



# THE CGST ACT, 2017

## CHAPTER XI

# REFUNDS

**Presented By - CA H.L.Madan**

**Mobile No. - 9312238908**

**Date - 01.06.2018**



# PENDENCY OF REFUNDS

- **Federation of Indian Export Organisations** said on Tuesday ie. 29.05.2018 that
- **Refund** of over Rs. 20,000 crore on account of **GST** is **pending** with the **Government**.
- While claims over Rs. **7,000 crore** were cleared in **March 2018** , the amount was **Rs. 1,000 crore** in **April 2018**.



## **Reasons for delay in refund**

- **On IGST- refunds are getting delayed due to airline and shipping companies not submitting proof of export to customs and**
- **mismatches of invoice numbers in shipping bills and GST return forms.**



## **Tweet (1)**

- **“Special Refund Fortnight” to be organized from 31.05.2018 to 14.06.2018 in which Centre and State GST officers will strive to clear all GST refund applications received on or before 30.04.2018**

## **TWEET (2)**

- **All claimants are encouraged to approach their jurisdictional tax offices during the “Special Refund Fortnight” to clear any pending GST refund claims which were submitted on or before 30.04.2018.**

## **TWEET (3)**

- **All claimants may please note the refund application in FORM GST RFD-01A will not be processed unless**
- **a copy of the application is submitted to the jurisdictional tax office**
- **along with supporting documents.**
- **mere online submission is not enough.**

## TWEET (4)

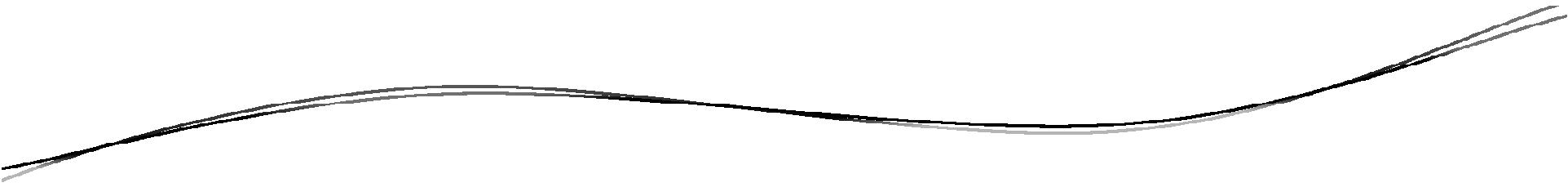
- The “Special Refund Fortnight” is for **all GST refunds**, including
- refund of **IGST** paid on export of goods and
- **all refund claims** submitted in FORM GST RFD- 01A on or **before 30.04.2018**


# INTRODUCTION

- **Section-54 : REFUND OF TAX**

This section deals with the **legal and procedural aspects** of claiming refund **by any person** in respect of-

- **Any tax** (which was excess paid)
- **Interest** paid on such tax
- **Any other amount** paid( which is not required to have been paid)
- **Input tax** relating to goods and/or services **exported out of India** including zero rated supply
- **Tax** on the supply of goods regarded as **deemed exports**

- 
- **Unutilized input tax credit** at the end of tax period in cases of:
    - **exports**, other than when goods are subjected to **export duty**
    - the supplier **avails drawback of central tax** or claims refund of **integrated tax** paid on such supplies
    - **Input tax rate** being **higher** than **output tax**, other than NIL rated or fully exempted

- 
- This section provides for **conditions** and **procedures** for claiming refund
  - **without specifying all the circumstances** in which the refund will be eligible to an applicant.
  - **Thus**, it can be **inferred** that refund is possible only when tax, interest or any other amounts are **physically paid in cash**
  - **and in respect of exports/ deemed exports in the form of input tax.**

## **Application for Refund**

- 54. (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 ( Slide No. 20- sub section 14 explanation 2)**
  - in form GST RFD-01 and in manner as may be prescribed through the common portal:**

## **Claim of refund in the return**

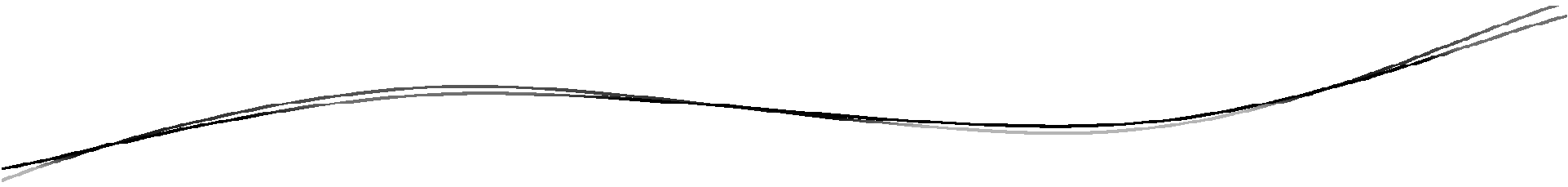
- **Provided** that a registered person,
- claiming refund of **any balance in the electronic cash ledger**
- in accordance with the provisions of sub-section (6) of section 49,
- **may claim such refund in the return** furnished under section 39
- in Form GSTR-3 or GSTR-4 or GSTR-7 as the case may be



## **Refund to Specialised agency etc.**

**(to Apply within 6 months from end of qtr.)**

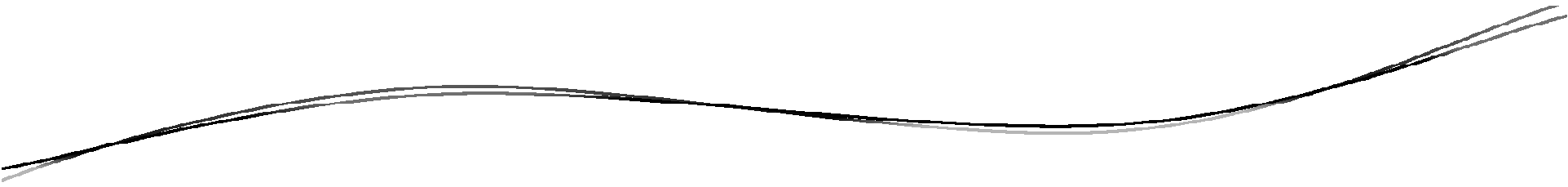
- (2) A **specialised agency** of the United Nations Organisation or
- any Multilateral Financial Institution and Organisation
  - notified under the United Nations (Privileges and Immunities) Act, 1947,
  - Consulate or Embassy of foreign countries or
- contd.....

