

## **Note on Refund Under GST**

### **Structure of Note:**

<b>S. No</b>	<b>Content Described</b>	<b>Relevant Section/Rule Circular</b>
1.	List of Permissible/Allowable Refunds	Section.54
2.	Exceptions to Refund	Section 54 (3)
3.	Withholding of Refund	Section 54 (10)/54(11)
4.	Non-Payment of Refund	Section 54 (14)
5.	GST Form for Application of Refund	Rule.89
6.	Time Period/ Relevant Date for Application of Refund	Section 54 (1)/54(14)(2)
7.	Time Period and GST Form for apply of refund by the person (UNO etc.) notified under section 55.	Section 54 (2)
8.	Procedure, Processing and Sanction of Refund – Application Filed Online	Circular 125/44/2019
9.	Guidelines on Calculations/Documents for refunds of unutilized Input Tax Credit pertaining to exports without payment of tax, supplies made to SEZ Unit/SEZ Developer without payment of tax and accumulation due to inverted tax structure	Rule.89(4)/Rule.89(5)
10.	Guidelines for refund of tax paid on deemed exports	Rule.89(1)
11.	Guidelines for refund of Integrated Tax paid on Exports	Rule.96
12.	Restrictions on Refund related to Zero Rated Supply	
13.	Clarifications vide Circular 135/05/2020 dated 31-03-2020	Circular 135/05/2020

14.	Tracking GST Refund Application Status on the GST Portal	Advisory on GST Portal
15.	Important Case Laws related to Refund <ul style="list-style-type: none"> <li>❖ REAL PRINCE SPINTEX PVT. LTD. VERSUS UNION OF INDIA</li> <li>❖ GOKUL AGRO RESOURCES LTD. VERSUS UNION OF INDIA</li> <li>❖ CEAT LTD. VERSUS UNION OF INDIA &amp; ORS.</li> <li>❖ PITAMBRA BOOKS PVT. LTD. VERSUS UNION OF INDIA &amp; OTHERS</li> </ul>	

### **List of Permissible/Allowable Refunds**

- ☒ Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- ☒ Refund of tax paid on export of services with payment of tax.
- ☒ Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax.
- ☒ Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax.
- ☒ Refund of unutilized ITC on account of accumulation due to inverted tax structure.
- ☒ Refund to supplier of tax paid on deemed export supplies.
- ☒ Refund to recipient of tax paid on deemed export supplies.
- ☒ Refund of excess balance in the electronic cash ledger.
- ☒ Refund of excess payment of tax.
- ☒ Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa.
- ☒ Refund on account of assessment/provisional assessment/appeal/any other order.
- ☒ Refund on account of “any other” ground or reason; and
- ☒ Refund, as per section 54 (2) of the CGST Act, of tax paid on inward supplies of goods or services or both by UNO etc. notified under section 55.
- ☒ Refund by shops on Airports beyond custom immigration in designated area

**Exception to Refund –**  
**According to provisos to Sec.54(3), CGST Act**

- ⊠ No refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:
- ⊠ No refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies

**Withholding of Refund –**

⊠ **According to provisos to Sec.54(10), CGST Act**

- Defaulted in furnishing any return.
- Defaulted in payment of any tax, interest or penalty and
- The Proper Officer is authorized to 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

⊠ **According to provisos to Sec.54(11), CGST Act**

- 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.

**☒ According to provisos to Sec.54(13), CGST Act**

- The amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

**Non-Payment of Refund**

**According to Sec.54(14), CGST Act**

- No refund under Sec.54 (5)/(6) about Application of claiming Refund shall be paid to an applicant, if the amount is less than Rs.1000.
- It is clarified vide circular 125/44/2019 that the limit of Rs.1000 shall be applied for each tax head separately and not cumulatively.

**Time Period and Relevant Date for Application of Refund**

Refund Application can be filed before the expiry of 2 years from the "Relevant date"

**According to Sec.54(14) Explanation: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 dispatch 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.**

**(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 55[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) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3) ( *accumulation of tax due to inverted tax structure* ) , 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.

