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# Intricacies of Refund under GST

यशस्विनी - An IDOL-12 – WMEC – 05.06.24

CA Deepali Mehta



# Who can Claim Refund

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S. No.	Categories	Time Period
1	Any person can claim refund of tax and interest, if any paid on such tax.  Registered person can claim refund of any un-utilized balance in his / her Electronic Cash Ledger (ECL) – S. 54 (1) CGST Act	Within 2 Years from the date of payment of tax or interest.
2	United Nation Organisation, Multilateral Financial Institution and Organisations, Consulate, Embassy of foreign Country etc. – S. 54(2) CGST Act	Before expiry of 6 months from the last day of the quarter in which supply is received.
3	Refund of un-utilized Input Tax Credits – Zero rated supplies and Inverted rate structure (Rate of tax on inputs higher than rate of tax on output supply) – S. 54(3) CGST Act	At the end of tax period

Tax period means period for which return is required to be furnished –  
2(106)

# Who can Claim Refund

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S. No.	Categories	Time Period
4	Exporter of goods or service or both	Filing of shipping bill and return in From GSTR-3 or GSTR-3B or Table 6A
5	Supplier of goods or services or both to a Special Economic Zone (SEZ) developer of a unit located in SEZ.	Goods or Services are admitted / receipt of services in full in SEZ and endorsed by specified officer of zone.
6	Deemed Exporter	At the end of tax period.
7	Unregistered Consumer on cancellation of Flat sale or insurance Policy	Cancellation agreement

## Refund includes ....

- ❖ Refund of tax paid on zero rated supplies; or
- ❖ Inputs or Input Services used in making such zero rated supplies; or
- ❖ Supply of goods regarded as deemed exporters;
- ❖ Un-utilized input tax credit – Inverted rate of tax 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;
- ❖ 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;





## Refund ineligible

- ❖ Un-utilized balance in Electronic Credit Ledger;
- ❖ Goods exported out of India are subject to export duty;
- ❖ Suppliers avails drawback in respect of central tax or claims IGST paid on such supplier.



- ❖ (2) "relevant date" means-
- ❖ (a) in the case of goods exported out of India where a refund of tax paid is available in respect of 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;
- ❖ (b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
- ❖ 5[(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;]
- ❖ (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-

# Relevant Date

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- ❖ (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;
- ❖ (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
- ❖ (e) 7[in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;]
- ❖ (f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
- ❖ (g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- ❖ (h) in any other case, the date of payment of tax.



## Refund – Zero Rated Supplies

- ❖ Zero rated supplies means any of the following supply of goods or services or both
  - (i) export of goods or services or both; or
  - (ii) supply of goods or services or both to a SEZ developer or a unit located in SEZ for authorised operations

- ❖ Export of Goods: 2(5) of IGST  
It means ..... taking out of India to a place outside India.



- ❖ **Export of Services: 2(6) of IGST**
  - (a) supplier of service is located in India;
  - (b) recipient of service is located outside India;
  - (c) **place of supply of service is outside India;**
  - (d) payment for such service has been received by the supplier of service in **convertible foreign exchange;**
  - (e) supplier of service and recipient of service **are not merely establishment of a distinct person.**



# Refund by Zero rated supplier – Outward Supply

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Exporter / Supply to SEZ developer or unit in SEZ

Without payment of Tax

Bond / LUT - RFD 11

Claim Refund of the unutilised ITC of Inputs & Input services by applying on the GST portal



With payment of Tax

IGST

Claim Refund from the customs on the basis of shipping bill details uploaded in GSTr1

## Refund Claim Procedure – Outward Supply

- ❖ The shipping bill filed by an exporter shall be deemed to be an application of refund of IGST on the goods exported outside India.
- ❖ Such an application shall be deemed to be filed when –
  - (i) person in charge of conveyance carrying the export goods files an export manifest or an export report covering the number and date of shipping bill or bill of export; and
  - (ii) applicant had filed a valid return in GSTR-3B and Table 6A of Form GSTR-1, where Form GSTR-1 for a tax period has been extended after the return in Form GSTR-3B has been filed.
  - (iii) Details relevant to export invoice contained in Table 6A of GSTR1 shall be transmitted to the system designated by the Customs for confirmation of exports [Ice gate].

❖ Such an application shall be deemed to be filed when –

- (iv) **Customs** shall process the claim of refund and an amount equal to the IGST paid in respect of each shipping bill or bill of export shall be **electronically refunded**.
- (v) Amount would be credited to the bank account of the applicant mentioned in his registration and as intimated to Custom Authorities.
- (vi) Other refunds of IGST paid on supplies to SEZs and of inputs taxes on exports under Bond/LUT, shall be processed from the GST portal.



