

# Latest Clarifications - On Refunds Under GST - Big Relief

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## Introduction

GST has been implemented w.e.f. 1st July, 2017 as 'One Nation-One Tax' in place of 17 indirect taxes for ease of doing business, to reduce corruption, to allow seamless credit of input tax paid and for many other reasons. In this regime, the prevailing 'C' forms and 'H' forms are dispensed with and the business now needs to pay input tax for all its taxable purchases of goods / services used for making outward supply within the state, Interstate or export outside India, and thereafter, to approach the Govt. for refund of input tax paid on such inward supplies if outward supply is export or under inverted duty structure.

To reduce corruption and inconvenience, while implementing GST, Govt. planned to make every transaction activity online through GSTN (Portal) and was of the view that refunds will be issued online within reasonable time as is being done by Income Tax Dept. by crediting to the bank account of a business without any interface with the GST officials.

However, the technology did not come up to the expectation till now, and large numbers of claims of refund are pending with the Govt resulting in blockage of working capital and business is facing financial difficulties.

**Refund Fortnights:** Inspite of the fact Govt organised the Refund Fortnights (Twice), in March 2018 & May 2018 and many circulars have been issued to ease the difficulty of the taxpayer, yet the problem is not solved to the expectations of the tax payers and is a reason of hue and cry among the exporters and business where purchases are at higher rates of tax and outward supplies are at lower rate as the profit of the exporters have been stuck up in refunds with Govt.

## Physical Submission of refund claims:

Due to non availability of complete/required refund module on GSTN PORTAL, and to remove difficulties of exporters, many circulars have been issued requiring the taxpayers to file refund applications in form GST RFD 01A online and submit the application reference number (ARN) print along with all supporting documents physically with the jurisdictional proper officer. Some important circulars issued by GST policy wing are as under:

### 1. **Circular No. 17/17/2017 – GST dated 15.11.2017**

Explained procedure of manual filing of refund application with

various declarations, statements, invoices for inward and outward supplies, export documents, etc. and detailed procedure for processing of refund applications by GST officers.

**2. Circular No. 24/24/2017 – GST dated 21.12.2017**

Explained procedure for manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger.

**3. Circular No. 37/11/2018 – GST dated 15.03.2018**

Explained following issues:

1	Non availment of drawback
2	Amendment through Table 9 of GSTR-1
3	Exports without LUT
4	Exports after specified period
5	Deficiency Memo
6	Self Declaration of Non-prosecution
7	Refund of Transitional Credit
8	Discrepancies between value of GST Invoice & Shipping bill / bill of export
9	Refund of Taxes under existing laws
10	Filing frequency of refunds
11	BRC/FIRC for export of goods
12	Supplies to merchant exports
13	Requirement of Invoices for processing of claims for refund.

**4. Circular No. 45/19/2018 – GST dated 30.05.2018**

Explained refund of unutilized ITC of compensation cess availed on inputs in cases where the final product is not subject to levy of compensation cess.

**5. Circular No. 59/33/2018 – GST dated 04.09.2018**

Explained following issues:

- ◆ Submission of invoices for processing of claims of refund.
- ◆ System validations in calculating refund amount.
- ◆ Re-credit of electronic credit ledger in case of rejection of refund claim.
- ◆ Scope of rule 96(10) of CGST rules.

- ◆ Disbursal of refund amount after sanction by proper officer.
- ◆ Status of refund claim after issue of deficiency memo.
- ◆ Treatment of refund application for the amount claimed less than Rs.1000/-

#### **6. Circular No. 70/44/2018 – GST dated 26.11.2018**

Explained following issues:

- ◆ Status of refund claim after issuance of deficiency memo and credit of electronic credit ledger.
- ◆ Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports.

**Inspite of above circulars** clarifying many issues, taxpayers submitting GST RFD 01A physically and GST officers dealing with such applications of refund, were finding difficulties on many issues and, therefore, either the refund applications are being rejected or kept pending for disposal resulting delay in issue of refund.

#### **LATEST CIRCULAR DATED 31.12.2018**

**In order to further clarify** few more issues and to simplify refund process CBIC - (Central Board of Indirect Taxes and Customs) GST WING has issued **Circular No 79/53/2018 – GST dated 31.12.2018**. Issues now clarified are as under:

##### **1. No need to submit any document in physical form**

1.1 There will be no need to file, print of RFD 01A or any document / undertaking / statement or any supporting documents, physically with jurisdictional proper officer. All documents required shall be uploaded on the GSTN common portal at the time of submitting refund application.