**Time Period and GST Form for apply of refund by the person (UNO etc.) notified under section 55.**

According to **Section 54 (2) of the CGST Act** the person ( UNO etc. ) notified under section 55 shall apply the refund through GST Form GST RFD-10 before the expiry of six months from the last day of the quarter in which such supply was received. Such supply means inward supply on which the tax has been paid.

## **Procedure, Processing and Sanction of Refund**

### **Circular 125/44/'2019**

The necessary capabilities for making the refund procedure fully electronic, in which all steps of submission and processing shall be undertaken electronically, have been deployed on the common portal with effect from 26.09.2019.

Circular 125/44/2019 has been issued by CBIC by which detail set of guidelines and processing of refund online has been described in the said circular.

#### **☒ Filing of refund applications in FORM GST RFD-01**

- ✓ The application shall be, inter alia, filled with statements/declarations/undertakings.
- ✓ Documents/tax invoices shall be required for processing of the refund application be uploaded with the form.
- ✓ A comprehensive list of documents is provided at Annexure-A ( given below at para J ) of the Circular.
- ✓ No other document needs to be provided at the stage of filing of the refund application except which are required and stated in Annexure-A.



- ✓ Four Attachments maximum size of 5 MB may be uploaded with the Refund Application.
- ✓ Neither the refund application in FORM GST RFD-01 nor any of the supporting documents shall be required to be physically submitted to the office of the jurisdictional proper officer

### ✘ ***Application Reference Number (ARN) and Acknowledgement***

- ✓ The Application Reference Number (ARN) will be generated only after the applicant has completed the process of filing the refund application in FORM GST RFD-01, and has completed uploading of all the supporting documents/ undertaking.
- ✓ The application shall be deemed to have been filed under sub-rule (2) of rule 90 of the CGST Rules on the date of generation of the said ARN.
- ✓ The time limit of 15 days to issue an acknowledgement or a deficiency memo, as the case may be, shall be counted from the date of ARN.
- ✓ The acknowledgement (**FORM GST RFD-02**) for the complete application or deficiency memo (**FORM GST RFD-03**), as the case may be, would be issued electronically.

### ✘ ***Refund Application for a tax period or by clubbing successive tax periods***

Refund application may be filed for a tax period either monthly or quarterly. Quarterly return filers can only file refund application quarterly. The applicant may club successive tax periods with the

refund application, but he cannot club tax period of different financial years.

For example, refund application pertaining to 2018-19 cannot be clubbed with refund pertaining to 2019-20.

**vide Circular No.135/05/2020 dated 31-03-2020 the restriction on bunching of refund claims across financial years shall not apply. For example, Refund Application can be filed by clubbing of months of March 2019 and April 2019 and for two quarters 4th quarter of 2018-19 and 1st quarter 2019-20.**

### **Deficiency Memos**

- ✓ A Deficiency Memo shall be issued within 15 days from the date of generation of ARN
- ✓ Once an acknowledgement has been issued in relation to a refund application, no deficiency memo, on any ground, may be subsequently issued for the said application.
- ✓ A fresh application would be filed after correction/rectification of deficiencies as pointed out.
- ✓ Once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original deficiency memo remain un-rectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.
- ✓ A rectified refund application, submitted after correction of deficiencies, shall also have to be submitted within 2 years of the relevant date, as defined in the explanation after sub-section (14) of section 54 of the CGST Act.

### ☒ **Provisional Refund**

- ✓ Ninety percent of provisional refund may be granted against claim for refund on account of zero rated supply of goods or services or both.
- ✓ The provisional refund shall be issued within seven days from the date of acknowledgement through GST form GST RFD-04.
- ✓ The proper officer may issue final order for total refund in place of provisional refund within seven days from the date of acknowledgement through GST form GST RFD-06 if the proper officer is fully satisfied about the eligibility of a refund claim on account of zero-rated supplies, and is of the opinion that no further scrutiny is required.