- 
- 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 form **GST RFD-10 and 11** 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.**



## **Refund of unutilised ITC**

- (3) Subject to the provisions of **sub-section (10)**,
- a **registered person** may claim refund of any
  - **unutilised input tax credit** at the **end of any tax period**:
- 
- **Provided that no refund of unutilised input tax credit shall be allowed in cases other than--**
    - (i) **zero rated supplies** made without payment of tax;



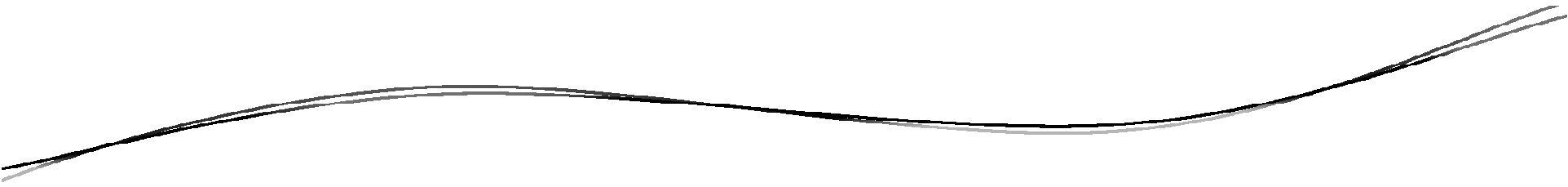
(ii) **where** the credit has **accumulated** on account of **rate of tax on inputs** being **higher** than the rate of tax on output supplies (other than nil rated or fully exempt supplies),

- **except** supplies of goods or services or both as may be **notified by the Government** on the recommendations of the Council
- 2(59) ***“input” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;***

## **DEEMED EXPORTS (Noti. No. 48/2017-Central Tax dated 18.10.2017)**

- Following supplies of Goods has been **notified 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**
- Supply of **goods** by a registered person to **Export Oriented Unit.**
- Supply of **gold** by a **bank or Public Sector Undertaking** specified in the notification No. 50/2017- Customs, dated the 30<sup>th</sup> June, 2017 (as amended) **against Advance Authorisation.**

- ~~For the purpose of this notification-~~
- **“Advance Authorisation”** means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports.
- **Export Promotion Capital Goods Authorisation** means an authorisation issued by the Director General of Foreign Trade Chapter 5 of the Foreign Trade Policy 2015-20 for import of capital goods for physical exports.
- **“Export Oriented Unit”** means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio- Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20



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

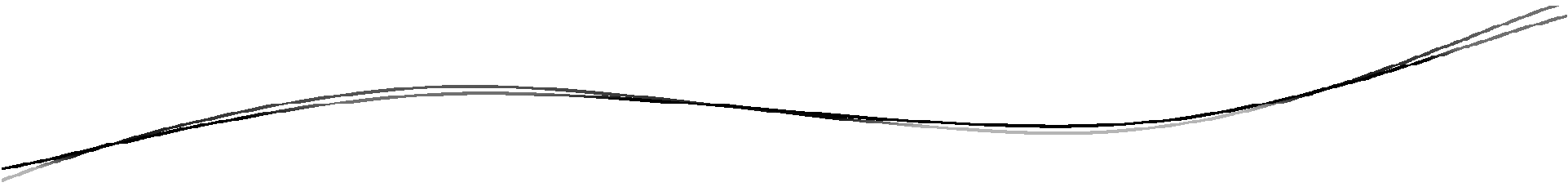
**Provided** also that **no refund** of input tax credit shall be allowed,

- 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.**

# **Application With Documentary Evidence**

- (4) The **application** shall be accompanied by—
- (a) such **documentary evidence** as may be prescribed{**Rule-89(2)**} to establish that a **refund is due** to the applicant; and
  - (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,

**contd....**

- 
- 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:**

**CONTD.....**

# **No Documentary evidence if refund is <2 Lakhs**

**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.**



## Order for refund

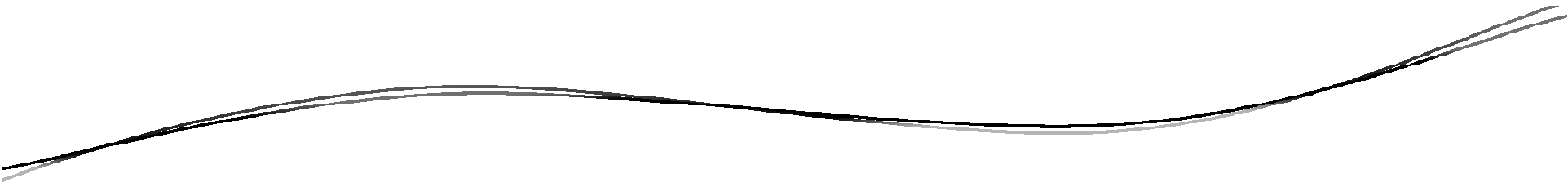
- (5) If, on receipt of any such application,
- the proper officer is satisfied that the whole or part of the **amount claimed as refund is refundable,**
  - he may **make an order** accordingly
  - and the **amount so determined** shall be **credited to the Fund(Consumer Welfare Fund)** referred to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



## **Refund of Zero-rated supply**

- (6) Notwithstanding anything contained in subsection (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,**

Contd...

