

Amendments in GST Refund Procedures-Including Special Reliefs during COVID-19

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Under the erstwhile taxation regime, the refund was onerous area for the tax applicant and the tax administrators. In the initial period the taxpayers were not able to apply for refund as there were technical issues in the GST portal. Thereafter, the numerous amendments are made to make the refund procedure more effective and efficient. The following are the recent refund procedures including special reliefs during COVID-19 for the benefit of applicants.

1. Extension of date

During the phase of lockdown during COVID-19, certain amendments are made by giving relaxations for extensions of dates for applying the refunds under the GST law. As per section 54, the applicant can make an application for refund before expiry of two years from the relevant date. In case if the due date for making application for refund falls between 20.3.2020 to 30.8.2020 then the date of refund is extended to 31.8.2020. **(Notification 55/2020- Central Tax dated 27.6.2020)**

2. Reflection in GSTR2A

Earlier, the applicant was able to apply for refund even for those inward invoices which were not reflected in GSTR 2A. In such instance the applicant was uploading the copies of invoices and claiming the refund even though such inward Invoices were not reflected in GSTR 2A. Similar to claiming of input tax credit based on GSTR 2A even the refund is restricted to the tax credit as reflected in GSTR 2A. Therefore, the applicant can claim the refund of accumulated input tax credit only for those invoices which are uploaded by the supplier in Form GSTR-1 and are reflected in Form GSTR -2A of the applicant. Therefore, the applicant lost the options of claiming the refunds for those tax Invoices which has not been uploaded by the supplier. There is no clarity on claiming the provisional refund though there is provision to claim 10% of tax credit (subject to restrictions) as provisional credit under the GST law. **(Circular no 135/05/2020- GST 31/3/2020.)**

3. ITC on Imports, ISD and RCM

The Refund Sanctioning Authorities have rejected the refund of accumulated Input tax credit in respect of Input tax credit availed on Imports, ISD Invoices, RCM, etc on the basis that the details of the said invoices/ documents are not reflected in FORM GSTR-2A of the applicant. It has been clarified that such refund of input tax credit relating to imports, ISD invoices and inward supplies liable to reverse charge will continue even though requirement of filing the same has not been disclosed in Form GSTR-2A. **(Circular no 139/09/2020- GST 10/6/2020.)**

4. Furnishing LUT

There is requirement to furnish the letter of undertaking (LUT) for each financial year when the exports are to be made without payment of tax. The requirement for furnishing any report, document, return, statement, or such other records falls during the period from 20.3.2020 to 30.8.2020 is extended till 31.8.2020. Therefore, the time limit for filing the LUT for 2020-2021 is extended to 31.8.2020. Therefore, in the meantime the tax payer can continue to make the supply without payment of tax under LUT provided that the Form GST RFD -11 for 2020-2021 is furnished on or before 31.8.2020 and can give the reference number of LUT for the year 2019-2020 in the relevant documents. **(Notification 55/2020- Central Tax dated 27.6.2020)**

5. Refund of Tax paid on Advances

The circular has issued certain clarifications for certain procedural aspects towards claiming of refund like wherein the tax payer has paid GST on advances and has want to refund such advances to the recipient, then in such instances the taxpayer should issue the refund voucher to the recipient and can apply for refund of GST paid on advances by filing Form **GSTR RFD -01** under the category as 'Refund of excess payment of taxes'. In case if the taxpayer has already issued the tax invoice for the advances received, then the taxpayer can issue the credit note under section 34(1) of CGST Act and if there is no output liability then such taxpayer can apply for refund of excess payment of tax. **(Circular No. 137/07/2020-GST dated 13.4.2020)**

6. Clubbing Application for Refund

The preceding refund circulars state that the applicant can file a refund claim for a tax period or by clubbing successive tax periods. But such tax periods cannot be clubbed for across different financial years. For example, the applicant wants to file the refund application for tax periods from January 2019 to June 2019 the in such scenario the tax payer cannot file the one consolidated application for January 2019 to June 2019 and has to file two separate applications for January 2019 to March 2019 and April 2019 to June 2019 respectively. But there is no bar now under GST law for claiming refund by clubbing different months across successive financial years. Therefore, based on the above amendments the applicant can file consolidated refund application for the tax periods from January 2019 to June 2019 respectively. Thereafter now it is clarified that the taxpayer can file the *refund application by clubbing different months across successive financial years*. **(Circular no 135/05/2020- GST 31/3/2020)**