### ☒ **Provisional Refund amount is higher than the Final Refund Amount**

- For example, consider a situation where an applicant files a refund claim of Rs.100/- on account of zero-rated supplies. The proper officer, after prima-facie examination of the application, sanctions Rs. 90 as provisional refund through FORM GST RFD-04 and the same is electronically credited to his bank account. However, on detailed examination, it appears to the proper officer that only an amount of Rs. 70 is admissible as refund to the applicant. In such cases, the proper officer shall have to issue a show cause notice to the applicant, in FORM GST RFD-08, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:
  - (a) the amount claimed of Rs. 30/- should not be rejected as per the relevant provisions of the law; and
  - (b) the amount of Rs. 20/- erroneously refunded should not be recovered under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

- If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, then an amount of Rs. 70/- will have to be sanctioned in FORM GST RFD-06, and an amount of Rs. 20/-, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Further, if the application pertains to refund of unutilized/accumulated ITC, then Rs. 30/-, i.e. the amount rejected, shall have to be re-credited to the electronic credit ledger of the applicant through FORM GST PMT-03 subject to undertaking received from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same has been finally decided against the applicant.

#### ***No adjustment or withholding of refund***

No adjustment or withholding of refund, as provided under subsections (10) and (11) of section 54 of the CGST Act, shall be allowed in respect of the amount of refund which has been provisionally sanctioned. In cases where there is an outstanding recoverable amount due from the applicant, the proper officer, instead of granting refund on provisional basis, may process and sanction refund on final basis at the earliest and recover the amount from the amount so sanctioned.

#### ***Disbursal of Refunds by the same Jurisdiction who sanctions the Refund and interest on Refund amount***

- ✓ The Government has now decided that that for a refund application assigned to a Central tax officer, both the sanction order (FORM GST RFD-04/06) and the corresponding payment order (FORM GST RFD-05) for the sanctioned refund amount, under all tax heads, shall be issued by the Central tax officer only. Similarly, for refund applications assigned to a State/UT tax officer, both the sanction order (FORM GST RFD-04/06) and the corresponding payment order (FORM GST RFD-05) for the sanctioned refund amount, under all tax heads, shall be issued by the State/UT tax officer only.
- ✓ If the refund amount would have not been credited to the bank account of the Applicant within sixty days from date of receipt of application (ARN), interest @ 6% shall have to pay on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax.

**Guidelines on Calculations/Documents for refunds of unutilized Input Tax Credit pertaining to:**

**❖ Exports without payment of tax, Rule.89(4)**

**❖ Supplies made to SEZ Unit/SEZ Developer without payment of tax, Rule.89(4)**

**❖ Accumulation due to inverted tax structure, Rule.89(5)**

- a) Form GSTR-2A shall have to be uploaded with refund application for the period for which the refund is claimed.
- b) The Applicant shall also upload the details of all the invoices on the basis of which input tax credit has been availed during the relevant period for which the refund is being claimed, in the format enclosed as Annexure-B ( given below at para J ).
- c) Self-certified copies of invoices which are declared as eligible for ITC in Annexure – B, but which are not populated in FORM GSTR-2A, shall be uploaded by the applicant along with the refund application

**As per Clarification in Circular 135/5/2020**

- ⊠ **Now, 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.**
- ⊠ **Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent**

**d) Valuation of Turnover of Zero-Rated Supply of Goods**

"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;

"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-rule (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 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;"**

(e) "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];

(f) "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.

*"Relevant period" means the period for which the claim has been filed.*

- Statement -3A/5A (Computation of Return to be claimed)

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

- Statement -3/5 (Amount eligible for refund)- Least of following

(1) Balance in Electronic Credit ledger at the end of tax period for which refund is claimed (balance remaining after return for this period is filed) (₹)

(2) Balance in Electronic Credit ledger at the time of filing of refund application (₹)

### (3) Refund to be Claimed (₹)

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

Statement -1 (Computation of Refund to be claimed)

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

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

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

● (Amount eligible for refund)- Least of following:

1. Balance in Electronic Credit ledger at the end of tax period for which refund is claimed (balance remaining after return for this period is filed) (₹)
2. Balance in Electronic Credit ledger at the time of filing of refund application (₹)
3. Refund to be Claimed (₹)

### **Guidelines for refund of Integrated Tax paid on Exports, Rule.96**

The refund of Integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules.



