



The Institute of Chartered Accountants of India
GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE – 188

Clarification on certain refund-related issues

1) Refund of accumulated Input Tax Credit under section 54(3) on the basis of that available in Form GSTR-2B

The Central Board of Indirect Taxes and Customs vide [Circular No. 197/09/2023-GST dated 17th July, 2023](#) has issued the following clarifications on following refund related issues:

- a) It was decided vide *Circular No.135/05/2020–GST dated the 31st March, 2020* that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Now, it has been decided that since the availment of input tax credit has been linked to GSTR-2B w.e.f. 01.01.2022 by amending rule 36(4), availability of refund of the accumulated input tax credit under section 54(3) of CGST Act for a tax period shall be restricted to input tax credit as per those invoices, the details of which are reflected in FORM GSTR-2B of the applicant for the said tax period or for any of the previous tax periods and on which the input tax credit is available to the applicant. Accordingly, para 36 of *Circular No. 125/44/2019-GST dated 18.11.2019*, which was earlier modified vide Para 5 of *Circular No. 135/05/2020-GST dated 31.03.2020*, stands modified to this extent. Consequently, *Circular No.139/09/2020-GST dated 10.06.2020*, which provides for restriction on refund of accumulated input tax credit on those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant, also stands modified accordingly.
- b) It has been further clarified that as the amendment in section 16(2)(aa) and rule 36(4) has been brought from 01.01.2022, the restriction regarding the admissibility of refund on the basis of GSTR-2B for the said tax period or for any of the previous tax period shall be applicable for refunds claim for the tax period from January 2022 onwards. Where the refund claims relating to the tax period from January, 2022 onwards has been disposed by the proper officer before the issuance of the circular, in accordance with the extant guidelines in force, the same shall not be reopened because of this clarification.

2) Modification of the undertaking in Form RFD-01 inserted vide Circular No. 125/44/2019- GST dt. 18.11.2019

- a) In view of the non-implementation of Forms GSTR-2 and GSTR-3 and omission of section 42 (matching, reversal and reclaim of input tax credit) of CGST Act w.e.f. 1st October, 2022, its reference in the undertaking in FORM GST RFD-01 in which the taxpayer undertakes to pay back to the Government the amount of refund along with interest in case it is found subsequently that the requirements of clause (c) of section 16(2) read with section 42(2) of the CGST/SGST Act have not been complied with in respect of the amount refunded, as well as para 7 of Circular No. 197/09/2023- GST dt. 18.11.2019 is being deleted.
- b) Consequential amended to be made in Annexure-A to the Circular No. 125/44/2019- GST dt.18.11.2019.

3) Manner of calculation of Adjusted Total Turnover under sub-rule (4) of rule 89 of CGST Rules consequent to Explanation inserted in sub-rule (4) of rule 89 vide Notification No. 14/2022- CT dated 05.07.2022

It has been clarified that the value of zero rated/ export supply of goods exported out of India, calculated as per amended definition of “Turnover of zero-rated supply of goods”, needs to be taken into consideration while calculating “turnover in a state or a union territory”, and accordingly, in “adjusted total turnover” for the purpose of sub-rule (4) of rule 89.

4) Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A

It has been clarified that as long as goods are actually exported or as the case may be, payment is realized in case of export of services, even if it is beyond the time frames as prescribed in sub-rule (1) of rule 96A, the benefit of zero-rated supplies cannot be denied to the concerned exporters. Hence, in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of section 54(3), if otherwise admissible.

It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, as the case may be, the said exporters would be entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of services, within the time frame prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A. It is further clarified that no refund of the interest paid in compliance of sub-rule (1) of rule 96A shall be admissible.

It may further be noted that the refund application in the said scenario may be made under

the category “Excess payment of tax”. However, till the time the refund application cannot be filed under the category “Excess payment of tax” due to non-availability of the facility on the portal, the applicant may file the refund application under the category “Any Other”.

***Vice - Chairman
GST & Indirect Taxes Committee***

***Chairman
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