- 
- refund on a provisional basis(FORM GST RFD-04,- Rule 91) ninety per cent of the total amount so claimed, (within 7 days from date of issue of acknowledgment in form GST RFD-02- Rule 90)
  - Acknowledgment to be issued within 15 days from date of filling of the application
  - If any deficiency found in the application same shall be communicated in Form GST RFD-03 to file fresh refund application after rectification of such deficiencies within 15 days.

- **excluding the amount of input tax credit provisionally accepted,**
- **in such manner (Rule-91) and subject to such conditions,**
- **limitations and safeguards as may be prescribed (the person has not been prosecuted during earlier 5 years for tax evaded exceeding 250 lakhs)**
- **and thereafter make an order under subsection(5) for final settlement of the refund claim after due verification of documents furnished by the applicant (in form GST RFD-06)- Rule 92.**



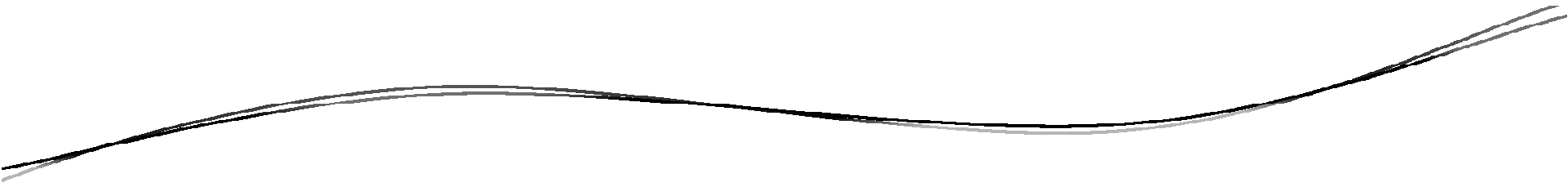
## **Refund order with in 60 days**

- (7) The proper officer shall issue the order in form **GST RFD-o6** under sub-section (5) **within sixty days** from
- the date of receipt of application **complete in all respects.**

## **Refund to be paid to applicant(6 cases)**

- (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—**

Contd.....

- 
- (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 **unutilised 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; ( **C+S paid as I** )

(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.

## **Court directions for refund**

**(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 there under or in any other law for the time being in force,  
**no refund shall be made** except in accordance with the provisions of subsection (8).

## Withholding of refund

- **(10)** Where any **refund is due** under subsection (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—
- Contd...**

**(a) withhold payment (RFD-07- Rule 92/1,2,6) of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;(SCN –RFD-08 can be issued for rejection/ reduction of refund. Reply can be filed in RFD-09 Rule 92 (3) with in 15 DAYS.**

- If any rejection/reduction is made by the proper officer, the said amount will be re-credited by him by an order in form PMT-03 using RFD-01B –Circular No. 17 dated 15.11.2017**
- Refund of SGST will be made by state and CGST and IGST will be made by the Centre.**
- Communication to the nodle officer of the other authority will be made within 3 days**

• ~~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 subsection, the expression “**specified date**” shall mean the **last date for filing an appeal** under this Act.

(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.



## **Interest on withheld refund**

**(12)** Where a refund is withheld under subsection (11), the taxable person shall, notwithstanding anything contained in section 56, **be entitled** to interest at such rate not exceeding **six per cent.**(**six percent – notification no. 13/2017**) 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.**



## **Refund to casual/Non-resident**

**(13)** 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 sub-section (2) of section 27, **shall not be refunded** unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, **furnished all the returns** required under section 39.

## **No refund if less than Rs. 1000**

**(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**.

**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 **unutilised input tax credit** as provided under sub-section (3).

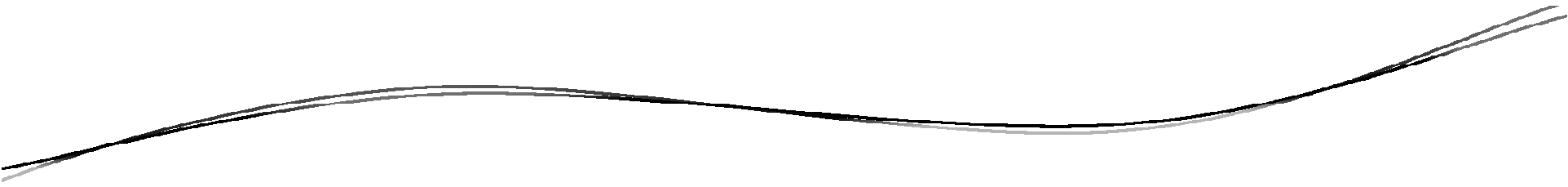
~~(2) “**relevant date**” means—~~

(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

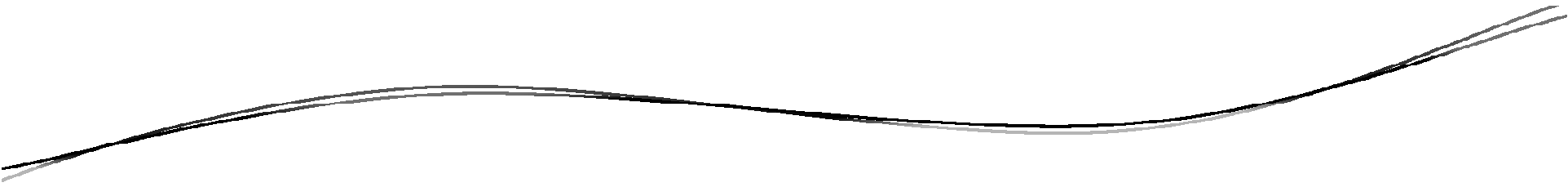
(iii) if the goods are **exported by post**, the **date of despatch** of goods by the **Post Office** concerned to a **place outside India**;      Contd...