- ✓ The shipping bill filed by an exporter is deemed to be an application for refund in such cases, but the same is deemed to have been filed only when the export manifest or export report is filed and the applicant has filed the return in FORM GSTR-3B for the relevant period duly indicating the integrated tax paid on goods exported in Table 3.1(b) of **FORM-GSTR-3B**
- ✓ In addition, the exporter is expected to furnish the details of the exported goods in Table 6A of FORM GSTR-1 of the relevant period.
- ✓ Only where the common portal is able to validate the consistency of the details so entered by the applicant, the relevant information regarding the refund claim is forwarded to Customs Systems.
- ✓ Upon receipt of the information from the common portal regarding furnishing of these details, the Customs Systems processes the claim for refund and an amount equal to the Integrated tax paid in respect of such export is electronically credited to the bank account of the applicant.

### **Restriction on refund related to Zero-Rated Supply**

- a) Export of goods have been made before furnishing of LUT Bond. In such cases the delay in furnishing of LUT may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.
- b) The Exporter would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner

from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

It is emphasized that exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, **payment of Integrated tax first and claiming refund at a subsequent date should not be insisted upon.** In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case.

(c) Where the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, the lower of the two values should be taken into account while calculating the eligible amount of refund.

(d) It is clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

(e ) It is clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of Integrated tax; **LUT/bond is not required.**

**(f) Rule 96B of CGST Rules has been inserted vide notification no.16/2020 –GST dated 23-03-2020 to recover the refund where export proceeds not realised within stipulated time.**

**Clarifications vide Circular 135/05/2020 dated 31-03-2020**

***1. Refund application can be filed by clubbing different months across successive Financial years***

- ☒ It has been decided to remove restrictions on clubbing of tax periods across Financial Years which has been restricted vide Paragraph 8 of the Circular No. 125/44/2019-GST dated 18-11-2019.

- ☒ Also, reference has been taken from the judgement of Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt Ltd., vide para 13 of the said order has stayed the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019.
- ☒ Circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply.

## ***2. Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate***

- ☒ The refund of accumulated ITC in terms clause (ii) of sub-section (3) of section 54 of the CGST Act i.e on account of inverted duty structure 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.
- ☒ The applicants who are seeking refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods do not get covered under the provisions of clause (ii) of sub-section (3) of section 54 of the CGST Act
- ☒ It is hereby clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same.

### ***3. Change in manner of refund of tax paid on supplies other than zero rated supplies***

- ☒ In the context of following categories of refund:
  - a. Refund of excess payment of tax.
  - b. Refund of tax paid on intra-State supply which is subsequently held to be inter- State supply and vice versa.

- c. Refund on account of assessment/provisional assessment/appeal/any other order.
- d. Refund on account of “any other” ground or reason.

- ☒ A new sub rule (4A) has been introduced in Rule 86, As per the above newly inserted rule, now refund can be claimed of wrongly paid/ excess paid tax if such wrong/excess tax was paid through Electronic Credit Ledger (ECL). The refund for the same shall be given as credit in Electronic Credit ledger (ECL) by an order via Form GST PMT-03.
- ☒ Further, the new sub rule (1A) introduced in Rule 92 which states that if the refund for wrongly paid tax or excess paid tax is claimed for a particular month and for instance in that month, 60 % of the total tax liability was paid through ITC and the balance 40 % was paid in cash, the refund also would be given by way of credit in Electronic Credit ledger to an extent of 60 % and the balance 40 % in cash.
- ☒ Such amount shall be accordingly paid by issuance of order in FORM GST RFD-06 for amount refundable in cash and FORM GST PMT-03 to re-credit the amount attributable to credit as ITC
- ☒ in the electronic credit ledger.

#### ***4.Guidelines for refunds of Input Tax Credit under Section 54(3)***

- ☒ Now, 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.

