

## **S.54 Relevant circulars, notifications, clarifications issued by Government**

21 March 2019  
23:57

- 1) Notification No.37/2017-Central Tax dated 04.10.2017 issued by CBIC extending facility of LUT to all exporters
- 2) Notification No.39/2017-Central Tax dated 04.10.2017 issued by CBIC empowering State Tax officers for processing and granting of refund
- 3) Notification No. 48/2017-Central Tax dated 18-10-2017 issued by CBIC notifying deemed exports in exercise of powers conferred u/s 147
- 4) Notification 49/2017-Central Tax dated 18.10.2017 issued by CBIC detailing evidences to be produced by the supplier of deemed exports to claim refund
- 5) Notification 20/2018-Central Tax dated 28.03.2018 issued by CBIC extending the due date for filing an application for refund under section 55
- 6) Notification 2154/2018-Central Tax dated 18.04.2018 09.10.2017 issued by CBIC extending the to allow IGST refund claim of credit under Rule 89(5) to input services.
- 7) Notification 26/2018-Central Tax dated 13.06.2018 issued by CBIC substituting clause (a) in sub rule (3) in Rule 95.
- 8) Notification 26/2018-Central Tax dated 13.06.2018 issued by CBIC amending Form GST RFD -01 & GST RFS – 01A to make it in line with the changes made in the formula for calculating Refund under Inverted Duty Structure.
- 9) Notification 39/2018-Central Tax dated 04-09-2018 issued by CBIC making changes in definition of adjusted turnover for the calculation of refund and substituting Rule 96(10) imposing restrictions on refund of IGST paid on exports in certain cases.
- 10) Notification No. 5/2017-Central Tax (Rate) dated 28-06-2017 issued by CBIC notifying supplies of exporters who have received Capital goods in respect of which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure under EPCG scheme.
- 11) Notification No. 15/2017-Central Tax (Rate) dated 28-06-2017 issued by CBIC notifying supplies of services on which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure.
- 12) Notification No. 29/2017-Central Tax (Rate) dated 22-09-2017 issued by CBIC notifying supplies of goods in respect of which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure (Modifying 5/2017- Central Tax (Rate) dated 28-06-2017)
- 13) Notification No. 40/2017-Central Tax (Rate) dated 23-10-2017 issued by CBIC granting exemption for intra state supply of goods or services for export in excess of 0.05%

- 14) Notification no. 44/2017- Central Tax (Rate) dated 14-11-2017 issued by CBIC notifying supplies of goods in respect of which no refund of unutilized input tax credit shall be allowed under inverted duty rate structure (Modifying 5/2017- Central Tax (Rate) dated 28-06-2017)
- 15) Circular No. 8/2017 dated 04.10.2017 issued by CBIC being clarifications on issues related to furnishing of Bond/LUT for exports
- 16) Circular No. 14/14/2017-GST dated 6-11-2017, issued by CBIC regarding procedure on procurement of supplies of goods from DTA by EOU/EHTP/STP/BTP
- 17) Circular No. 17/2017 dated 15.11.2017 issued by CBIC being clarifications on Manual filing and processing of refund claims in respect of zero-rated supplies
- 18) Circular No. 18/18/2017 dated 16-11-2017 issued by CBIC regarding refund of unutilized ITC of gst paid on inputs in respect of exporters of fabrics
- 19) ular No. 24/2017 dated 21.12.2017 issued by CBIC regarding manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger
- 20) Circular No. 30/436/2018 dated 25-01-13.03.2018 issued by CBIC providing clarification on regarding Processing of refund of unutilized ITC on supplies made to Indian Railways applications for UIN entities
- 21) Circular No. 37/2018 dated 15.03.2018 issued by CBIC clarifying export related refund issues.
- 22) Circular No. 40/1443/2018 dated 06-04-2018 issued by CBIC providing clarification on issues relating to furnishing of Bond/LUT
- 23) Circular No. 45/19/2018-GST dated 30.05.2018 issued by CBIC addressing queries relating various issues relating to refund.
- 24) Circular No. 48/2018 –GST dated 14-06-2018 issued by CBIC clarifying issues related to SEZ and refund of unutilized ITC for Job Workersfor ISD/Composition dealer and non-resident.
- 25) Circular No. 56/2018-GST dated 24-08-2018 issued by CBIC providing clarifications on removal of restriction on refund of unutilized accumulated ITC on fabrics
- 26) Circular No. 59/33/218-GST dated 04-09-2018 issued by CBIC providing clarification on refund related issues.
- 27) Circular No. 70/2018 dated 26-10-2018 on refund claims after issuance of deficiency memo and re credit of electronic ledger and allowing refunds to exporters who have received capital goods under EPCG to claim refund of IGST paid on exports
- 28) Circular No. 78/52/2018-GST dated 31-12-2018 regarding clarification on export of services under GST
- 29) Circular No. 79/53/2018-GST dated 31-12-2018 regarding clarification on refund related issues
- 30) Instruction No. 6/2017-Customs dated 2-06-2017 regarding filing and processing of shipping bills

- 31) Instruction 15/2017-Customs dated 9-10-2017 regarding refund of IGST paid on export of goods under Rule 96
- 32) Instruction No. 16/2017-Customs dated 9-10-2017 regarding refund of IGST paid on export of goods under Rule 96
- 33) Circular 22/2017-Customs dated 30-06-2017 regarding drawback during transition period from 01-07-2017 to 30-09-2017
- 34) Circular 24/2017-Customs dated 30-06-2017 regarding duty drawback for supplies made by DTA Units to SEZ in GST Scenerio.
- 35) Circular 26/2017-Customs dated 01-07-2017 regarding export procedures under GST
- 36) Guidance Note for Importers and Exporters w.e.f. 01-07-2017 under GST
- 37) Circular No. 42/2017-Customs dated 7-11-2017 regarding refund of IGST paid on export of goods
- 38) Circular 5/2018-Customs dated 23-02-2018 refund of IGST paid on export regarding mismatch of invoice and alternative mechanism
- 39) Circular 6/2018-Customs dated 16-03-2018 refund of IGST paid on exports regarding EGM error related cases
- 40) Circular 8/2018-Customs dated 23-03-2018 regarding SB005 and SB006 errors in refunds
- 41) Letter F.No.450/35/2018-Cus IV dated 28-03-2018 regarding problems encountered in sanction of refunds
- 42) Circular 12/2018-Customs dated 29-05-2018 regarding sanction of pending IGST refund claims where records have not been transmitted from GSTIN to DG systems
- 43) Circular 15/2018-Customs dated 6-6-2018 clarifications on errors in grant of refund of IGST paid on exports
- 44) Circular 22/2018-Customs dated 18-07-2018 clarification of SB003 and SB005 errors
- 45) Circular 33/2018-Customs dated 19-09-2018 sanction of pending IGST refund claims where records have not been transmitted from GSTIN to DG(System)
- 46) Circular 35/2018-Customs dated 1-10-2018 Advisory circular for registration of beneficiaries on ICEGATE
- 47) Circular 37/2018-Customs dated 9-10-2018 Cases where IGST refund have not been granted due to claiming higher rate of drawback or where higher rate and lower rate were identical
- 48) Circular 40/2018-Customs dated 24-10-2018 regarding IGST export refunds revised processing in certain cases including disbursal of compensation cess

- 49) Chapter twenty four of the compilation of the GST Flyers as issued by the CBIC on “Zero Rating”
- 50) Chapter twenty five of the compilation of the GST Flyers as issued by the CBIC on “Deemed Exports”
- 51) Chapter Thirty Four of the compilation of the GST Flyers as issued by the CBIC on ‘Refunds under GST’
- 52) Chapter Thirty Five of the compilation of the GST Flyers as issued by the CBIC on ‘Refund of Integrated Tax paid on account of zero rated supplies’
- 53) Chapter Thirty Six of the compilation of the GST Flyers as issued by the CBIC on ‘Refund of un utilised Input Tax Credit’
- 54) Press Release on blockage of working capital of exporters dated 22-09-2017
- 55) Press Release dated 29-11-2017 on exporters advised to file Table 6A and GSTR-3B for processing of IGST refunds and for refunds of unutilized input tax credit
- 56) Changes in duty drawback rates of certain export items effective from 25-01-2018 Guide on IGST Refunds in ICES issued by DG Systems in Feb 2018

## Meaning of Refund [Expl. 1 to S.54]

21 March 2019  
23:42

**Explanation.**—For the purposes of this section,—

**(1)** “refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (3).

### **Comments:**

Refund Includes Refund of

- a) Tax paid on
  - I) zero-rated supplies of goods or services or both or
  - II) on inputs or input services used in making such zero-rated supplies, or
- b) refund of tax on the supply of goods regarded as **deemed exports**, or
- c) refund of unutilized input tax credit as provided under sub-section (3).