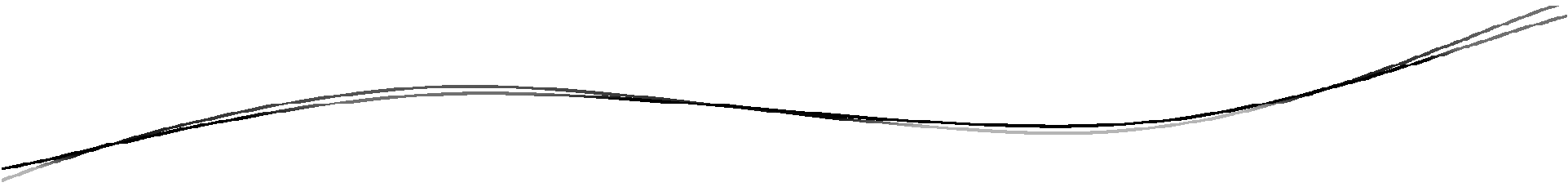


(b) in the case of supply of goods regarded as **deemed exports** where a **refund of tax** paid is available **in respect of the goods**, the date on which **the return** relating to such deemed exports is **furnished**;

(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--

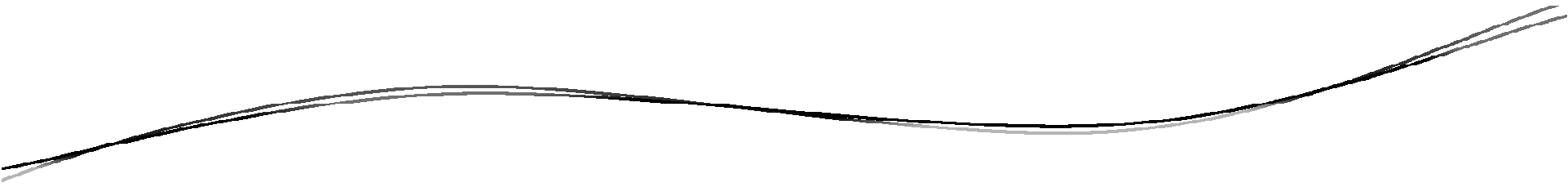
Cont....

- 
- (i) **receipt of payment in convertible foreign exchange**, where the supply of services had been completed **prior** to the receipt of such payment; or
  - (ii) **issue of invoice**, where payment for the services had been **received in advance** prior to the date of issue of the invoice;
  - (d) in case where the **tax becomes refundable** as a **consequence of judgment**, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, **the date of communication** of such judgment, decree, order or direction;



(e) in the case of **refund of unutilised input tax credit under sub-section (3), the end of the financial year** in which such claim for refund arises;  
(f) in the case where **tax is paid provisionally** under this Act or the rules made there under, **the date of adjustment of tax** after the final assessment thereof;

Contd.....



(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**.



## **Govt. to specify any specialised agency etc.**


55. The Government may, on the recommendations of the Council, **by notification,**

- specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation 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 (FORM RFD-10 on quarterly basis along with GSTR-11-Statement of inward invoices) of taxes paid** on the notified supplies of goods or services or both received by them.
- RFD-10 to be filed with Jurisdictional central tax commissionerate – Central Tax nodal officer in the state (**as per annexure A –Circular No. 36 dated 13.03.2018**)

- 
- Invoice wise detail to be furnished manually with the refund application without original or hard copy of invoices- circular no. 43 dated 13.04.2018
  - It has been represented that suppliers have not written UIN on invoices .
  - On time waiver is being given by the government for the quarters July to September 2017, Oct – Dec 2017, Jan- Mar 2018,
  - with a condition that copies of such invoices will be submitted duly attached by AR of UIN .



## Interest on issue of late refunds

**56.** 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 subsection (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.



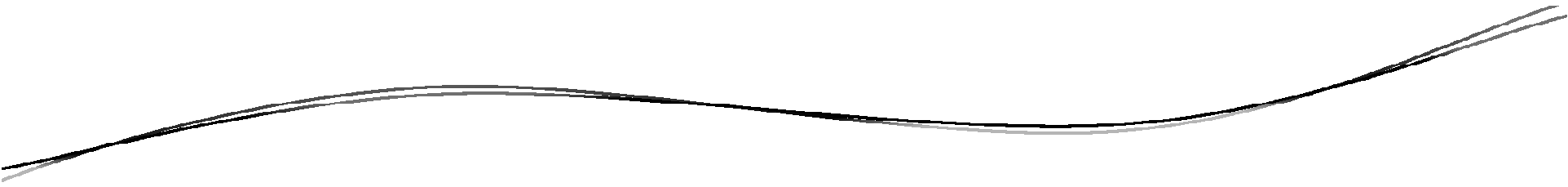
**Explanation.**—For the purposes of this section,

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).



57. 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.

• **Read rule 97 amended vide notification no. 21/2018- Central Tax dated 18.04.2018**




## Utilization of Fund

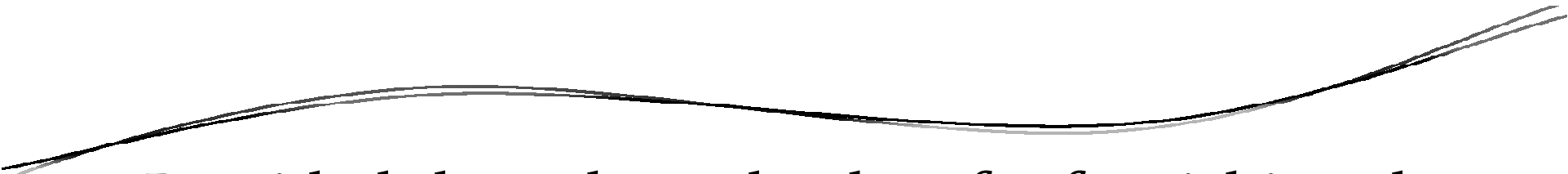
**58.** (1) All sums credited to the Fund shall be utilised by the Government for the **welfare of the consumers** in such manner as may be prescribed.