# Refund by Zero rated supplier – Inward Supply

- ❖ In case of zero rated supplies **without payment of tax under Bond or LUT**, refund of ITC shall be granted as per the following formula – [Rule 89(4)]

$$\text{Refund amount} = \frac{\text{Turnover of zero rated supplies (Goods + Services)}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

(A) **Refund amount** = maximum refund permissible

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

(C) **"Turnover of zero-rated supply of goods"** means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking 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;
- ❖ 5[(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.]

- ❖ (F) "Relevant period" means the period for which the claim has been filed.
- ❖ Explanation.—For the purposes of this sub-rule, the value of goods exported out of India shall be taken as –
  - ❖ (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or
  - ❖ (ii) the value declared in tax invoice or bill of supply,
- ❖ whichever is less.

## Deemed Exporter

- ❖ Following supplies of goods would be considered as “Deemed Exports”

Sr. No.	Description of supply	Benefit
1	Supply of goods by a registered person against Advance Authorization.	Authorization issued by DGFT for import or domestic procurement of inputs on pre-import basis for physical exports.
2	Supply of CG by a registered person against Export Promotion Capital Goods Authorisation.	Authorization issued by DGFT for import of capital goods for physical exports.
3	Supply by registered person to EOU	EOU means and EOU, Unit at Electronic Hardware Technology Park or Software Technology Park or Bio-Technology Park.
4	Supply of gold by a bank or PSU against Advance Authorization.	

# Deemed Exporter

- ❖ **Deemed exporter** means supply of goods as notified under section 147. [S. 2(39) – CGST Act]
- ❖ The Government may, on the recommendation of Council, notify certain transactions as deemed exports, **where goods do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.** [S. 147 – CGST Act]

## Evidence required by Deemed Exporter

- ❖ **Evidences** which are to be **produced by the supplier** of deemed export supplies for **claiming refund** -
  1. **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 supplies have been received by the said AA or EPCG Authorisation holder, or
    - Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit (EOU) that said deemed export supplies have been received by it.



## Evidence required by Deemed Exporter

2. An undertaking by the **recipient of deemed export supplies** that **no** input tax credit (ITC) on such supplies has been availed of by him.
3. An 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**.

[N. No. 49/2017 – CT – Dated 18<sup>th</sup> October 2017]



# Merchant Exporter

- ❖ **Exemption granted** on **intra-state & inter-state** supply of **taxable goods** by a registered supplier to a registered recipient for export, from so much of the Central, State & Integrated Tax leviable, as in **excess of the amount calculated at the rate of 0.1%** subject to fulfilment of following conditions -
  - a. Supply should be on a tax invoice – tax have to be charged to recipient;
  - b. Recipient have to **export said goods within a period of 90 days** from the date of issue of tax invoice by the supplier;
  - c. Recipient have to mention **GSTIN, tax invoice number** of the supplier in **shipping bill or bill of export**, as the case may be;



## Merchant Exporter

- d. Recipient should be **registered with** an Export Promotion Council or a Commodity Board recognized by the Department of Commerce;
- e. Recipient shall **place an order** on registered supplier **for procuring goods at concessional rate** and a **copy of the same** shall also be provided to the jurisdictional tax officer of the **registered supplier**;
- f. Recipient can **move the said goods from the place of supplier** –
  - (i) **directly** to Port, Inland Container Depot, Airport or Land Custom Stations from where goods are exported; or
  - (ii) **directly** to **registered warehouse** from where goods shall be move to Port, Inland Container Depot, Airport from where goods are exported.

## Merchant Exporter

- g. Recipient intends to **aggregate supplies** from **multiple suppliers and then export** - (i) goods from **each registered supplier** shall move to a registered warehouse; and
- (ii) **after aggregation**, recipient shall move goods to the Port, Inland Container Depot, Airport from where goods shall be exported.
- h. In the above situation, **Recipient shall** –
- (i) Endorse receipt of goods on the tax invoice;
- (ii) Obtains acknowledgement of receipt of goods in registered warehouse from warehouse operator;
- (iii) Endorsed tax invoice & acknowledgement of the warehouse operator shall be provided to **supplier as well as to jurisdictional tax officer of such supplier.**

## Merchant Exporter

- i. **When goods have been exported**, recipient shall provide copy of shipping bill or bill of exports containing details of GSTIN and tax invoice of supplier **along with** proof of export general manifest or export report **having been filed to the registered supplier as well as jurisdiction tax officer of the supplier.**

Supplier shall not be eligible for the above mentioned exemptions if the recipient fails to export the said goods within a period of 90 days from the date of issue of tax invoice.