- ☒ Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

## ***5. New Requirement to mention HSN/SAC in Annexure 'B'***

- ☒ Modified statement format is attached for applicants to upload the details of invoices reflecting in their FORM GSTR-2A.
- ☒ The applicant is, in addition to details already prescribed, now required to mention HSN/SAC code which is mentioned on the inward invoices.
- ☒ In In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

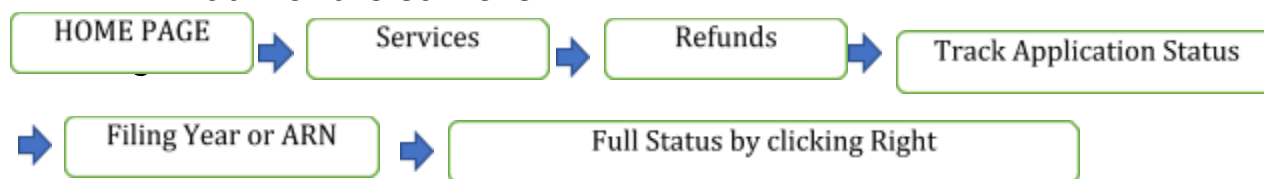


### **Tracking GST Refund Application Status on the GST Portal**

The Government has issued **Advisory: Tracking GST Refund Application Status on the GST Portal** and PFMS portal.

The functionality to track the status of refund application has been available on the GST portal. By utilising this functionality, the taxpayers can know the stage at which the refund application is pending with the tax-officer/ taxpayer.

1. Path for the same is:



2. A tax officer can issue payment order only after Public Financial Management System (PFMS) has validated the bank account mentioned in the refund application (RFD-01). Similarly, final disbursement of refund amount sanctioned by the tax officer happens only after (PFMS) has validated the bank account mentioned in the payment order (RFD-05). Thus, validation of bank account takes place at two stages. However, the exact detailed status of bank account validation is not available on the GST Portal.

3. The Public Financial Management System (PFMS) of the Controller General of Accounts (CGA) has made available a central portal to track the status of bank account validation and disbursal of refund amount. By visiting the PFMS portal at

[https://pfms.nic.in/static/NewLayoutCommonContent.aspx?RequestPageName=Static/GSTN\\_Tracker.aspx](https://pfms.nic.in/static/NewLayoutCommonContent.aspx?RequestPageName=Static/GSTN_Tracker.aspx)

the taxpayer can track the status of bank account validation.

4. This advisory is being issued for the benefit of the taxpayers in order to make them aware of the ways in which they can track the status of their refund applications on both the Portals.

### **Important Case Laws related to Refund**

#### **REAL PRINCE SPINTEX PVT. LTD. VERSUS UNION OF INDIA**

**Order Number** - R/SPECIAL CIVIL APPLICATION NO. 14974 of 2019

**Order Date** :04-03-2020

**Fact of the Case** : It is the case of the writ-applicants that since the clearing and forwarding agent had erroneously selected the option of export without payment of tax while filing the shipping bill, the amount of the IGST paid was shown as 'Nil' in the shipping bill. In such circumstances, the customs authorities denied to grant refund of the IGST paid on exports by the writ-applicants

**Decision of the Case**: Identical issue decided in the case of M/S AMIT COTTON INDUSTRIES THROUGH PARTNER, VELJIBHAI VIRJIBHAI RANIPA VERSUS PRINCIPAL COMMISSIONER OF CUSTOMS [2019 (7) TMI 472 - GUJARAT HIGH COURT] where it was held that the refund of the IGST paid on the exports cannot be denied on the ground that the higher rate of duty drawback is claimed.

In view of the aforesaid, no further adjudication is necessary in the present case.

The respondents are directed to immediately sanction the refund of the IGST paid with regard to the exported goods, i.e. "zero rated supplies", with 7% simple interest from the date of shipping bill till the date of actual refund. The refund shall be granted after deducting the differential amount of the duty drawback for the period between July and September, 2017 - application allowed.

**GOKUL AGRO RESOURCES LTD. VERSUS UNION OF INDIA**

**Order Number:** R/SPECIAL CIVIL APPLICATION NO. 1758 of 2020

**Order Date:** 26-02-2020

**Fact of the Case:** Refund of GST paid under RCM on ocean freight - Constitutional validity of Entry No.10 of Notification No.10/2017-IGST(Rate) dated 28.6.2017 - vires of Section 5(3) of the IGST Act as well as Article 14 of the Constitution of India

**Decision of the Case:** This Court vide judgement and order passed in the case of Mohit Minerals Pvt Ltd vs. Union of India [2020 (1) TMI 974 - GUJARAT HIGH COURT] declared the Entry No.10 of the Notification No.10/2017-Integrated Tax (Rate) dated 28th June 2017 as ultra vires Section 5(3) of the Integrated Goods and Services Tax Act, 2017 as well as Article 14 of the Constitution of India.

