

Refund of Integrated Tax paid on account of zero rated supplies

Under GST, Exports and supplies to SEZ are zero rated as per section 16 of the IGST Act, 2017. By zero rating it is meant that the entire supply chain of a particular zero rated supply is tax free i.e. there is no burden of tax either on the input side or on output side. This is in contrast with exempted supplies, where only output is exempted from tax but tax is levied on the input side. The essence of zero rating is to make Indian goods and services competitive in the international market by ensuring that taxes do not get added to the cost of exports.

The objective of zero rating of exports and supplies to SEZ is sought to be achieved through the provision contained in Section 16(3) of the IGST Act, 2017, which mandates that a registered person making a zero rated supply is eligible to claim refund in accordance with the provisions of section 54 of the CGST Act, 2017, under either of the following options, namely: –

- he may supply goods or services or both under

bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax (IGST) and claim refund of unutilised input tax credit of Central tax (CGST), State tax (SGST) / Union territory tax (UTGST) and integrated tax (IGST); or

- he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied.

The second category pertains to refund of integrated tax paid for the zero-rated supplies made by suppliers who opt for the route of export on payment of integrated tax and claim refund of such tax paid. There can be two sub-categories of such suppliers namely, -

1. Exporter of goods
2. Service exporters and persons making supplies to SEZ.

Export of Goods

The normal refund application in GST RFD-01 is not applicable in this case. There is no need for filing a separate refund claim as the shipping bill filed by the exporter is itself treated as a refund claim. As per rule 96 of the CGST Rules, 2017, the shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax 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 GSTR3B, as the case may be.

Thus, once the shipping bill and export general manifest (EGM) is filed and a valid return is filed, the application for refund shall be considered to have been filed and refund shall be processed by the department.

Since the system of filing of return in FORM GSTR-3 has not started so far, the refund of integrated tax on export of goods would be granted based on FORM GSTR-1 and FORM GSTR-3B for the time being. The details of the relevant export invoices contained in FORM GSTR-1 (or Table 6A thereof) 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.

Upon receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be and FORM GSTR-1 from the common portal, the system designated by the Customs shall process the claim for refund 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 Rule 96, the refund of IGST paid on export of goods is processed and disbursed by Customs. For processing such refund, GST system transmits invoice level data of Table 6A in GSTR 1 subject to the following validations: -

1. GSTR-3B is filed for the corresponding period, with admitted tax liability under Table 3.1(b);
2. Export invoices are submitted in GSTR-1/Table 6A and have correct shipping bill number, shipping bill date and port code;
3. The admitted tax liability of IGST under table 3.1(b) of GSTR-3B, is equal to, or greater than, the IGST amount claimed to have been paid under Table 6A of GSTR-1 of the corresponding period.

It may be noted that Rule 96(9) has been inserted, w.e.f 23.10.2017, in CGST Rules, 2017 vide Notification no. 75/2017-Central Tax dated 29.12.2017 so as to provide that the refund of integrated tax paid on export of goods or services is not permitted to such persons who have received supplies on which the supplier has availed the benefit of Notification no. 48/2017-Central Tax dated 18.10.2017 or Notification no. 40/2017- Central Tax (Rate) dated 23.10.2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017.

Service Exporters and Persons making supplies to SEZ

Under this category also, the supplier may choose to first pay IGST and then claim refund of the IGST so paid. In these cases, the suppliers will have to file refund claim in FORM GST RFD – 01 on the common portal, as per Rule 89(1) of the CGST Rules, 2017. Service Exporters need to file a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, along with the refund claim.

In so far as refund is on account of supplies made to SEZ, the DTA supplier will have to file the refund claim in such cases. The second proviso to Rule 89(1) stipulates that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the –

- (a) supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorised operations, as endorsed by the specified officer of the Zone;
- (b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone.

Thus, proof of receipt of goods or services as evidenced by the specified officer of the zone is a pre-requisite for filing of refund claim by the DTA supplier.

The claim for refund when made for supplies made to SEZ

unit/Developer has to be filed along with the following documents:

1. a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to rule 89(1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;
2. a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to rule 89(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;
3. 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.

Manual filing of claims

Till such time as full-fledged refund module is operationalised by GSTN, manual filing of claims has been prescribed vide Circular no.17/17/2017-GST dated 15.11.2017 & Circular

no. 24/24/2017-GST dated 21.12.2017. The application for refund of IGST paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services is required to be filed in FORM GST RFD-01A (as notified in the CGST Rules, 2017 vide Notification no. 55/2017 – Central Tax dated 15.11.2017) by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable (as per the details in statement 2 or 4 of Annexure to FORM GST RFD – 01), within the time stipulated for filing of such refund under the CGST Act, 2017.

Refund amount to be sanctioned by respective authorities

Para 2.5 of Circular no. 17/17/2017-GST dated 15.11.2017 may be referred to in order to ascertain the jurisdictional proper officer to whom the manual application for refund is to be submitted. Where any amount claimed as refund is rejected under rule 92 of the CGST Rules, 2017, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST RFD-1B until the FORM GST PMT-03 is available on the common portal. Further, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Central or State Government. Thus, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counter- part tax authority within seven working days for the purpose of

payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular no. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in para 4 of the said Circular. It must be ensured that the timelines specified under section 54(7) of the CGST Act, 2017 and rule 91(2) of the CGST Rules, 2017 for the sanction of refund are adhered to.

Special Procedure to facilitate smooth refund of Central Tax and State Tax

In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liaisoning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule 91(2) of the CGST Rules, 2017, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa. The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the sanction order [FORM GST RFD-04 and FORM GST RFD-06], the application for refund in FORM GST RFD-01A and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax,

as the case may be, shall issue FORM GST RFD-05 and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

Where to file the refund claims

The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime

Modalities/Records in respect of manual refund claims

The Circular No.17/17/2017-GST dated 15.11.2017 and circular no.24/24/2017-GST dated 21.12.2017 lays down the modalities for maintenance of records in respect of

such manual refund claims, which needs to be adhered to scrupulously. The time limits laid down in the Act need to be followed and the prescribed forms need to be generated manually for processing of such refund claims.

Grant of Provisional Refund

The above category of persons making zero rated supplies will be entitled to provisional refund of 90% of the claim in terms of Section 54(6) of CGST Act, 2017.

Rule 91 of CGST Rules, 2017 provide that the provisional refund is to be granted within 7 days from the date of acknowledgement of the refund claim. An order for provisional refund is to be issued in Form GST RFD 04 along with payment advice in the name of the claimant in Form GST RFD 05. The amount will be electronically credited to the claimant's bank account. Rule 91 also prescribe that the provisional refund will not be granted if the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, been prosecuted for any offence under the Act or under an earlier law where the amount of tax evaded exceeds two hundred and fifty lakh rupees.