[N. No. 40/2017 – CT (Rate) and N. No. 41/2017 – IGST (Rate) – dated 23-10-2017]

**Supplier is eligible to claim refund of ITC ????**

## Documents required for refund claim

Event	Documents
Export of Goods	Statement containing – <ol style="list-style-type: none"> <li>i. Number and date of shipping bill or bills of export;</li> <li>ii. Number and date of relevant export invoices</li> </ol>
Export of Services	Statement containing – <ol style="list-style-type: none"> <li>i. Number and date of invoice;</li> <li>ii. Bank realization certificate / foreign inward remittance certificate</li> </ol>
Supply of goods to SEZ / Deemed Exports	Statement containing – <ol style="list-style-type: none"> <li>i. Number and date of invoice;</li> <li>ii. Evidence of endorsement;</li> <li>iii. Declaration that SEZ has not availed any input tax credit (ITC)</li> <li>iv. Declaration that recipient has not claimed refund.</li> </ol>
Supply of services to SEZ	Statement containing – <ol style="list-style-type: none"> <li>i. Number and date of invoice;</li> <li>ii. Evidence of endorsement;</li> <li>iii. Declaration that SEZ has not availed any input tax credit (ITC)</li> <li>iv. Details of payment along with proof.</li> </ol>

## Processing of refund claims

- ❖ Powers to grant refunds has been delegated to the Officers of State and UT GST Act, who are authorized to be the proper officer for the purpose of granting or sanctioning of refunds under section 54 or 55.
- ❖ However, they are not authorized to sanction refund of IGST paid on export of goods or services and such power is vested with Officers of Central GST Act.

[N. No. 39/2017 – CT – Dated 13-10-2017]

### SANCTION

Sanctions are required to move forward!!! In simple words, something that serves as a support for your action.



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## Refund under Inverted rate Duty Structure

- ❖ In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-
- ❖ 
$$\text{Maximum Refund Amount} = \{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\} - [\text{tax payable on such inverted rated supply of goods and services} \times (\text{Net ITC} \div \text{ITC availed on inputs and input services})]$$
- ❖ Explanation:- For the purposes of this sub-rule, the expressions –
- ❖ (a) —Net ITC<sup>||</sup> shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under subrules (4A) or (4B) or both; and
- ❖ [—Adjusted Total turnover<sup>||</sup> and —relevant period<sup>||</sup> shall have the same meaning as assigned to them in sub-rule (4).]

## Refund under Inverted rate Duty Structure

- ❖ a statement [1A] containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;
- ❖ a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:
- ❖ No prosecution Declaration [as per Rule 91(1)]



## No Refund under Inverted rate Duty Structure

- ❖ No refund is allowed for the following under inverted rate duty structure:
- ❖ Various Woven fabrics as described under Notification No. 5/2017 dt. 28.06.2017
- ❖ Rail locomotives, Railway Coaches, Railway or tramway goods vans and wagons, not self-propelled as described under Notification No. 5/2017 dt. 28.06.2017
- ❖ No refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 of the said Central Goods and Services Tax Act, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act. [Construction Services]
- ❖ Corduroy fabrics [5801] from 22.09.2017 vice N. No 29/2017



## No Refund under Inverted rate Duty Structure

- ❖ Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials [5608]
- ❖ Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)".[5806]
- ❖ Vide N.No 44/2017 dt. 14/11/2017



## Other Miscellaneous

- ❖ Complete E module for refund is now available.
- ❖ New application if defect memo in RFD-03 is issued. ITC will get reccredited to ECL
- ❖ Reply to all notices to be given online along with relevant uploading of documents.
- ❖ Refund shall be processed by only one authority either state or centre.
- ❖ IGST Refund needs to be claimed in full and balance ITC refund to be distributed between CGST & SGST equally. (adjustment can be done if CGST ITC is over and SGST ITC is still available). [Circular 33T of 2018 dt. 14/11/2018 of mahagst]
- ❖ GSTR 3B & GSTR1 Discrepancy has to be resolved.

## Other Miscellaneous

- ❖ Refund rejected can be re-credited to Credit ledger if declaration is given that appeal will not be filed.
- ❖ Refund granted needs to be paid back if the sales proceeds of the export are not realised within the time limit specified in the FEMA. At present 15 Months.
- ❖ Refund can be applied for refund granted in the Appeal order on the basis of the appeal order.
- ❖ Refund will be granted only if reflected in GSTR2B





Aap  
convince ho  
gaye ya  
main aur  
bolu!