## **Frequency of filing refund application**

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As per Circular 24/2017 dated 21-12-17, that refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in FORM GST RFD-01A. However, in case registered persons having aggregate turnover of up to Rs.1.5 crore in the preceding financial year or the current financial year are opting to file FORM GSTR-1 quarterly (notification No. 57/2017-Central Tax dated 15.11.2017 refers), such persons shall apply for refund on a quarterly basis.

### **Casual or Non resident taxable Persons**

In case of casual taxable person and non resident taxable person, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under at the time of registration, shall be claimed in the last return required to be furnished by him. Hence casual taxable person or non resident taxable person need not file monthly or quarterly refunds and has to file refund only in last of his returns.

As per Circular 37/2018 dated 15-03-2018, Para 11.2:

- a) Exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters
- b) The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years

## **Refund to be claimed after filing of returns applicable to claimant**

22 March 2019  
00:24

As per **Circular 24/2017 dated 21-12-17 [Para 2]**, refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

### **ISD, NRTP, Composition Taxable Person**

However, In terms of **Circular No. 45/19/2018 dated 30.05.2018**, Para 3.3, it has been clarified that for an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, the return as filed by them in terms of the rules applicable to them, i.e. FORM GSTR-4 for a composition taxpayer, FORM GSTR-6 for an ISD and FORM GSTR-5 for a non-resident taxable person shall be sufficient instead of filing of the details in FORM GSTR 1 & FORM GSTR 3B.

Circumstances where refund may be granted but are not covered by section 54 may be as follows:

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- a. Refund of duty/tax under existing law
- b. Refund in case of International Tourist
- c. Refund of Provisionally paid tax
- d. Refund of Compensation Cess
- e. Refund on account of Excess or Erroneous Deduction
- f. Refund on Inward Supplies to Canteen Stores Department
- g. Refund to Inward Supplies to UN and agencies
- h. Refund of Interest against restoration of ITC
- i. Refund of Interest against restoration of reduction in output tax liability
- j. Refund due to order of Appellate Authority/Court
- k. Refund of Central share in CGST & IGST in hilly areas
- l. Refund of tax under Seva Bhoj Yojna



## S.54(1)Refund of Tax/Interest/Other sum on Application

21 March 2019  
22:12

**(1) Any person** claiming refund of any **tax and interest**, if any, paid on such tax **or any other amount paid by him**, may make **an application before the expiry of two years from the relevant date** in such form and manner as may be prescribed:

### Comments:

1. There is no restriction that person claiming refund should be registered person. But then he will have to obtain temporary registration number
2. Refund can be claimed for
  - a) Tax
  - b) **And** Interest , if any, paid on tax
  - c) Any other amount paid (e.g. ITC)
3. Last date for Application is with in 2 years from the relevant date
4. Application has to be in prescribed form and manner

File an application electronically in FORM GST RFD-01 through the common portal. Till RFD-01 is available on the portal, Form GST RFD-01A (as per Rule 97A) to be used for filing of refunds manually.

### Manual Filing of Refund

In terms of Notification No. 55/2017 – Central Tax dated 15<sup>th</sup> November 2017, Rule 97A has been inserted in the Central Goods and Service Tax Rules, 2017 providing for manual filing of refund application and its processing. As per Rule 97A, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic

issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.

In other words, the refunds may be filed manually and the processing of refund with respect to any notice, reply or order, among others, can also be issued / filed manually

**Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices [Circular 79/53/2018 dated 31-12-18]:**

There are a large number of applications for refund in FORM GST RFD-01A which have been generated on the common portal but have not yet been physically received in the jurisdictional tax offices. With the implementation of electronic submission of refund application, as detailed in para 2 above, this problem is expected to reduce.

However, for the applications (except those relating to refund of excess balance in the electronic cash ledger) which have been generated on the common portal before the issuance of this Circular and which have not yet been physically received in the jurisdictional offices (list of all applications pertaining to a particular jurisdictional office which have been generated on the common portal, if not already available, may be obtained from DG-Systems), the following guidelines are laid down:

a) All refund applications in which the amount claimed is less than the statutory limit of Rs. 1,000/- should be rejected and the amount re-credited to the electronic credit ledger of the applicant through the issuance of FORM GST RFD-01B.

b) For all applications wherein an amount greater than Rs. 1000/- has been claimed, a list of applications which have not been received in the jurisdictional tax office within a period of 60 days starting from the date of generation of ARN may be compiled. A communication may be sent to all such claimants on their registered email ids, informing that the application needs to be physical submitted to the jurisdictional tax office within 15 days of the date of the email. The contact details and the address of the jurisdictional officer may also

be provided in the said communication. The claimant may be further informed that if he/she fails to physically submit the application within 15 days of the date of the email, the application shall be summarily rejected and the debited amount, if any, shall be re-credited to the electronic credit ledger.

For the applications generated on the common portal before the issuance of this Circular in relation to refund of excess balance from the electronic cash ledger which have not yet been received in the jurisdictional office, the amount debited in the electronic cash ledger in such applications may be re-credited through FORM GST RFD-01B provided that there are no liabilities in the electronic liability register. The said amount shall be re-credited even though the return in FORM GSTR-3B, as the case may be for the relevant period has not been filed

## Meaning of Relevant Date [Expl 2 to S.54(1)]

21 March 2019  
23:44

**Explanation.**—For the purposes of this section,—

(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**;

(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 ***or in Indian rupees wherever permitted by the Reserve Bank of***

***India (Inserted by GST Amendment Act w.e.f. 01-02-2019)***,  
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 unutilized input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;~~

**(e)** 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

***[Inserted by GST Amendment Act w.e.f. 01-2-2019]***

**(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.

<b>Situation of Refund</b>	<b>2 years from the Relevant Date as under</b>
On account of excess payment	Date of payment of tax
On account of Export of Goods by Sea or Air	Date on which Ship or Air craft in which goods are loaded, <u>leaves India</u>
On account of Export of Goods by Land	Date on which goods <u>pass</u> the customs frontiers of India
On account of Export of Goods by	Date of <u>despatch</u> of goods by <u>post office concerned to a place outside India.</u>
On account of Export of Services before payment	Date of <u>receipt</u> of convertible foreign exchange or India rupees, where permitted by RBI.
Export of service against advance payment	Date of <u>issue of invoice</u>
On account of deemed exports	Date of <u>filing return</u>
On account of finalization of provisional assessment	Date of the <u>adjustment</u> of the tax after the final assessment.
In pursuance of an order in favour of the taxpayer by the Appellate Authority/ Appellate Tribunal / Court	Date of <u>communication</u> of the judgement/order/direction
On account of accumulated unutilised input tax credit of GST under inverted duty	Due date of furnishing of return for the period in which claim for refund arises
Claim of refund by a person not being a supplier, [e.g. UIN Holder or recipient claiming refund for deemed exports u/R 89(1) clause(a) to 3 <sup>rd</sup> Proviso]	Date of receipt of goods or services by such person or UIN holder

Claim of refund by a Casual/Non-resident taxable person

Relevant date is Date of payment of tax. But refund to be claimed in last return to be furnished by casual/non resident taxable person

## Proviso to S.54(1):Refund of Balance in Electronic Cash Ledger

21 March 2019  
22:16

**Provided that** a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

### Comments:

1. Balance in electronic cash ledger can only be refunded under this proviso. As per S.49(6) both balances in credit and cash ledger can be refunded but in accordance with S.54. As per S.54, only balance in cash ledger can be refunded. Credit ledger balance can however be refunded only as per 54(1)
2. For claiming refund of cash ledger application need not be filed but refund can only be claimed through GSTR-3 u/s 39. However there is no such provision in GSTR 3B filed under Rule 61(5).



## S.55(2): Refund claim by UN and agencies on inward supplies

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22:40

**(2)** A specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries **or any other person or class of persons, as notified under section 55**, entitled to a refund of **tax paid by it on inward supplies of goods or services or both**, may make an **application for such refund**, in such form and manner as may be prescribed, before the expiry of **six months from the last day of the quarter in which such supply was received**.