(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.

## **R-96: Refund of IGST paid on goods exported out of India.-**

- (1)-The **shipping bill** filed by an exporter of goods shall be **deemed** to be an **application for refund** of **IGST** paid on the goods exported out of India and such application shall be deemed to have been filed only when:-
- (a) 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
- (b) the applicant has furnished a valid return in FORM GSTR-3 or **FORM GSTR-3B**, as the case may be;

- 
- (2) 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.

- 
- Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended in exercise of the powers conferred under section 37 of the Act,
  - **the supplier shall furnish the 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:

- 
- Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in FORM GSTR-1 for the said tax period.
  - (3) 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]

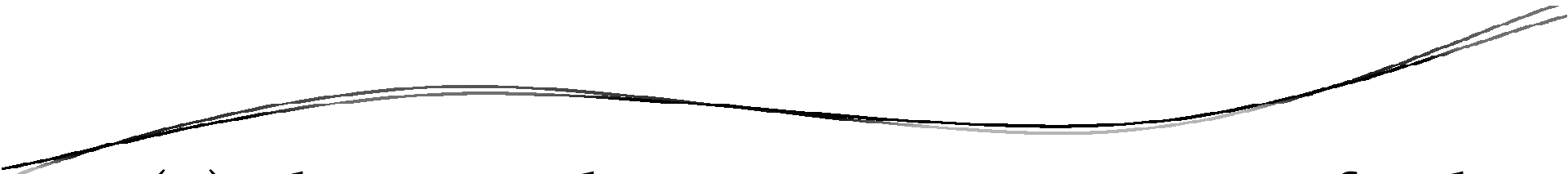
- and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

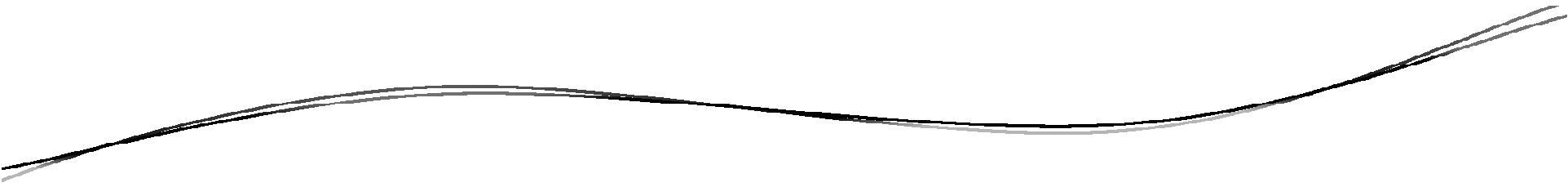
~~• (4) The claim for refund shall be withheld where,-~~

• (a) 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 (b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962

- (5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4),
- 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

- ~~(6) Upon transmission of the intimation~~ under sub-rule (5), 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-o7.
- (7) Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), 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 GST RFD-o6.

- 
- (8) The Central Government may pay refund of the integrated tax to the **Government of Bhutan**
  - on the exports to Bhutan for such class of goods as may be notified in this behalf
  - and where such refund is paid to the Government of Bhutan,
  - the **exporter shall not be paid** any refund of the integrated tax.

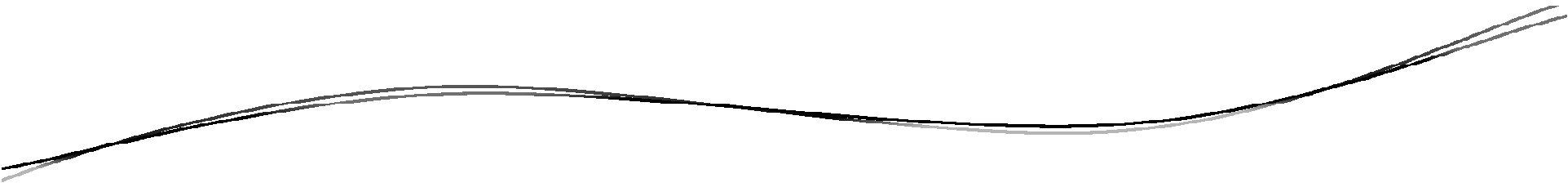
- 
- (9) The application for refund of integrated tax paid on the services exported out of India
  - shall be filed in FORM GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89

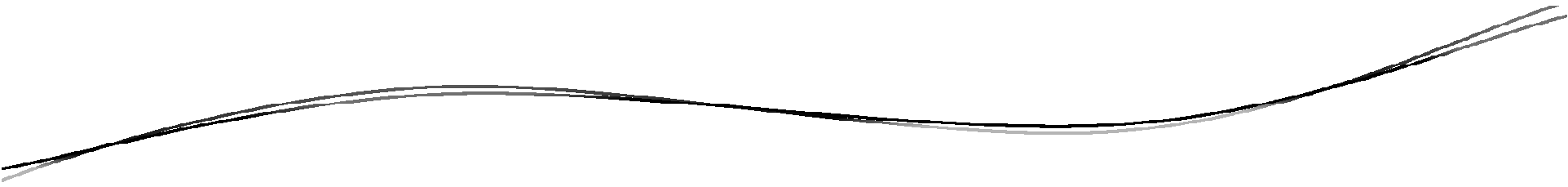
## **R-96A:Refund of IGST paid on export of goods or services under bond or Letter of Undertaking-**

- (1) 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
- Running Bond will be enough- B/G will not exceed 15% of Bond Value-
- Bond Value will cover estimated value of tax.

