

GOODS & SERVICES TAX / IDT UPDATE – 60

Central Goods and Services Tax (Eleventh Amendment) Rules, 2018 w.e.f 23rd October, 2017

The Central Government *vide Notification No. 53/2018 –CT & Notification No. 54/2018 dated 9th October, 2018* has notified following rules further to amend the Central Goods and Service Tax Rules, 2017.

Substitution in sub-rule 10 of Rule 96 [Refund of integrated tax paid on goods or services exported out of India]

For period from 23.10.2017 to 08.10.2018 ([Notification No. 53/2018 –CT](#))

The persons claiming refund of integrated tax paid on export of goods or services should not have –

(a) received supplies on which the following benefits of the Government of India has been availed by the respective counter-party suppliers (who have supplied to persons claiming refund):

- Notification No. 48/2017-CentralTax, dated the 18th October, 2017: *It covers domestic supplies made against advance authorization, supply of capital goods against EPCG authorization, supply of goods to EOU & supply of gold by a bank or PSU against advance authorization.*
- Notification No. 40/2017-Central Tax (Rate), dated the 23rd October or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017: *This notification covers supplies made to merchant exporter at the rate of 0.1% in case of IGST or 0.05% each in case of CGST & SGST.*

(b) received supplies on which the following benefits of the Government of India has been availed by the respective counter-party suppliers (who have supplied to persons claiming refund):

- Notification No. 78/2017-Customs dated the 13th October, 2017: *This notification provides exemption from Customs Duty & IGST under Customs on goods imported or procured from Public or Private Warehouse or from International Exhibition by Hundred per cent EOU, STP or EHTP units.*
- Notification No. 79/2017- Customs, dated the 13th October, 2017: *This notification provides exemption from Customs Duty & IGST under Customs on imports under EPCG, Advance Authorization, Advance Authorization for Annual Requirements, Advance Authorization for Deemed Export, Advance Authorization for export of Prohibited Goods and Narrow Woven Fabrics, etc.*

Further, [Notification No. 54/2018 dated 9th October, 2018](#) has been issued effective from **09.10.2018** to restrict the refund in case he has availed the benefits as mentioned aforesaid *except* so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.

Substitution in sub rule 4 of Rule 89 [Application for refund of tax, interest, penalty, fees or any other amount]

Refund of unutilized input tax credit on account of zero rated supplies without payment of tax shall be granted where a person has :

(a) received supplies on which the following benefits of the Government of India has been availed by the respective counter-party suppliers (who have supplied to persons claiming refund):

- Notification No. 48/2017-Central Tax, dated the 18th October, 2017
- Notification No. 40/2017-Central Tax (Rate), dated the 23rd October or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017

(b) received supplies on which the following benefits of the Government of India has been availed by these very persons (claiming refund but their counter-party suppliers could have availed these benefits):

- Notification No. 78/2017-Customs, dated the 13th October, 2017
- Notification No. 79/2017- Customs, dated the 13th October, 2017

Hence in above cases, exporter has to export only under LUT and claim refund of unutilized ITC.

[Notification No. 53/2018 –CT & Notification No. 54/2018 dated 9th October, 2018]

Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017

Section 9(2) of the Compensation Cess Act provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CGST Act and the rules made thereunder, shall apply in relation to the levy and collection of Compensation Cess.

Keeping in view the above provision the Central Government vide [Circular No. 68/42/2018-GST dated 5th October, 2018](#) has clarified that the Notification no. 16/2017-CT (R) dated 28th June,2018 issued for notifying organizations for claiming refunds of taxes paid on notified goods shall be applicable to Goods and Services (Compensation to States) Act , 2017.

Therefore, UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having

being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.

[\[Circular No. 68/42/2018-GST dated 5th October, 2018\]](#)

Customs

Cases where IGST refunds have not been granted due to claiming higher rate of drawback OR where higher rate and lower rate were identical –reg

[Circular 37/2018-Customs dated 9th October, 2018](#) clarified that exporters are availing the option to take drawback at higher rate in place of IGST refund out of their own volition. Considering the fact that exporters have made declaration in the shipping bill while claiming the higher rate of drawback, it has been decided that it would not be justified allowing exporters to avail IGST refund after initially claiming the benefit of higher drawback.

[\[Circular 37/2018-Customs dated 9th October, 2018\]](#)

Advisory-circular for registration of beneficiaries on ICEGATE-regarding

Government vide [Circular 35/2018- Customs dated 1st October, 2018](#) has introduced **Single Window Interface for facilitating Trade (SWIFT)** as part of ease of doing business initiative to integrate Customs and other Participating Government Agencies (PGAs) for seamless processing of import and export clearances. One of the component of SWIFT is *e-SANCHIT*. Under eSANCHIT, the system allows a trader to submit all supporting documents for clearance of consignments electronically with digital signatures, thereby making the entire process of consignment clearance faceless and paperless. It has been made mandatory for all the importers from 01st April, 2018 onwards. Shortly eSANCHIT facility will be extended to exports also, for which a pilot is underway.

Further, CBIC is embarking on a project under SWIFT to bring all the Participating Government Agencies (PGAs) under eSANCHIT wherein instead of importer/exporter the PGAs who issue Licences, Permits, Certificates and Other Authorizations (LPCOs), will upload the documents themselves.

Once the LPCO is uploaded by a PGA, a unique IRN (Image reference number) will be generated by the system and the same will be communicated to the beneficiary. For availing this facility, the registered email id with ICEGATE will be used. In future, a view facility will also be available, wherein a beneficiary will be able to view the documents uploaded by the PGAs during a given period.

A pilot is expected to be launched shortly for testing the eSANCHIT facility for PGAs with three PGAs. Thereafter on successful testing, the facility will be extended to all the PGAs. Once the facility of uploading the document on eSANCHIT by PGAs is implemented, the

beneficiaries (importer/exporter) will not be allowed to upload such documents themselves.

Further, a detailed procedure on registration is available at ICEGATE website under the path www.icegate.gov.in --> Downloads --> Registration Demo.

[\[Circular 35/2018- Customs dated 1st October, 2018\]](#)

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