### Comments:

1. Last date for making refund is 6 months from end of quarter in which supply is received.

Vide **Notification No. 20/2018 – Central Tax dated 28<sup>th</sup> March, 2018**, the Government has extended the time limit from six months from the end of the quarter to eighteen months from the last date of the quarter in which such supply was received

2. Refund can be claimed only for tax paid on inward supplies

S.2(67)“inward supply” in relation to a person, shall mean **receipt of goods or services or both** whether by purchase, acquisition or any other means **with or without consideration**;

3. Application to be made in prescribed format

## S.54(3): Refund of Unutilized ITC

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

# System Validation in calculating refund of Unutilized ITC

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3.1. Currently, in case of refund of unutilized input tax credit (ITC for short), the common portal calculates the refundable amount as the least of the following amounts:

a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax + Cess(whenever applicable)];

b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and

c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

3.2 After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the claimant in the following order:

a) Integrated tax, to the extent of balance available;

b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case)

3.3 The procedure described in para 3.2 above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications filed after the date of issue of this Circular. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities.

3.4 The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01A is generated.

3.5 Further, it may be noted that the refund application can be filed only after the electronic credit ledger has been debited in the manner specified in para 3.2 (read with para 3.3) above, and the ARN is generated on the common portal.

## Ist Pr.S.54(3): Zero rated supplies w/o tax

21 March 2019

22:51

**Provided that** no refund of unutilized input tax credit shall be allowed in cases other than—

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

## **Rule 96A provides for refund of IGST paid on export of goods or services under bond or Letter of Undertaking**

22 March 2019  
08:10

### **Form and Jurisdictional officer**

- ✓ Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in **FORM GST RFD-11** to the jurisdictional Commissioner (vide circular no 2/2/2017-GST the power has been delegated to Deputy/Assistant Commissioner).

### **Export obligation in Time**

- ✓ The registered person shall bind himself to pay the tax due along with the interest specified under sub-section (1) of section 50 (18%) within a period of —
  - (a) 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; or
  - (b) 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

### **LUT in lieu of Bond [R.96A(5)]**

The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond.

### **Eligible Person**

The Government vide Notification No. 16/2017 – Central Tax dated 07.07.2017 has specified following conditions for a registered person to be eligible for submission of Letter of Undertaking in place of a bond.

- (a) a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020; or
- (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year.

Further, the registered person has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the erstwhile laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

### **Relaxation of Eligibility Conditions**

However, the above requirement **has been relaxed with effect from 04<sup>th</sup> October, 2017**

The Government vide Notification No. 37/2017 – Central Tax dated 04.10.2017 has extended the facility of Letter of Undertaking to all registered tax payers.

### **Ineligible Persons**

However, the following persons shall not be eligible to furnish LUT:

- 1) A registered person prosecuted for any offence under GST or any existing laws in force with tax evaded exceeding Rs.2.5 crores
- 2) Registered person who fails to pay tax due along with interest within:

- ✓ 15 days after the expiry of 3 months from the date of issue of the invoice for export, if the goods are not exported out of India; or
- ✓ 15 days after the expiry of 1 year, or such further period as may be allowed by the Commissioner, from the date of issue of invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

However, the disqualification in respect of point 2 above will cease on payment of tax along with interest.

As per Para 7 of **Circular 37/11/2018 dated 15-03-2018**, The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 4th October, 2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

Para 2(d) of the Circular No. 8/8/2017-GST dated 4th October, 2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond.

**It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted**

**[Para 7.2 of Circular 37/11/2018]**

**A self-declaration by the exporter** that he has not been prosecuted is sufficient for the purposes of Notification No. 37/2017- Central Tax dated 4th October, 2017. Department may verify the claim after acceptance of the LUT, unless Department has any specific

information otherwise, regarding the prosecution. (Circular No. 8/8/2017-GST dated 04.10.2017)

### **Bond**

- a) A registered person who is not eligible to furnish an LUT for reasons discussed above, shall execute a Bond.
- b) The Bond shall be accompanied by Bank Guarantee for 15% of the Bond amount.
- c) Bond shall be furnished on non judicial stamp paper of the value as applicable in the state in which the bond is being furnished.
- d) The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export.
- e) The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount.
- f) In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability.
- g) The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.

**(Circular No. 8/8/2017-GST dated 4.10.2017).**

The LUT facility is also extended to Supplies made to SEZ.

### **LUT to be submitted on portal**

Further, the registered person (exporters) shall fill and submit FORM GST RFD-11 on the common portal. An LUT shall be deemed to be



accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017-Central Tax, then the exporter's LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio. No document needs to be physically submitted to the jurisdictional office for acceptance of LUT. (Circular No. 40/14/2018-GST dated 06.04.2018)

### **Jurisdictional officer for acceptance of LUT**

LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

### **LUT for supplies to Nepal and Bhutan**

Acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.[Circular 8/8/2017 dated 4-10-17].

Supply of services having place of supply in Nepal or Bhutan against payment in Indian rupees is exempt under Notification 9/2017-IGST inserted vide Notification No. 42/2017-Integrated Tax (Rate), dated

27-10-2017.

### **Export after period specified in R.96A(1)**

The Government has clarified & emphasized that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (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. The same principle should be followed in case of export of services. **(Circular No. 37/11/2018-GST dated 15<sup>th</sup> March, 2018)**

### **Consequences for Failure to Export [R.96A(3)]**

- ✓ In the event, goods are not exported within the time specified above and the registered person fails to pay the IGST amount, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

### **Restoration on payment [R.96A(4)]**

- ✓ The export as allowed under bond or Letter of Undertaking withdrawn shall be restored immediately when the registered person pays the amount due.

The provisions of sub rule (1) shall apply, mutatis mutandis, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.”

### **LUT/Bond not required for exempt supplies**

- ✓ In terms of Circular No. 45/19/2018 dated 30.05.2018, it has been 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. A registered persons exporting **non-GST goods** shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.

## **Export Duty restriction (2nd Proviso to S.54(3))**

21 March 2019  
23:48

**Provided further that** no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

### **Drawback and IGST Refund restriction (3rd Proviso to S.54(3))**

**Provided also that** 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

As per section 2(42) “drawback” in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods.

### **Drawback during transition period from 01-07-2017 to 30-09-2017**

In order to ensure smooth transition to the GST regime, Government allowed the old Duty Drawback scheme to continue for a period of three months i.e. from 1.7.2017 to 30.9.2017. The exporters could, for exports made during this period, continue to claim the composite rates subject to certain additional conditions. During the transition period, exporters could also claim Brand rate of duty/tax incidence as they have been doing earlier. The conditions imposed for claiming these composite rates aimed to ensure that the exporters do not claim composite AIRs of duty drawback and **simultaneously avail input tax credit of Central Goods and Services Tax (CGST) or Integrated Goods and Services Tax (IGST) on the export goods or on inputs and input services used in manufacture of export goods or claim refund of IGST paid on export goods**. Further, an exporter claiming

composite rate shall also be barred to carry forward Cenvat credit on the export goods or on inputs or input services used in manufacture of export goods in terms of the CGST Act, 2017. The exporters were, however required to give a declaration and certificates at the time of export. Similar checks shall apply while determining the Brand rate of drawback. While a transition period of three months had been allowed, the exporters had an option to claim only Customs portion of AIRs of duty drawback of the Schedule of AIRs of duty drawback and avail input tax credit of CGST or IGST or refund of IGST paid on exports. **[Circular 22/2017-Customs dated 30-06-2017]**

### **Drawback allowed for certain duties/taxes**

Earlier it was clarified in Para 8 of Circular 24/24/2017-GST dated 21-12-2017, that the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act. However, this clarification was modified by subsequent circular 37/11/2018 dated 15-03-2018, in which it was stated vide Para 2.1 that, reference to "section 54(3)(ii) of the CGST Act" is a typographical error and it should read as "section 54(3)(i) of the CGST Act". Further It may be noted that in the said circular reference has been made only to central tax, integrated tax, State/Union territory tax and not to customs duty leviable under the Customs Act, 1962. Therefore, **a supplier availing of drawback only with respect to basic customs duty shall be eligible for refund of unutilized input tax credit of central tax/State tax/Union territory tax/integrated tax/compensation cess under the said provision**. It is further clarified that **refund of eligible credit on account of State tax shall be available even if the**

**supplier of goods or services or both has availed of drawback in respect of central tax.**

Hence refund of unutilized Input Tax Credit is allowed against drawback of customs duty. **This Refund is restricted only if there is drawback of CGST or IGST.** Further the denial of CGST or IGST refund due to availment of drawback of CGST or IGST shall not result in denial of refund of unutilized SGST or UTGST.