## **Letter of Undertaking – notification no. 16/2017**


- Exporter may file LUT(RFD-11) in place of Bond
- Status holder as per paragraph 5 of foreign trade policy 2015-2020 or
- Who has received inward remittance in previous year > 1 cr. and
- Who is not prosecuted for any offence > 250 lacs

- 
- to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 **within a period of —**

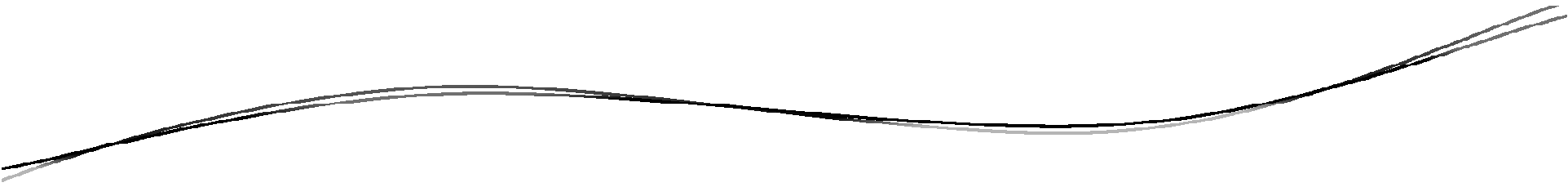
- 
- (a) **fifteen days** after the expiry of **three months** or such further period as may be allowed by the Commissioner,
  - from the **date of issue of the invoice** for export, if
  - the goods are **not exported** out of India; or

- ~~(2) The details of the export invoices contained in FORM GSTR-1 furnished on the common portal shall be electronically transmitted to the system designated by Customs~~
- and a confirmation that the goods covered by the said invoices have been exported out of India
- shall be electronically transmitted to the common portal from the said system.

- ~~Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period~~
- has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the 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:

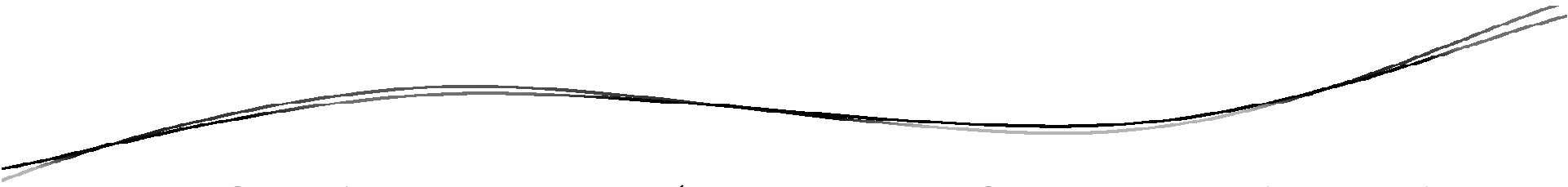
- 
- Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in FORM GSTR-1 for the said tax period.
  - (3) Where the goods are **not exported** within the time specified in sub-rule (1)
  - and the registered person fails to pay the amount mentioned in the said sub-rule,
  - 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.

- (4) The export as allowed under bond or Letter of Undertaking withdrawn in terms of sub-rule (3) shall be restored immediately when the registered person pays the amount due.
- (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.

- 
- (6) 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.

## **~~R-89: Application for refund of tax, interest, penalty, fees or any other amount~~**

- (4) In the case of **zero-rated supply** of goods or services or both **without payment of tax** under bond or letter of undertaking
- in accordance with the provisions of subsection (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017),
- refund of input tax credit shall be granted as per the following **formula**

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

- ~~(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**" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding –

- ~~(a) the value of exempt supplies other than zero-rated supplies and~~
- (b) the turnover of supplies in respect of which refund is claimed under sub rules (4A) or (4B) or both, if any,
- during the relevant period
- (F) **“Relevant period” means the period for which the claim has been filed.**

# ~~Circular No. 24/24/2017- GST~~ dated 21.12.2017

- Manual filing and processing of refund on account of **inverted duty structure, deemed exports and excess balance in cash ledger** due to non- availability of refund module
- Monthly Refund application – RFD-01A if aggregate turnover > 1.5 Cr
- Quarterly refund application – RFD-01A if aggregate turnover < 1.5 Cr
- GSTR-1 and GSTR-3B should have been filed

- Undertaking to be given manually with refund claim that the refund amount will be paid back in case it is found that requirements of section -16(2)(c) have not been complied.
- It is clarified that the drawback of all taxes under GST (CGST,IGST,SGST) should not have been availed while claiming refund of accumulated ITC under section 54(3)(i).



## Circular No. 37/11/2018-GST -15.03.2018

- Clarifications on exports related refund issues
- **Non- availment of drawback**
- A supplier availing of drawback only wrt to custom duty shall be eligible for refund of unutilised ITC of CGST/SGST/IGST/Compensation Cess .
- Further clarified that refund of ITC of SGST shall be available even if supplier has availed drawback in respect of CGST/IGST.
- **Mismatch in GSTR-1 and GSTR-3B**
- Discrepancies in 1 and 3B can be rectified in table 9 of GSTR-1 in subsequent months.

- ~~Field formations are therefore advised to refer the~~ subsequent months GSTR-1 and follow circular No. 26/26/2017 – GST dated 29.12.2017 while processing refund applications.
- **Exports without LUT**
- The delay in furnishing of LUT may be condoned and the facility for export under LUT may be allowed on ex-post facto basis taking into account the facts of each case
- **Exports after specified period**
- The goods should be exported within 90 days from the date of issue of invoice for export. For services time is 15 days after the expiry of one year.


- If goods have actually been exported after the period of three months, the commissioner may extend the time limit in view of facts of each case. Same principle to apply for services also.
- **Deficiency Memo**
- If deficiency memo is issued in RFD-03 the claimant is required to file a fresh refund application.
- Whether deficiency memo can be issued more than once.
- If fresh refund application manually RFD-01A has been submitted the proper officer will not serve another deficiency memo unless deficiencies remain unrectified wholly or partly.