Since the Notification has been struck down as ultra vires, as a consequence of the same, the writ applicant seeks refund of the amount paid towards the IGST. However, for this purpose, the writ applicant will have to prefer an appropriate application addressed to the competent authority.

Application disposed off.

**CEAT LTD. VERSUS UNION OF INDIA & ORS.**

**Order Number:** WP 531/2019

**Order Date:** 22-01-2020

**Fact of the Case:** This is an application under Article 226 of the Constitution of India, wherein the writ petitioner has complained of inaction on the part of the respondents authorities for granting it refund of IGST levy for exports made to Bhutan under section 54 of the CGST Act. Counsel appearing on behalf of the respondents submits that requisite

application has not been made before the concerned officer and accordingly the same should be made to the Assistant Commissioner(Preventive), Dinhata.

**Decision of the Case:** The petitioner is directed to make a representation before the Assistant Commissioner(Preventive), Dinhata, and also serve a copy of this writ petition upon the concerned authority within a period of ten days from date. Upon receipt of the representation and copy of the writ petition, the authority concerned is directed to grant opportunity of hearing to the petitioner and thereafter pass a reasoned order within a period of four weeks from date of receipt of the representation and communicate the same to the petitioner within a period of one week from date of passing such order.

Petition disposed off.

### ***PITAMBRA BOOKS PVT. LTD. VERSUS UNION OF INDIA & OTHERS***

***Order Number:*** W.P.(C) 627/2020

***Order Date:*** 21-01-2020

**Fact of the Case:** Refund of unutilized CENVAT credit - zero rated supplies - clubbing of successive calendar months/quarters across different financial years - Section 16(1)(a) of the Integrated Goods and Services Tax Act, 2017 - validity of Circular No.37/11/2018-GST dated 15.03. 2018 and Circular No. 125/44/19-GST dated 18.11.2019 - period from November, 2017 to June, 2018

**Decision of the Case:** By way of the impugned circulars, though the respondents recognise the difficulties faced by the exporters and have permitted them to file refund claim for one calendar month/quarter or by clubbing successive calendar months/quarters, yet the restriction pertaining to the spread of refund claim across different financial years

is arbitrary. There is no rationale or justification for such a constraint. In the instant case, where exports are not made in the same financial year, question arises as to whether Respondents can restrict the filing of the refund for tax periods spread across two financial years and deprive the petitioner of its valuable right accrued in his favour. In exports, availability of the rotation of funds is essential for the business to thrive. Moreover, businesses do not run according to the whims of the executive authorities. The business world cannot be told when to place orders for exports; when to manufacture the goods for export; and; when to actually undertake the exports. Respondents' impugned circulars have thus blocked the capital of the petitioner and the unutilised ITC and it has accumulated huge amount of unutilised ITC to the tune of ₹ 30 crores. Merely because the petitioner made exports in the month of June, 2018, we do not see any justification to deny the refund of the ITC which have accumulated in the previous financial years.`

The Respondents cannot, artificially by acting contrary to the fundamental spirit and object of the law, contrive ways to deny the benefit, which the substantive provisions of the law confer on the tax payers. Thus, the petitioner has a strong prima facie case, and we cannot deny the petitioner of its right to claim refund which is visible from the mechanism provided under the Act. The impugned circulars take away the vested right of the taxpayer that has accrued in the relevant period.

Respondents are directed to process the petitioner's claim in accordance with law once the tax refund is filed - petition allowed by way of remand.



*Thank  
you*



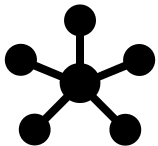
ashu.dalmia@ada.org.in



203, Arunachal Building, Barakhamba Road, Connaught Place  
New Delhi-110001



+91-11-23312707, 45014968, +91-9810893243



<https://www.gstindia.biz/>