7. Inverted Duty Structure- Change in Rate of Tax

The applicant can claim refund in case of inverted duty structure, wherein the credit has been accumulated on account of the rate of tax on inputs is being higher than the rate of output supplies. For example, in case of Incense sticks where the

output tax rate is 5% and the inputs are at different rate at 18%, 12% or 5% then the applicant can claim refund of accumulated credit under Inverted duty structure. But the applicant cannot claim refund under inverted duty structure due to change in the GST rate on the same goods at different points of time. For example: the applicant has purchased the goods at applicable rate of 18% and later the rate of tax on such goods is reduced to 12% therefore in such instance there will be accumulation of credit of 6% credit which is not eligible for refund to be claimed under Inverted duty structure. Therefore, the refund of accumulated Input Tax credit would not be applicable in case where the rate of tax on input and output supplies are same though it is accumulated due to change in rate of tax. **(Circular no 135/05/2020- GST 31/3/2020.)**

8. HSN/SAC of Goods and Services

Basically, the Form GSTR-2A does not contain the details of HSN/SAC of goods and services. The Form GSTR-2A does not bifurcate the details of the Input tax credit pertaining to inputs/input services and capital goods to assess the eligibility of input tax credit to claim refund under the GST law. Thereafter the amendments are made in refund procedure by mandating the applicant to affix HSN/SAC for all the inward supplies at the time of filing the refund application in **Annexure-B**. The above requirement has mandated the applicant to extract the details of HSN/SAC from the Inward Invoices. The above amendment is done to facilitate the identification of capital goods and ineligible input tax credit which was claimed as Refund. **(Circular no 135/05/2020- GST 31/3/2020.)**

9. Recredit to Electronic Credit Ledger

To avoid the unintended encashment of credit balances by the tax payers, if a registered person claims the refund of any amount paid as tax wrongly paid or if the taxes are excess paid of which debit has been made from the electronic credit ledger, then the amount if any found admissible shall be recredited to the electronic credit ledger by the proper officer by an order made in Form GST PMT 03. **(Rule 84(4A))**

10. Declarations

The undertaking while filing RFD-01 should state that "I hereby undertake to deposit to the Government the amount of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to section 16 of the IGST Act, 2017 read with rule 96B of the CGST Rules 2017. **(Declaration under Rule 89(2)(g))**

11. Turnover of Zero- Rated Supply of Goods

There is change in the terminology of '*Turnover of zero-rated supply of goods*'. It means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/ LUT or value which is 1.5% times the value

of like goods domestically supplied or similarly placed supplier as declared by the supplier whichever is less other than the turnover of supplies in respect of which refund is claimed under sub rule (4A) or (4B) or both. **(Rule 89(4) (c))**

12. FORM GST PMT -03

In case if the proper officer is satisfied that refund pertains to cases of tax paid other than tax paid on zero rated supplies and deemed export, then **Form RFD - 06** will be issued sanctioning the amount of refund. The cases can be like refund of excess payment of tax, refund of tax paid on intra state supply which is subsequently held to be interstate supply and vice versa, refund on account of assessment/provisional assessment/appeal/any other order or any other reasons. The proper officer shall issue **FORM GST PMT -03** for recrediting the amount of Input Tax credit in electronic credit ledger. **(Rule 92(1A))**

13. Proportionate Formula

The proportionate refund as stated above has to be computed for the amount to be paid in cash and the amount to be paid in credit. The amount to be paid in cash will be refund sanctioned * amount debited to electronic cash ledger/total liability for the refund period and the balance amount shall be refundable. The refund amount to be paid in credit = Refund sanctioned x amount debited to electronic credit ledger / total liability for the refund period. The amount debited to electronic cash ledger/electronic credit ledger means the liability paid in cash or credit for the refund period (Rule 92(1A)). The refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which the refund application is filed. **(Circular No 135/05/2020- GST 31/3/2020.)**

14. Refund of IGST

The Registered person can apply for refund of IGST paid on export of goods with payment of IGST wherein IGST and cess are paid but basic custom duty is claimed as exemption. **(Rule 96(10)(b) with effect from 23.10.2017)**

15. Realisation of Export Proceeds

There is an amendment in the procedure for the recovery of refund of unutilised input tax credit or IGST paid on export of goods where **exports proceeds are not realised**. Where the refund has been paid to the applicant but if the sale proceeds of export goods is not realised within the time limit including extended time limit under FEMA then the applicant should deposit such proportionate refund along with interest within 30 days of realisation. If not done within the specified period, then it will be recovered by officer under section 73 or 74 along with interest under section 50. The recovery of refund is not required to be done if the Reserve bank of India writes off the requirement of realisation of sale proceeds on merits. Where

the sale proceeds are realised after the recovery of refund and if the applicant produces the evidence within three months of realisation (within extended time permitted by RBI) then the amount so recovered will be refunded accordingly.
(Rule 96B)

Under the GST regime, the government has assured the hassle-free refund process on the primer of the GST law in the country. The economic shut down due to COVID-19 has raised the concerns for the business entities and government entities. The Government has made certain amendments under the GST law including the relaxations for extension of dates. There is deferment in payments of GST without charging interest, late fee or penalty except for large entities as specified. But there is no deferment to apply for the refund and accordingly the applicant can apply for the refund subject to compliance of the GST law.