- **Refund of Transitional Credit**

- Transitional Credit pertains to duties and taxes under earlier laws, the same can not be said to have been availed during the relevant period and thus can not be treated as part of Net ITC
- **Discrepancy between values of GST Invoice and Shipping Bill**
- During the processing of Refund the value of the goods declared in GST invoice in the shipping bill should be examined and lower of two should be sanctioned as refund.
- **Filing frequency of Refund**
- In many cases, exports are not made in that period in which input and input services were received and ITC have been availed.

- ~~Similarly, there may be cases where exports have been made in a period but no ITC has been availed.~~
- It is clarified ,that the exporter ,at his option may file refund claim for one month/quarter or by clubbing months/quarter spread in the same financial year.
- **BRC/FIRC for export of goods**
- It is clarified that proof of realisation of export proceeds for processing of refund claim related to export of goods has not been envisaged in the law and should not be insisted upon.
- **Supplies to merchant exporter:**
- As per notification no. 40/2017 –central tax (rate) and notification no. 41/2017 integrated tax (rate) dated 23.10.2017 – supplies for export can be made at 0.05% and 0.1% .

- 
- This concession is optional for supplier and the recipient.
  - It is clarified that the exporter will be eligible to take credit of such tax paid.
  - The supplier is also eligible for refund.
  - The exporter can export such goods only under LUT/Bond and not on payment of IGST.
  - **Requirements of invoices for processing for claims of refund**
  - As the refund module is not operational on the common portal, and is completely based on information provided by the taxpayer ,it is necessary to verify the invoices .

• **List of documents required for processing of refund:**

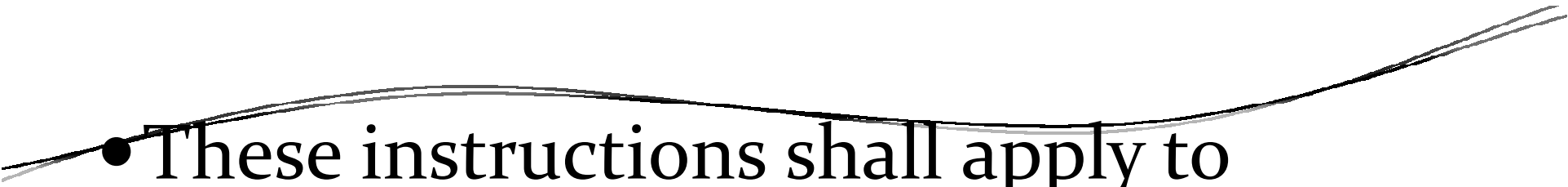
<b>Type of Refund</b>	<b>Documents</b>
Export of <b>Services with payment of tax</b> (Refund of IGST paid on export of services)	(a) Copy of FORM RFD-01A filed on common portal (b) Copy of statement 2 of FORM RFD-01A (c) Invoices w.r.t. input, input services and capital goods (d) BRC/FIRC for export of services (e) Undertaking/ Declaration in FORM RFD-01A

Export (~~goods or services~~)

**Without payment of tax**

(Refund of accumulated  
ITC of IGST/CGST/SGST/  
UTGST/Cess)

- (a) Copy of FORM RFD-01A filed on common portal
- (b) Copy of statement 3A of FORM RFD-01A generated on common portal
- (c) Copy of statement 3 of FORM RFD-01A
- (d) Invoices w.r.t. input and input and services
- (e) BRC/ FIRC for export of services
- (f) Undertaking / Declaration in FORM RFD-01A

- 
- These instructions shall apply to exports made on or after 1<sup>st</sup> July, 2017.
  - It is also **advised** that refunds may not be withheld due to **minor procedural lapses or non- substantive errors or omission.**

- **Rule 89(5) amended on 18.04.2018**


- In the case of refund on account of **inverted duty structure** , refund of ITC shall be granted as per **following formula**
- Maximum Refund amount=  
$$\text{(Turnover of inverted rated supply of goods and services} \times \text{Net ITC / Adjusted total turnover )} - \text{tax payable on such inverted rated supply of goods and services}$$
- Net ITC – shall mean ITC availed on **Inputs** during the relevant period other than ITC for which refund claimed under sub rule- 4A or 4B

# **Circular no. 12/2018- Customs dated 29.05.2018**

**Sanction of Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems-reg.**

## **Reasons for Non transmission**

- It has been observed that the exporters have **inadvertently misdeclared** IGST paid on export supplies as IGST paid on interstate domestic outward supplies while filing GSTR-3B
- The exporters have also in certain cases **short paid** IGST vis-à-vis their liability declared in GSTR-1

- 
- **As a result** of these mismatches in the amount of IGST paid on export goods between GSTR-1 and GSTR-3B, the **transmission of records** from GSTN to Customs EDI system **has not happened** and consequently IGST refunds **could not be processed**.
  - The problem is **compounded** by the fact that the facility to adjust GSTR-3B in **subsequent months** is not available in all cases. **CONTD...**

**Following procedure is being prescribed to overcome the problem of refund blockage:**

- This would be an **interim solution** subject to undertakings/ **submission of CA certificates** by the exporters as given below
- and **post refund audit** scrutiny .



**The proposed procedure is as under:**

**A. Cases where there is no short payment:**

- (i) The Customs policy wing would prepare a list of exporters
- (ii) whose cumulative IGST amount paid against exports and interstate domestic outward supplies,
- (iii) for the period July'2017 to March'2018 mentioned in GSTR-3B is **greater than or equal to the**



cumulative IGST amount indicated  
in GSTR-1 for the same period.

Customs policy wing shall send this  
list to GSTN.

(ii) GSTN shall send a confirmatory  
e-mail to these exporters regarding  
the transmission of records to  
Customs EDI system.