## **S.54(6) Provisional Refund of 90%**

21 March 2019  
23:49

Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, **ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted**, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

### **Condition of non prosecution for provisional refund claim**

As per **Rule 91**, provisional refund shall be granted subject to the condition that the person claiming refund has, **during any period of five years immediately preceding the tax period to which the claim for refund relates**, not been prosecuted for any offence under the Act or under an erstwhile law where the amount of tax evaded exceeds two hundred and fifty lakh rupees

### **Provisional Refund to be granted in 7 days from RFD-02**

The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund is due to the applicant then he shall make an order in **FORM GST RFD-04**, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under



sub-rule (1) or sub-rule (2) of rule 90 i.e. RFD-02.

### **Payment Advice with RFD-04**

Also, the proper officer shall issue a payment advice in FORM GST RFD-05 for the amount sanctioned and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund

### **Undertaking to repay refund provisional refund**

As per **Circular 24/24/2017-GST dated 21-12-2017**, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in FORM RFD-01A on the common portal.

### **Will provisionally accepted ITC be allowed as refund? [Q. No. 27 of FAQ dated 15-12-18 Page No. 305]**

Yes, it will be allowed for the time being. Since the date of furnishing of FORM GSTR 1 from July, 2017 onwards has been extended while the dates of furnishing of FORM 306 GSTR 2 and FORM GSTR 3 for such period are yet to be notified, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture.

However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund

sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded

### **S.54(14): No refund below 1000/-**

21 March 2019

23:49

**(14)** Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

As per Para 8.2 of Circular 59/2018 dated 4-9-18, limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. Officers have been directed to reject claims of refund from the electronic credit ledger for less than one thousand rupees and recredit such amount by issuing an order in FORM GST RFD-01B.

## Refund of Unutilized Compensation Cess

22 March 2019  
00:07

In terms of **Circular No. 45/19/2018 dated 30.05.2018**, it has been clarified that in case of a registered persons making zero-rated supply of aluminum products on payment of integrated tax but who cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess for the payment of cess on the outward supplies only, then, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax. However, refund of unutilized credit including compensation cess on coal can be claimed

### **Circular 79/53/2018 dated 31-12-2018**

After the issuance of this Circular[45/19/2018 dated 30-5-18], the registered person decides to start exporting under bond/LUT without payment of tax. He also decides to avail (through the return in FORM GSTR-3B) the ITC of compensation cess, paid on the inputs used in the months of July, 2017 to May, 2018, in the month of July, 2018. The registered person then goes on to file a refund claim for ITC accumulated on account of exports for the month of July, 2018 and includes the said accumulated ITC for the month of July, 2018. How should the amount of compensation cess to be refunded be calculated?

### **Clarification:**

In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of CGST/SGST/UTGST/IGST was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. Further, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of IGST. This process would be applicable for application for refund of compensation cess (not claimed earlier) in respect of the past period.

## **Issue**

A registered person uses coal for the captive generation of electricity which is further used for the manufacture of goods (say aluminium) which are exported under Bond/Letter of Undertaking without payment of duty. Refund claim is filed for accumulated Input Tax Credit of compensation cess paid on coal. Can the said refund claim be rejected on the ground that coal is used for the generation of electricity which is an intermediate product and not the final product which is exported and since electricity is exempt from GST, the ITC of the tax paid on coal for generation of electricity is not available?

Clarification: There is no distinction between intermediate goods or services and final goods or services under GST. Inputs have been clearly defined to include any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Since coal is an input used in the production of aluminium, albeit indirectly through the captive generation of electricity, which is directly connected with the business of the registered person, input tax credit in relation to the same cannot be denied.

## Documents

22 March 2019  
00:30

### **As per Para 14.2 of Circular 37/11/2018 dated 15-03-2018, List of documents required for processing refund claim on export of goods or services without payment of tax**

- Copy of FORM RFD-01A filed on common portal
- Copy of Statement 3A of FORM RFD-01A generated on common portal
- Copy of Statement 3 of FORM RFD-01A
- **Invoices w.r.t. input and input services**
- BRC/FIRC for export of services
- Undertaking / Declaration in FORM RFD-01A

### **List of Documents required for processing of refund claim of Export of Services with payment of tax**

- Copy of FORM RFD-01A filed on common portal
- Copy of Statement 2 of FORM RFD-01A
- Invoices w.r.t. input, input services and capital goods
- BRC/FIRC for export of services
- Undertaking / Declaration in FORM RFD-01A

**Note:** Hence as per Circular 37/11/2018 dated 15-03-2018, Invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax; and invoices relating to inputs and input services were to be submitted for processing of claims for refund of input tax credit where goods or services are exported without payment of integrated tax.

However **As per Circular 59/33/2018 dated 04-09-2018, Para 2.3:**

- a) Refund claim shall be accompanied by a print-out of FORM GSTR-2A of the claimant for the relevant period for which the

refund is claimed.

- b) The proper officer shall rely upon FORM GSTR-2A as an evidence of the account of the supply by the corresponding supplier in relation to which the input tax credit has been availed by the claimant.
- c) It may be noted that there may be situations in which FORM GSTR-2A may not contain the details of all the invoices relating to the input tax credit availed, possibly because the supplier's FORM GSTR-1 was delayed or not filed. In such situations, the proper officer may call for the hard copies of such invoices if he deems it necessary for the examination of the claim for refund. **It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are present in FORM GSTR-2A of the relevant period submitted by the claimant.**

The claimant shall also submit the details of the invoices on the basis of which input tax credit had been availed during the relevant period for which the refund is being claimed, in the **format enclosed as Annexure-A manually** along with the application for refund claim in FORM GST RFD-01A and the Application Reference Number (ARN). The claimant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said Annexure for enabling the proper officer to determine the same.

### **Circular 79/53/2018 dated 31-12-2018**

Due to the non-availability of the complete electronic refund module, a work around was prescribed vide Circular No.

17/17/2017-GST dated 15.11.2017 and Circular No.

24/24/2017-GST dated 21.12.2017, wherein a taxpayer was required to file FORM GST RFD-01A on the common portal, generate the Application Reference Number (ARN), take print-outs of the same, and submit it physically in the office of the



jurisdictional proper officer, along with all the supporting documents. It has been learnt that this requirement of physical submission of documents in the jurisdictional tax office is causing undue hardship to the taxpayers. Therefore, in order to further simplify the refund process, the following instructions, in partial modification of the aforesaid circulars, are issued:

- a) All documents/undertaking/statements to be submitted along with the claim for refund in FORM GST RFD-01A shall be uploaded on the common portal at the time of filing of the refund application. Circular No. 59/33/2018-GST dated 04.09.2018 specified that instead of providing copies of all invoices, a statement of invoices needs to be submitted in a prescribed format and copies of only those invoices need to be submitted the details of which are not found in FORM GSTR-2A for the relevant period. **It is now clarified that the said statement and these invoices, instead of being submitted physically, shall be electronically uploaded on the common portal at the time of filing the claim of refund in FORM GST RFD-01A. Neither the application in FORM GST RFD-01A, nor any of the supporting documents, shall be required to be submitted physically in the office of the jurisdictional proper officer.**
- b) However, the taxpayer will still have the **option to physically submit the refund application to the jurisdictional proper officer in FORM GST RFD-01A, along with supporting documents, if he so chooses.** A taxpayer who still remains unallocated to the Central or State Tax Authority will necessarily have to submit the refund application physically. They can choose to do so before the

jurisdictional proper officer of either the State or the Central tax authority, as was earlier clarified vide Circular No. 17/17/2017 - GST dated 15.11.2017.

- c) The ARN will be generated only after the claimant has completed the process of filing the refund application in FORM GST RFD-01A, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.
- d) As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the **jurisdictional proper officer who shall be able to view it on the system.** The application shall be deemed to have been filed under rule 90(2) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement shall be counted from that date. This will obviate the need for a claimant to visit the jurisdictional tax office for the submission of the refund application. Accordingly, the acknowledgement for the complete application or deficiency memo, as the case may be, would be issued by the jurisdictional tax officer based on the documents so received electronically from the common portal. **However, the said acknowledgement or deficiency memo shall continue to be issued manually for the time being.**
- e) If a refund application is electronically transferred to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically within a period of

three days. In such cases, the application shall be deemed to have been filed under rule 90(2) of the CGST Rules only after it has been so reassigned. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction. Where the facility of electronic re-assignment is not available, the present arrangement shall continue.

