definitions

(B) **"Net ITC"** means input tax credit availed on <u>inputs</u> and <u>input services</u> [But not Capital Inputs] during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(E) **"Adjusted Total Turnover"** means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

excluding-

(i) the value of exempt supplies other than zero-rated supplies; and

(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period

Forms

- Process Flow of Form RFD-01 to RFD-11

Forms	Purpose	Relevant Provisions	Time Period	By Whom
RFD-01	Application for refund	Rule 89(1)	Refund application to be filed within 2 years from the relevant date	Applicant
RFD-01A	Application for refund to be filed online (and submitted physically)	Rule 97A	Refund application to be filed within 2 years from the relevant date	Applicant
RFD-01B	Refund Order Details	Rule 91(2), 92(1), 92(3), 92(4), 92(5) and 97A		AO
RFD-01W	Application for Withdrawal of Refund Application	Rule 90(5)	Any time before the issuance of RFD-04 / 05 / 06 / 07 / 08	Applicant
RFD-02	Acknowledgement	Rule 90(1), 90(2) & 95(2)	Within 15 days of the date of filing refund application	Proper officer
RFD-03	Deficiency memo	Rule 90(3)	Within 15 days of the date of filing refund application	Proper officer
RFD-04	Provisional refund order	Rule 91(2)	Within 7 days from date of acknowledgment as per Rule 90(2)	Proper officer
RFD-05	Payment advice	Rule 91(3), 92(4), 92(5), 94		Proper officer
RFD-06	Refund Sanction / Rejection Order	Rule 92(1), 92(3), 92(4), 92(5), 96(7) of CGST Rules	Within 60 days from date of complete application	Proper officer
RFD-07	Order for complete adjustment / witholding of sanctioned refund (including reasons for witholding of such refund)	Rule 92(2), 96(6)	---	Proper officer
RFD-08	Notice for rejection of application for refund with show cause notice	Rule 92(3)	---	Proper officer
RFD-09	Reply to Show cause notice	Rule 92(3)	Within 15 days from the date of receipt of notice in FORM RFD-08	Applicant
RFD-10	Refund application by specialized agency of UNO or MFI	Rule 95		Applicant
RFD-10B	Application for refund by Duty Free Shops/Duty Paid Shops (Retail outlets)	Rule 95A		Applicant
RFD-11	Letter of Undertaking	Rule 96A	Furnish LUT prior to export	Applicant

Pre-req

- Pre-requisites before filing for Refund
- Relevant part of Circular No 110/2019, 111/2019, 125/2019, 131/2020, 135/2020 & 137/2020
- Checklist of the refund [softcopies]

Pre-requisites before filing for Refund

- LUT has to be obtained before making any exports without payment of taxes. Circular 125/2019 gives relaxation if LUT obtained lately

- Incase of Export of Goods, EGM has to be filled for every shipping bill before filling Refund for such Invoices. [See SB Inquiry at Ice Gate, for EDI integrated Ports]

- Incase of Export of Services, FIRC / BRC has to be generated for all of such receipts against Invoice

- Exchange Rate for Export of Goods – as per Customs VS Export of Services – as per Generally Accepted Accounting Principles (Say RBI Exchange Rate)

- GSTR-1 and GSTR-3B is to be synced / Matched

- Export Invoice in GSTR-1 should have correct SB Date, SB number and Port code. [Portal will match your Statement 03 with GSTR-01. Need to amend in next GSTR-01

- If refund application filled NIL by mistake? - Circular 110-2019 – can be filled in any other category

- Refund applications has to be chronologically filled

- Once the Amount of refund is decided based on formula, need to claim from IGST Credit balance first, once IGST Credit exhausted, need to claim equally between CGST+SGST to the extent possible

Valuation for Turnover of Export of Goods
FOB vis-à-vis CIF vis-à-vis Exchange Rate

	Particulars	Invoice	Shipping Bill		Valuation at Ice-Gate
A	Value of Goods in USD	80	80		80
B	Value of Insurance & Freight in USD	20	20		Not Considered by Ice-gate
C	Total in USD	100	100		80
D	Date of Invoice	01-04-2020			
E	Date of filling of shipping bill		03-04-2020		
F	Exchange rate on respective dates	74.05	74.65		74.65
G	Value in INR (C*F)	7405	7465		5972
			Diff - 60 Rs		
				Diff - 1493	

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Checklist for Refund – Export of Goods

1. Cover Letter

2. Copy of GSTR-2A

3. Statement 3 (Json File is to be uploaded) [with SB and EGM details Incase of Export of Goods OR FIRC/BRC Details Incase of Export of Services

4. Statement 3A (Figures of Formula, part of RFD-01)

5. Statement of Invoices in Annexure B [With HSN Code for each Invoice, mentioning such invoice found in GSTR-2A or not]

6. Self-Certified copies of Purchase Invoices which does not reflected in GSTR-2A – NOW NOT ALLOWED

7. GSTR-1 Copy

8. GSTR-3B Copy

9. Export Tax Invoice along with Shipping bill (Only incase of Non-EDI Ports for Goods)

10. FIRC / BRC (Only incase of Services)

11. Declarations and Undertakings

Goods and Services Tax

Statement-3 [rule 89(2) (b) & 89(2)(c)]

Validate & Calculate

Create File To Upload

	GSTIN*		

* Indicates Mandatory Fields

From Return Period* (mmyyyy)		

Refund Type: Export without payment of tax (accumulated ITC)

* Please use clear from drop down to delete. Do not hard delete the contents

To Return Period* (mmyyyy)		

""Note:- These sheet at a time can take upto 10,000 rows / entries
Kindly download the latest version of offline utility for preparing and uploading the statement on GST portal. Else
you may face issues while uploading the statement prepared using the old version

Sr. No.*	Invoice details			Goods/ Services (G/S)*	Shipping bill/ Bill of export/ Endorsed invoice no.			EGM Details		BRC/FIRC Count	BRC/ FIRC		Error
	No.*	Date* (dd-mm-yyyy)	Value*		Port Code	No	Date (dd-mm-yyyy)	Ref No.	Date (dd-mm-yyyy)		No.	Date (dd-mm-yyyy)	
1	2	3	4	5	6	7	8	9	10	11	12	13	

Annexure-B

Statement of invoices to be submitted with application for refund of unutilized ITC

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

Declarations and Undertakings

1. DECLARATION [second proviso and third proviso to section 54(3)] *[Export Duty]*

2. DECLARATION [section 54(3)(ii)] *[ITC not included for any NIL Rated of Exempted Supply]*

3. Declaration for Non- availment of Input Tax Credit on Capital Goods in case of export of goods under LUT

4. DECLARATION [rule 89(2)(f)]

5. Declaration that no refund has been claimed against the relevant invoices

6. Declaration cum Undertaking U/s 91(1) for Non-prosecution during last 5 years

7. UNDERTAKING in relation to Section 16(2)(c) read with Section 42(2)

8. UNDERTAKING *[Non Receipt of Foreign Exchange]*

9. DECLARATION [Under Rule 89(4)(c) of CGST Rules] *[Max Value at 150% of similar goods domestically sold]*

10. Self Declaration [Rule 89(2)(l)] *[Incidence of Tax has not been passed]*

11. Verification *[of all the Declarations and Undertakings]*

Any Questions?

Thank You

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