- ~~(iii) The exporters whose refunds are~~  
processed/ sanctioned
- would be required to submit a certificate from CA before 31<sup>st</sup> October ,2018 to the Customs office at the port of export
- to the effect that there is no discrepancy between the IGST amount refunded on exports
- and the actual IGST amount paid on exports of goods for the period July' 2017 to March'2018.
- In case there are exports from multiple ports, the exporters is at liberty to choose any of the ports of export for submission of the said certificate.

- (iv) A copy of the certificate shall also be submitted to the jurisdictional GST office (Centre/ State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Boards by the 15<sup>th</sup> November 2018.
- (v) Non submission of CA certificate shall affect the future IGST refunds of the exporter.
- (vi) The list of exporters whose refunds have been processed as above shall be sent to DG (Audit)/ DG (GST) by the Board.


**• B. Cases where there is short payment:**

- (i) In cases where there is a short payment of IGST
- i.e. cumulative IGST amount paid against exports and interstate domestic outward supplies together,
- for the period of July' 2017 to March' 2018 mentioned in GSTR-3B is
- less than the cumulative IGST amount indicated in GSTR-1 for the same period,
- the customs policy wing would send the list of such exporters to the GSTN and all the Chief Commissioner of Customs.

~~(ii) e-mails shall be sent by GSTN to~~  
each exporter referred in para (i)  
above

- so as to inform the exporter that their records are held up due to short payment of IGST.
- The e-mail shall also advise the exporters to observe the procedure under this circular.


- (iii) The exporters would have to make the payment of IGST equal to the short payment in GSTR 3B of subsequent months
- so as to ensure that the total IGST refund being claimed in the Shipping Bill/ GSTR-1 (Table 6A) is paid.
- The proof of payment shall be submitted to Assistant/ Deputy Commissioner of Customs in charge of port from where the exports were made.
- In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export.

- 
- (iv) Where the aggregate IGST refund amount for the said period is upto Rs. 10 Lacs,
  - the exporter shall submit proof of payment (self-certified copy of challans) of IGST payment to the concerned Customs office at the port of export.
  - However, where the aggregate IGST amount for the said period is more than Rs. 10 Lacs,
  - the exporter shall submit proof of payment (self-certified copy of challans) of IGST to the concerned Customs office at the port of export
  - along with a certificate from Chartered Accountant that the shortfall amount has been liquidated.

- (v) The exporter would give an undertaking they would return the refund amount in case it is found to be not due to them at a later date.
- (vi) The Customs Zones shall compile the list of exporters (GSTIN only) , who have come forward to claim refund after making requisite payment of IGST towards short paid amount and complied with other prescribed requirements.

- The compiled list may be forwarded to Customs policy wing, DG (Audit) and DG (GST).
- Customs policy wing shall forward the said list of GSTINs to GSTN.
- On receipt of the list of exporters from Customs policy wing,
- GSTN shall transmit the records of those exporters to Customs EDI system.

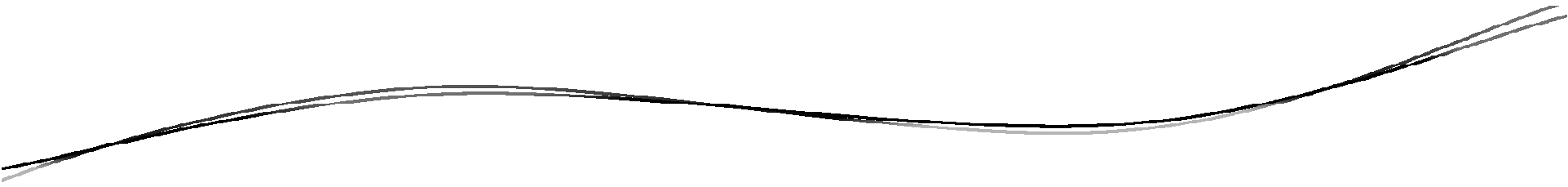
- ~~(viii) The exporters whose refunds are processed/sanctioned as above~~
- would be required to submit another certificate from Chartered Accountant before 31<sup>st</sup> October, 2018 to the same Customs office at the port of export
- to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March'2018.

- 
- A copy of the certificate shall also be submitted to the jurisdictional GST office (central/State).
  - The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15<sup>th</sup> November 2018.
  - (ix) No submission of CA certificates shall affect the future IGST refunds of the exporter.



## **POST REFUND AUDIT**

- 4. The exporters would be subjected to a post refund audit under the GST law.
- DG (Audit) shall include the above referred GSTINs for conducting Audit under the GST law.
- The inclusion of IGST refund aspects in Audit Plan of those units may be ensured by DG (Audit).

- 
- In case ,departmental Audit detects excess refunds to the exporters under this procedure,
  - the details of such detections may be communicated to the concerned GST formations for appropriate action.



# PROCESSING OF REFUND

- **Under DGST Act,2017 (Order No. 01/2018)**

- Refund upto Rs. 10 Lacs
- Refund > 10 Lacs upto 50Lacs

GSTO/AC

**Approval** of Zonal  
Incharge ie Jt Comm  
/Addl Comm/ Spl  
Comm

- Refund > 50 Lacs

**Approval** of Refund  
Committee



# **Constitution of Refund Committee**

- **Order No. – 02/2018 dated 08.02.2018**
- **All special commissioners – Chairman/  
Member**
- **Controller of Accounts – Member**
- **Zonal Incharge – Member**
- Secretary**

**This senior most special commissioner shall be the chairman of the committee.**



# PROCESSING OF REFUND

## • Under CGST Act, 2017

- |                                 |                |
|---------------------------------|----------------|
| • Refund upto Rs. 20 Lacs       | Superintendent |
| • Refund > 20 Lacs upto 50Lacs  | Assist. Comm   |
| • Refund > 50 Lacs upto 2 crore | Addl. Comm     |
| • Refund > 2 crore              | Commissioner   |



# Thanks To All

CA H L Madan

Mob: 9312238908

E-mail: [madanhlo6@rediffmail.com](mailto:madanhlo6@rediffmail.com)