- f) It has already been clarified vide Circular No. 70/44/2018-GST dated 26.10.2018 that after the issuance of a deficiency memo, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. It is further clarified that the rectified application, which is to be treated as a fresh refund application, will be submitted manually in the office of the jurisdictional proper officer

## Computation of Refund of Unutilized ITC on Export

22 March 2019  
00:32

As provided in Rule 89(4) & Rule 89(5) is as under:

- (a) In the case of zero-rated supply of goods or services or both **without payment of tax under bond or letter of undertaking**, refund of input tax credit shall be granted as per the following formula (for the procedure, refer para 54.8) -

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

(A) "Refund amount" means the **maximum refund** that is admissible

(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;

**Note:** ITC on capital goods shall not qualify as Net ITC

(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, **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;

(E) —Adjusted Total Turnover<sup>II</sup> 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

**Note:** Turnover of zero rated supply of services on which tax has been paid has been excluded from the definition of adjusted turnover by Notification 39/2018-Central Tax dated 04-09-2018. Zero rated supply of service without payment of tax and non zero rated supply of service, however, shall form part of adjusted turnover.

(F) —Relevant period means the period for which the claim has been filed

## ***Refund of Unutilized Credit on exempted Goods in case of Exports***

22 March 2019  
10:09

Further, subject to provisions of section 17(5), credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply [S.16(2) of IGST Act]. As per section 17(2), the amount of ITC is restricted to the amount attributable to taxable supplies including zero rates supplies. Hence ITC against zero rated supplies is allowed even if they fall in list of exempted goods or exempted services.

## 1st Pr.S.54(3): Inverted duty rate structure

21 March 2019

22:53

**Provided that** no refund of unutilized input tax credit shall be allowed in cases other than—

**(ii)** where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies **(other than nil rated or fully exempt supplies)**, except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

## Fabrics

22 March 2019  
00:19

Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 (as modified by 29/2017-Central Tax(Rate) dated 22-09-2017 and 44/2017-Central Tax (Rate) dated 14-11-2017) specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. It includes fabrics items and items related to railways. However, in case of fabric processors (Job worker), the output supply is the supply of job work services and not of goods (fabrics). Hence, in terms of **Circular No 48/22/2018**, it is clarified that the fabric processors (Job Worker) shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

The Government vide **Notification No. 20/2018- Central Tax (Rate) dated 26-07-2018** has allowed for refund of accumulated input tax credit on account of inverted duty structure on fabrics variants (10 categories of fabrics) which was earlier restricted and not available for such benefit. This allowance of refund becomes effective from date of August 1, 2018, with a condition that the balance of accumulated input tax credit lying unutilized upto the month of July 2018 shall lapse. Thus, refund of inverted duty structure is available for the 10 variants of fabrics from August 1, 2018 and hence the Input tax credit on procurements prior to this effective date is to be reversed as refund for such credit was not available.

The Government has clarified that the restriction is applicable only for input tax credit on goods, the said restriction does not apply on input tax credit on input services and capital goods. (Circular no 56/2018 dated 24.08.2018)



**Computation of Refund of Inverted Duty Structure**

- (a) In the case of refund on account of **inverted duty structure**, refund of input tax credit shall be granted as per the 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.

(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-rules (4A) or (4B) or both; and

(b) Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4).

**Note:** In terms of **Notification 21/2018** – Central Tax dated 18<sup>th</sup> April 2018,

i) Maximum refund amount to be computed after taking into consideration the ITC availed on inputs only. No refund shall be allowed on inputs services in case of refunds under inverted duty rate. Before amendment by Notification 21/2018, the definition of Net ITC as applicable under Rule 89(4) was applicable to inverted duty rated refunds, which included ITC on inputs as well as input services.

ii) Further, Refund shall be allowed on turnover of goods as well as services. Before amendment by Notification 21/2018, the formula provided for refund in respect of turnover of inverted duty rated goods only.

Notification **26/2018 dated 13-06-2018**, further reiterated the above amendments in formula for inverted duty rated refunds and also made it applicable retrospectively w.e.f. 01-07-2017.

**Note: Notification 20/2018-Central Tax (Rate) dated 26-07-2018**, has further amended notification 5/2017-Central Tax (Rate) dated 28-06-2017 to provide that nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of fabrics. The notification further provides that the accumulated input tax credit lying unutilized in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse. **Circular 56/30/2018 dated 24-08-2018** has been issued to clarify the doubts relating to lapse of input tax credit accumulated on account of inverted duty structure on fabrics for the period up to 31-07-2018. As per circular for calculation of input tax credit to lapse on 31-07-2018, amount calculated for 01-07-2017 to 31-07-2018, as per formula provided in Rule 89(5) shall be lapsed subject to modifications that ITC in respect of inputs in stock on 31-07-2018 shall be excluded from calculation of net ITC. Calculation of value of inputs shall be made as per format provided in Table 7 of ITC-01. ITC on input services and capital goods shall also not lapse. The amount of credit to lapse shall also not impact the amount of credit refundable of zero rated supplies under Rule 89(4). The amount of credit to lapse shall be provided in column 4B(2) of GSTR-3B return for August 2018. Verification of amount to lapse shall be done at the time of filing first refund on account of inverted duty rated refund on fabric. A detailed calculation sheet shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.

**Note: Notification 15/2017 dated 28-6-17** has specified that construction of complex, building, civil structure service where the entire consideration has not been received after issuance of completion certificate as service on which refund not to be allowed under inverted duty rate.

## **Circular 79/2018 dated 31-12-2018**

The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with help of the following example:

- i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).
- ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.
- iii. Further assume that the claimant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the claimant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.
- iv. If we assume that Input A, having value of Rs. 500/- and Input B, having value of Rs. 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to Rs. 385/- (Rs. 25/- and Rs. 360/- on Input A and Input B respectively).
- v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of Rs. 385/-.
- vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

## S.54(10): Withholding refund of Unutilized ITC

21 March 2019  
23:30

**(10)** Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

**(a)** withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

**(b)** deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation.—For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

## Refund Amount to be debited to Electronic Credit Ledger

22 March 2019  
00:32

As per Rule 89(3), where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed. As per **Circular 59/33/2018 dated 4-09-2018**, the amount to be debited to electronic credit ledger is least of the following:

- a) Amount calculated as per Rule 89(4) or 89(5)
- b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
- c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the claimant in the following order:

- a) Integrated tax, to the extent of balance available;
- b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

The procedure described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications filed after the date of issue of this Circular. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities. The above system validations are being clarified so

that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01A is generated. Further, it may be noted that the refund application can be filed only after the electronic credit ledger has been debited in the manner specified above, and the ARN is generated on the common portal

## S.54(4): Documentary Evidence for Refund

21 March 2019

23:00

## S.54(4)(a) To establish that a refund is due

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23:19

### (4) The application shall be accompanied by—

#### (a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

The documents in this regard are prescribed in Rule 89(2). As per Rule 89(2) the above application(s) shall be accompanied by following documentary evidences to establish that refund is due to the applicant

S.No.	Scenarios	Documents
1	Refund of Pre-deposit as per sub-section (6) of section 107 and sub-section (8) of section 112 [Pre deposit is made for entertaining the appeal against the order]	Reference number of the order <u>and</u> a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or <b>OR</b> Reference number of the payment of the pre-deposit amount.
2	Refund on account of export of goods	A statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices. <b>Note:</b> 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 [Para 12 of Circular 37/11/2018-GST dated 15-03-2018]
3	Refund on account of export of services	A statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates
4	Refund on account of supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer	A statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement by the specified officer of the Zone A declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a Special Economic Zone unit or a Special Economic Zone developer
5	Refund on account of supply of Service made to a Special Economic Zone unit or a Special Economic Zone developer	A statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer A declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a Special Economic Zone unit



		or a Special Economic Zone developer						
6	Refund on account of deemed exports (where refund is claimed by the Supplier)	<p>A statement containing the number and date of invoices along with the following documents notified under <b>Notification No. 49/2017 – Central Tax dated 18<sup>th</sup> October, 2017</b>:</p> <p>(a) Proof of receipt of Goods by the Eligible Recipient:</p> <table><tr><td>In case of Supply to</td><td>Document required</td></tr><tr><td>Advance Authorisation Holder or EPCG Holder</td><td>Acknowledgment that Holder has received the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,</td></tr><tr><td>EOUs</td><td>Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it</td></tr></table> <p>(b) Undertaking from the Recipient of the Deemed Export that the Recipient has not taken Input Tax Credit of the GST paid by the Supplier</p> <p>(c) Undertaking from the Recipient of the Deemed Export that they shall not claim the refund of the GST paid by the Supplier.</p>	In case of Supply to	Document required	Advance Authorisation Holder or EPCG Holder	Acknowledgment that Holder has received the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,	EOUs	Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it
In case of Supply to	Document required							
Advance Authorisation Holder or EPCG Holder	Acknowledgment that Holder has received the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,							
EOUs	Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it							
7	Refund on account of deemed exports (where refund is claimed by the Recipient of Deemed Exports)	<p>A statement containing the number and date of invoices along with further documents as may be notified.</p> <p>However, no documents has been notified by the Government when the Recipient is claiming the Refund.</p> <p>It may be prudent for the Recipient to obtain an undertaking from the Supplier that Supplier has not claimed refund of the GST paid on the Deemed Exports</p>						
8	Refund 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 statement 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						
9	Refund arises on account of the finalisation of provisional assessment	The reference number of the final assessment order and a copy of the said order						
10	Refund as per Section 77 (tax wrongly collected and paid to Central or state government)	A statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply						

#### **Refund for supplies to SEZ to be filed after endorsed for authorized operation**

In respect of supply of goods to SEZ Unit/Developer application for refund shall be filed after such goods have been admitted in full in SEZ for authorized operations. An endorsement by the specified officer of the SEZ is required as evidence of admission of goods in full for authorized operations.

In respect of supply of services to SEZ Unit/Developer application for refund shall be filed after evidence regarding receipt of services for authorised operations has been endorsed by the specified officer of the SEZ.

While filing the return in **FORM GSTR-3B** for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of **FORM GSTR-3B** whilst they have shown the correct details in Table 6A or 6B of **FORM GSTR-1** for the relevant tax period and duly discharged their tax liabilities. Such registered persons are unable to file the refund application in **FORM GST RFD-01A** for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricts the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of **FORM GSTR-3B** (zero rated supplies) filed for the corresponding tax period. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01A** on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period. **[Para 4.1,4.2 of Circular 45/19/2018-GST dated 30-05-2018]**

## S.54(4)(b): To Establish incidence of tax not passed on

21 March 2019  
23:20

The application shall be accompanied by—

**(b)** such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

### Self Declaration [Proviso to S.54(4)]

**Provided that** where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences **but he may file a declaration, based on the documentary or other evidences available with him**, certifying that the incidence of such tax and interest had not been passed on to any other person.

1	Refund claimed does not exceed two lakh rupees (tax paid but the incidence has not been passed on to the other person)	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
2	Refund	A Certificate in Annexure 2 of FORM GST

claimed exceed two lakh rupees (tax paid but the incidence has not been passed on to the other person)	RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person
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Self Declaration or CA Certificate for non passing on of incidence of tax, interest or any other amount is not required in following cases:

1. Refund of tax paid on account of export of goods or services
2. Refund of unutilized ITC for export of goods or inverted duty rate structure.
3. Refund of tax paid on a supply which has not been provided.
4. Refund of CGST and SGST HELD to be IGST or vice versa

Refund of Tax or Interest borne by notified applicants

Comments:

1. Applicant is required to furnish documents and other evidences to establish that
  - a) Amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was **collected from him** or (e.g. Purchase Invoices, Electronic Credit ledger, Returns) **OR**
  - b) Amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was **paid by him** or (e.g. Sale Invoices, Electronic Cash Ledger, Challas for payment of tax, returns offsetting liability etc.)
2. The applicant is also required to establish with the help of

documentary and other evidence that the incidence of such tax and interest had not been passed on to any other person.

As per **section 49(9)** Every person who has paid the tax on goods or services or both under this Act shall, **unless the contrary is proved by him,** be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

3. As per **Explanation (ii) to Rule 89(2)**, where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

## Rule 90 - Acknowledgement and Deficiency memo

22 March 2019  
08:15

- (a) **Acknowledgment where application relates to a claim for refund from the electronic cash ledger-** on receipt of the application for refund, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period of 60 days for passing an order by proper officer shall be counted from such date of filing.
- (b) **Acknowledgment where the application for refund, other than claim for refund from electronic cash ledger-** such applications shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application scrutinize the application for its completeness and where the application is found to be complete, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically/manually, clearly indicating the date of filing of the claim for refund and the time period 60 days for passing an order by proper officer shall be counted from such date of filing.
- (c) **Deficiency Memo:** Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically/manually , requiring him to file a fresh refund application after rectification of such deficiencies, with 15 days from the date of receipt of application. Hence The older application shall lapse once the deficiency notice is given in RFD-03.
- (d) If deficiencies have been communicated in FORM GST RFD-03 under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under CGST Act

also.

**Note:** A clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the CGST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. It is therefore, clarified that there can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application, manually in **FORM GST RFD-01A**. This fresh application would be accompanied with the original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier. It is further clarified that 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 memo remain unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently. **[Para 6.1 of Circular 37/11/2018 dated 15-03-2018]**

**Circular No. 59/2018 dated 4-10-2018 regarding actions to be taken regarding deficiency memo:**

- a) Deficiency to be communicated in RFD-03
- b) Amount claimed to be re credited in RFD-01B
- c) Fresh Refund application to be filed
- d) No Show cause notice to be issued

A refund application which is re-submitted after the issuance of a deficiency memo shall have to be treated as a fresh application. No order in FORM GST RFD-04/06 can be issued in respect of an application against which a deficiency memo has been issued and which has not been resubmitted subsequently.

## S.54(5): Final Refund Order

21 March 2019  
23:23

If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly **and the amount so determined shall be credited to the Fund referred to in section 57**

### **No refund below 1000/- S.54(14)**

**(14)** Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

As per Para 8.2 of Circular 59/2018 dated 4-9-18, limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. Officers have been directed to reject claims of refund from the electronic credit ledger for less than one thousand rupees and recredit such amount by issuing an order in FORM GST RFD-01B.



## S.54(7):Final Order with in 60 days

21 March 2019

23:26

The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

## Rule 92 provides for Order sanctioning refund

22 March 2019  
08:17

Rule No	Scenarios	Procedures
92(1)	When entire refund is payable	➤ Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in FORM GST RFD-06 sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him on a provisional basis under sub-section (6) of section 54
Proviso to 92(1)	In cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any erstwhile law	➤ the proper officer shall pass an order giving details of the adjustment, which shall be issued in Part A of FORM GST RFD-07.
92(2)	Where the proper officer or the Commissioner is of the opinion that the amount of refund is liable to be withheld under ➤ the provisions of sub-section (10) [when the applicant is required to pay tax, interest or penalty which has not been stayed by any court] or, ➤ sub-section (11) of section 54 [when any matter of appeal is pending and refund shall affect the revenue	➤ the proper officer shall pass an order in Part B of FORM GST RFD-07 informing him the reasons for withholding of such refund
92(3)	Where the proper officer is satisfied that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant	<ul style="list-style-type: none"> <li>➤ the proper officer shall issue a notice in FORM GST RFD-08 to the applicant;</li> <li>➤ the Applicant shall furnish a reply in FORM GST RFD-09 within a period of fifteen days of the receipt of such notice and</li> <li>➤ after considering the reply, the proper officer shall make an order in FORM GST RFD-06 sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically</li> <li>➤ Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.</li> </ul>
92(4)	Refund credited to the account of applicant	➤ Where the proper officer is satisfied that the amount is payable to the applicant, he shall make an order in FORM GST RFD-06 then he shall issue a payment advice in FORM GST RFD-05 for refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration and as specified in the application for refund.
92(5)	Refund credited to Consumer Welfare Fund	➤ Where the proper officer is satisfied that the amount refundable is not payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue an advice in FORM GST RFD-05, for the amount of refund to be credited to the

**Note:** As per notification 39/2017-Central Tax and further modified by notification 10/2018-Central Tax dated 23-01-2018, state tax officers have been authorized to act as proper officer for the purpose of section 54 and 55 for the sanction of refund. Regarding refund of IGST paid on exports, State officer have been authorized to deal refund of IGST on export of service but can't deal IGST refund on export of goods. All other types of refunds can be dealt by state tax officer for the purpose of S. 54 & 55 of CGST.

## S.54(8)/(9): Refund to Applicant only

21 March 2019  
23:28

**(8)** Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

**(a)** refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;

**(b)** refund of unutilized input tax credit under sub-section (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;

**(e)** the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

**(f)** the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

**(9)** Notwithstanding anything to the contrary contained in any judgment, decree order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

## S.54(13): Refund of Advance Tax

21 March 2019  
23:36

Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under subsection (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.

As per **Rule 89**, refund of any amount, after adjusting the tax payable by the applicant casual taxable person or non resident taxable person out of the advance tax deposited by him at the time of registration, shall be claimed in the last return required to be furnished by him

## S.54(11): Withholding of Refund

21 March 2019  
23:37

**(11)** Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

**(12)** Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

The Government vide **Notification No. 13/2017- Central Tax dated 28-06-2017** has prescribed, on the recommendation of the Council, 6% as the rate of interest for a refund withheld under sub-section (11) of section 54.

## R.89(4A) and (4B)

22 March 2019  
00:42

In the case of supplies received on which the supplier has availed the benefit of Notification No. 48/2017-Central Tax dated the 18th October, 2017 (deemed exports), refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted (Rule 89(4A))

In the case of supplies received on which the supplier of the person claiming refund of unutilized ITC on account of zero rated supplies without payment of tax has availed the benefit of Notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017 (concessional rate of tax at 0.05% on intra-State supply of taxable goods by a registered supplier to a registered recipient for export) or Notification No. 41/2017 Integrated Tax (Rate) dated the 23rd October, 2017 (concessional rate of tax at 0.1% on inter-State supply of taxable goods by a registered supplier to a registered recipient for export) or person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax himself has availed the benefit of Notification No. 78/2017-Customs dated the 13th October, 2017 (goods imported by EOUs) or Notification No. 79/2017-Customs dated the 13th October, 2017 (import of goods under Advanced authorization/EPCG schemes) or all of them, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted (Rule 89(4B))

## Disbursal of Refund Amount

22 March 2019  
08:18

**Circular 59/2018 dated 4-9-18** A few cases have come to notice where a tax authority, after receiving a sanction order from the counterpart tax authority (Centre or State), has refused to disburse the relevant sanctioned amount calling into question the validity of the sanction order on certain grounds. E.g. a tax officer of one administration has sanctioned, on a provisional basis, 90 per cent. Of the amount claimed in a refund application for unutilized ITC on account of exports. On receipt of the provisional sanction order, the tax officer of the counterpart administration has observed that the provisional refund of input tax credit has been incorrectly sanctioned for ineligible input tax credit and has therefore, refused to disburse the tax amount pertaining to the same. It is clarified that the remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order and not in withholding of the disbursement of the sanctioned amount. If any discrepancy is noticed by the disbursing authority, the same should be brought to the notice of the counterpart refund sanctioning authority, the concerned counterpart reviewing authority and the nodal officer, but the disbursal of the refund should not be withheld. It is hereby clarified that neither the State nor the Central tax authorities shall refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except under sub-section (11) of section 54 of the CGST Act. It is further clarified that any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.

**Disbursal of refund amounts after sanction: [Para 5 of Circular 79/53/2018 dated 31-12-2018]**

Section 56 of the CGST Act clearly states that if any tax ordered



to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the claimant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the claimant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the claimant. Accordingly, all tax authorities are advised to issue the final sanction orders in FORM GST RFD-06 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days by both Central and State Tax Authorities for CGST / IGST / UTGST / Compensation Cess and SGST respectively.

## Rule 93 provides for the Credit of the amount of rejected refund claim

22 March 2019  
08:20

Where any amount claimed as refund is rejected under rule 92, the amount debited to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03. A refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal. Also, where any deficiencies have been communicated in FORM GST RFD-03, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.

**Note:** Re credit of Electronic Credit Ledger in case of Rejection of Refund claim [Circular No. 59/2018 dated 4-09-2018]

- a) Order for rejection to be passed in RFD-01B for the purpose of re credit.
- b) Before re credit an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection, be obtained. If claimant files appeal, re credit to be done only after the appeal is finally decided against the claimant.
- c) For ineligible credits the amount can be paid voluntarily with interest with DRC-03. Acknowledgement in DRC-04 to be issued by proper officer. In case of fraud, willful-misstatement or suppression of facts, penalty @ 15% also to be paid. (The amount should be paid before re credit in RFD-01B)
- d) For ineligible credits demand notice to be simultaneously issued u/s 73/74 along with RFD-01B
- e) For ineligible credits, Claimant can pay the amount voluntarily u/s 73(5)/74(5) along with interest in DRC-03 with in 30 days from show cause notice. In case of 74(5), if amount and interest

along with penalty @ 25% is paid within 30 days from issue of SCN, the proceedings shall be dropped.

- f) Show cause notices are not required to be issued (and consequently no orders are required to be issued in **FORM GST RFD-04/06**) in cases where refund application is not re-submitted after the issuance of a deficiency memo (in **FORM GST RFD-03**).

Demand Confirmed u/s 73(9)/74(9) to be posted to Electronic liability ledger through DRC-07

**As per Circular 70/44/2018 dated 26-10-18**, presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in **FORM GST RFD-03** is issued to taxpayers, re-credit in the electronic credit ledger (using **FORM GST RFD-01B**) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself.

## R.96 Refund of integrated tax paid on goods or services exported out of India

22 March 2019  
08:04

## Shipping Bill Deemed to be application

22 March 2019

08:04

The shipping bill filed by an exporter of goods shall be **deemed to be an application for refund** of integrated tax paid on the goods exported out of India.

## **When refund application deemed to have been filed**

22 March 2019  
08:04

Such application shall be **deemed to have been filed only when: -**

- ✓ the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; **and**
- ✓ the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR- 3B, as the case may be;

**Note:** Filing of export manifest is must for treating shipping bill or bill of export as refund claim. Export report is filed in case of export by land and Export manifest is filed in case of export by air or sea. Export manifest is required to be filed u/s 41 and 42 of Customs Act before departure of conveyance carrying goods. Commissioners have to ensure that export report/EGM is filed in prescribed time limits  
**[Instruction No. 15/2017-Customs dated 09-10-17]**

## **Transmission of export data to Customs designated portal**

22 March 2019  
08:05

The details of the relevant export invoices in respect of export of goods contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India. Details of export invoices are available at ICEGATE portal.

Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended, then in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the details of information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

Note that the Table 6A has to be furnished only after filing of Form GSTR-3B under the respective tax period.

## **Cautions to ensure transmission of Data to Customs designated Portal**

### **Data Matching**

To ensure that the GST System transmits the export invoice data, in case of export of goods with payment of IGST, to ICEGATE for refund, Exporters need to provide Complete and Correct Data while filing Table 6A of GSTR-1 as under:

- Invoice No. and Date (Tax invoice and not commercial invoice).
- Select from drop down list (WPAY- with payment of

tax)/WOPAY-without payment of tax.

- Shipping Bill No. & Date.
- While using offline tool for GSTR 1, the date format is dd-mmm-yyyy e.g. 15th July 2017 will be written as 15-Jul-2017 and not like 15/07/2017.
- Six Digit Port Code should be mentioned correctly.
- Invoice Value: It is the total value of export goods covered by the invoice including of tax and other charges, if any.
- Taxable Value: It is the value of goods, on which tax is paid. (Value net of tax).
- Tax Paid IGST, only in case, where the export is done on payment of IGST.

### Value Differences

Where the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund. **[Para 9.9.1 of Circular 37/11/2018 dated 15-03-2018]**

### IGST Paid Differences GSTR-1 and 3B

It is one of validation check by GSTIN that aggregate IGST paid amount claimed in Table 6A of GSTR-1 is not higher than IGST paid amount indicated in Table under column 3.1(b) of GSTR-3B of corresponding month. To ensure that the GST System transmits the export invoice data, in case of



export of goods with payment of IGST, to ICEGATE for refund, Exporters should make payment of Tax and File Return as under:

- a) File Form GSTR-3B of corresponding period.
- ii) In case of export of goods, **the IGST amount paid should be shown through Table 3.1(b) of GSTR-3B and amount must be equal to or greater than the total IGST amount shown in Table 6A, and Table 6B, of GSTR-1 for the corresponding tax period.**

As return in **FORM GSTR-3B** do not contain provisions for reporting of differential figures for past month(s), the said figures may be **reported on net basis along with the values for current month** itself in appropriate tables i.e. Table No. 3.1, 3.2, 4 and 5, as the case may be. It may be noted that while making adjustment in the output tax liability or input tax credit, there can be no negative entries in the FORM GSTR-3B. The amount remaining for adjustment, if any, may be adjusted in the return(s) in FORM GSTR3B of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed. Where adjustments have been made in FORM GSTR-3B of multiple months, corresponding adjustments in FORM GSTR-1 should also preferably be made in the corresponding months. **[Para 4 of Circular 26/26/2017 dated 29-12-17]**

### **Auto Drafting of GSTR-1**

As and when the Form auto-drafted in FORM GSTR-1 are furnished for the said tax period, then details of exports will be auto-drafted from the Table 6A referred above. The procedure is as follows:

- a. File GSTR-3B for a Tax Period
- b. Fill Table 6A of Form GSTR-1 available on the Common Portal. Refund will be processed based on this Table 6A

- c. As and when Form GSTR-1 is filed, the data relating to exports will be auto-populated from the above Table 6A

## **Processing of IGST Refund Claim**

22 March 2019  
08:07

Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be, from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities

**As per Instruction No.15/2017-Customs dated 9-10-17**, The amount of refund of IGST paid on export of goods shall be credited to the account of exporter registered with Customs even if it is different from bank account mentioned in registration particulars.

## **Withholding of Refund of integrated tax paid on exports**

22 March 2019  
08:07

- The claim for refund shall be withheld where, -
  - ✓ a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.
  - ✓ the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal
  - ✓ the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part B of FORM GST RFD-07
- ✓ Where the applicant becomes entitled to refund of the amount withheld, the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount after passing an order in FORM Part A of GST RFD-06.

## **Refund of IGST to Government of Bhutan in lieu of Exporter**

22 March 2019  
08:08

For notified goods, Central government may pay refund to government of Bhutan instead of exporter. Exporter shall not be allowed any refund of IGST on export of goods to Bhutan.

## **Restriction on grant of IGST Refund on Exports [R. 96(10)]**

22 March 2019  
08:08

Present Rule 96(10) imposing restrictions on grant of refund of IGST on Exports was first introduced as R. 96(9) by Notification 75/2017 dtd 29-12-17 retrospectively from 23-10-17. Then it was re numbered to 96(10) and further amended vide Notification 3/2018 dated 23-01-18 again retrospectively w.e.f. 23-10-17. Then it was re modified vide notification No. 39/2018, dtd. 04.09.2018. w.e.f. 23-10-17. Notifications 53/2018 dated 9-10-18 has modified R. 96(10) from 23-10-17 and notification 54/2018 dated 9-10-18 has amended this Rule prospectively w.e.f. 9-10-18. The impact of changes has been explained in Circular No. 70/44/218-GST dated 26-10-18

### **From 23-10-17 to 8-10-2018**

Exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs [Import by EOU] and 79/2017-Customs(import of goods under Advanced authorization/EPCG schemes) [both dated 13th October, 2017 **shall be eligible** to claim refund of the IGST paid on exports.

However if the benefit of above notifications has been obtained by the supplier of exporter, then exporter shall not be eligible to claim refund of IGST paid on exports. Further if the supplier of exporter has availed benefit of 40/2017-CTR or 41/2017-CTR [Concessional rate of tax @ 0.05%/0.1% respectively] or 48/2017 [Deemed exports], then also exporter shall not be eligible to claim refund of IGST paid on exports.

### **From 9-10-2018 and onwards**

Exporters who are importing goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 **would not be eligible** for refund of IGST paid on exports

However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-

Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions.

Further if the person claiming the refund of IGST paid on export of goods or services has availed benefit of 40/2017-CTR or 41/2017-CTR [Concessional rate of tax @ 0.05%/0.1% respectively] or 48/2017 [Deemed exports], then also he shall not be eligible to claim refund of IGST paid on exports

# Refund in case of Deemed Exports

22 March 2019

08:12

Deemed Exports are defined as “Supplies” as may be notified under Section 147 of the CGST Act.

The Central Government vide Notification No. 48/2017 – Central Tax dated 18.10.2017 has notified the following items as “Deemed Exports”

- ✓ Supply of goods by a registered person against Advance Authorisation
- ✓ Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation (EPCG)
- ✓ Supply of goods by a registered person to an Export Oriented Unit (EOU) and includes:
  - Electronic Hardware Technology Park Unit (EHTP) or
  - Software Technology Park Unit (STP) or
  - Bio-Technology Park Unit (BTP).

Supply of gold by a bank or Public Sector Undertaking specified in the Notification No. 50/2017-Customs, dated the 30.06.2017 (as amended) against Advance Authorisation



## Analysis

22 March 2019  
08:13

The Foreign Trade Policy (2015-2020) in terms of Para 7.02 has provided a list of Supplies which are Deemed Exports under FTP.

However, only the aforesaid four supplies have been covered under Deemed Export under GST. Therefore, other Deemed Export under FTP but not specified in Notification No. 48/2017 – Central Tax dated 18.10.2017 shall not be classified as Deemed Exports. The recipient of deemed exports will be eligible to take Input Tax Credit of the tax paid by the supplier subject to restrictions / blocking of credits as Section 16, 17 of the CGST Act and rules thereunder.

It is to be noted that only supply of goods and not supply of services can be classified as Deemed Exports.

## Person claiming refund

22 March 2019

08:14

The Application of refund may be filed by the Recipient of the Goods.

However, the Supplier may also file the refund application if

- a) The recipient does not avail the ITC and
- b) The supplier furnishes a declaration from the recipient that he has not availed Input Tax Credit on such deemed exports.

# Special Procedures with Respect to Supply of Goods to EOUs

22 March 2019  
08:14

The Government vide Circular No. 14/14 /2017 – GST dated 06.11.2017 has issued detailed guidelines on the procedure to be adopted for Supply of goods to EOU, EHTP, STP and BTP (hereinafter collectively referred to as “EOU”)

Procedure to be adopted by the EOU:

Steps	Particulars	Form No, if any / Due Date	Explanation
Step 1	Issuance of Prior Intimation	Form-A	The EOU shall give prior intimation of goods to be procured from the Supplier in Form-A. The Intimation must be serially number and must prepared in Triplicate and sent to: (1) the Registered Supplier undertaking the Supply (2) the jurisdictional GST Officer in charge of the Supplier (3) the jurisdictional GST Officer in charge of the EOU
Step 2	Supply of goods by the Supplier		The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
Step 3	Endorsement of Invoice by EOU on receipt of goods		On receipt of such supplies, the EOU, <del>the Unit</del> shall endorse the tax invoice and send a copy of the endorsed tax invoice to – (1) the Registered Supplier undertaking the Supply (2) the jurisdictional GST Officer in charge of the Supplier. (3) the jurisdictional GST Officer in charge of the EOU. Such endorsement is the Proof of Deemed Export Supplies by a registered person to the EOU
Step 4	EOU shall maintain records for receipt, use and removal of Goods	Form-B	EOU shall maintain the record of Receipt, use and Removal of Goods in Form-B The data is required to be maintained in Digital form. The Record must be updated immediately and accurately and open for Verification by the Proper office
Step 5	Monthly submission of Form-B to the GST Officer	Due date - 10th of the Following month	A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month in a CD or Pen drive, as convenient to the said unit.

## Documentary Evidence to be furnished by supplier for claiming refund on account of deemed exports

22 March 2019  
08:14

A statement containing the number and date of invoices along with the following documents notified under **Notification No. 49/2017 – Central Tax dated 18<sup>th</sup> October, 2017**:

a) Proof of receipt of Goods by the Eligible Recipient viz:	
Supply to	Document required
Advance Authorisation Holder or EPCG Holder	Acknowledgment that Holder has received the goods should be obtained from the jurisdictional Tax officer having jurisdiction over the said Holder,
EOUs	Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it
b) Undertaking from the recipient of the Deemed Export that the Recipient has not taken Input Tax Credit of the GST paid by the Supplier	
c) Undertaking from the recipient of the Deemed Export that they shall not claim the refund of the GST paid by the Supplier.	

## **S.55 Refund in certain cases**

01 January, 2019

1:51 PM

The Government may, on the recommendations of the Council, by notification, specify any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them

## S.56 Interest on Delayed Refunds

01 January, 2019  
1:53 PM

If any tax ordered to be refunded under **sub-section (5) of section 54** to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such **rate not exceeding six per cent.** as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the **expiry of sixty days** from the date of receipt of application under the said sub-section till the date of refund of such tax:

**Provided that** where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded **within sixty days** from the date of receipt of application filed consequent to such order, interest at such rate **not exceeding nine per cent.** as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately **after the expiry of sixty days** from the date of receipt of application till the date of refund.

**Explanation.—**For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

## S.57 Consumer Welfare Fund

01 January, 2019

3:25 PM

The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,—

- (a)** the amount referred to in **sub-section (5) of section 54;**
- (b)** any income from investment of the amount credited to the Fund; and
- (c)** such other monies received by it, in such manner as may be prescribed.

## S.58 Utilization of Fund

01 January, 2019

3:27 PM

- (1) All sums credited to the Fund shall be utilized by the Government for the welfare of the consumers in such manner as may be prescribed.
- (2) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the **Comptroller and Auditor-General of India**