It has been further clarified that even documents as required by [circular No. 59/33/2018 – GST Dt. 04.09.2018](#) will also be submitted online.

**This is a big relief to the taxpayers.**

##### **1.2 Submission of documents physically - optional**

If the taxpayer so desire, he has the option, to submit above documents physically also, but after submitting complete application in GST RFD-01A online.

##### **1.3 Mandatory physical submission of documents**

A taxpayer who still remains unallocated to Centre or State Authorities has

to submit refund application physically along with all supporting documents.

However, he can file the refund application with any authority either the Central or State in view of [Circular No. 17/17/2017 – GST Dt. 15.11.2017](#).

## **2. Generation of ARN:**

The taxpayer should generate the ARN only after completing the process of filing GST RFD 01A and uploading of supporting documents / undertakings / statements/ invoices and debiting the Electronic Credit ledger wherever required.

## **3. Deemed filing of refund application**

3.1 On the date of generation of ARN, the application shall be deemed to have been filed under CGST Rules 90(2) and there will be no need to go to GST office to submit the same.

3.2 Time of 15 days to issue Acknowledgement shall be counted from the date of generation of ARN.

3.3 The jurisdictional officer shall issue acknowledgment or deficiency memo manually based on the documents received online on common portal.

## **4. Rectified refund application**

To be filed manually on receipt of deficiency memo – the taxpayer needs to file rectified refund application manually with ARN of original application as already clarified in [Circular No 70/44/2018 – GST dated 26.10.2018](#).

## **5. Processing of refund application**

Other stages of processing of a refund claim submitted in RFD 01A by the jurisdictional officer shall be manually for the time being.

## **6. Calculation of refund amount of accumulated ITC in case of inverted duty structure.**

### **6.1 Where rate of GST on inputs is equal or lower than the rate on outward supply -**

It has been clarified that where there are multiple inputs attracting different rates of tax, Net ITC availed cover ITC on all the inputs in the relevant period, irrespective of their rate. It is explained with the following

illustration:

**Assume – In a Manufacturing Process:-**

Name of Input Used	Rate of GST on Inputs	Value of Inputs	Tax paid of Inputs	Outward Supply			Tax on Output Supply	Refund
				Name	Value	Rate		
1	2	3	4	5	6	7	8	9(4)
A	5%	500	25	Y	3000	12%	360	
B	18%	2000	360	-	-	-	-	-
<b>TOTAL (Rs.)</b>			<b>385</b>				<b>360</b>	<b>2</b>

**Note:** The above illustration is to clarify the position to GST officials as some of the officers were denying refund where GST rate on inputs was lower or equal to rate of output tax.

**6.2 Refund of accumulated ITC of input services and capital goods on account of inverted duty structure:-**

It is clarified that both CGST Act and rules made thereunder clearly prevent the refund of tax paid on input services and capital goods as part of refund of ITC accumulated on account of inverted duty structure.

**7. Interest on delayed refunds payable by Govt:**

7.1 Section 56 of CGST Act provides to pay interest @ 6%, if the amount is not refunded within 60 days of the date of receipt of application (ARN) till the date of refund.

7.2 It is clarified that the tax shall be considered to have been refunded only when the amount is credited to the bank account of the claimant.

7.3 Therefore, the tax authorities are advised to issue the final refund sanction order within 45 days of the date of ARN so that disbursement can be completed within 60 days by both the Central and State Tax Authorities.

**8. Fate of refund applications generated on the Portal before 31.12.2018 but physically not received by the GST officer:-**

8.1 If refund amount claimed is less than Rs.1000/- then the application shall be rejected by the GST officer and the amount will be credited to the electronic credit ledger of the applicant by issuance of Form GST RFD-01B.

8.2 List of applications of the refund where amount is greater than 1000/-

shall be compiled and if the same are not received in the office of the tax officer within 60 days of ARN Generation, a communication will be sent on their registered E-Mail Id to submit the application physically within 15 days failing which the applications shall be summarily rejected and the amount shall be credited in their electronic credit ledger.

8.3 Refund has been claimed for excess amount in the Electronic Cash Ledger and application not submitted physically with the GST officer, then the amount debited in electronic cash ledger may be re-credited through Form GST RFD-01B if there are no liabilities in the electronic liability register and even though GSTR -3B has not been filed by the taxpayer for the relevant period.

### **9. Non-consideration of ITC of GST paid on invoice of earlier tax period availed in subsequent period.**

9.1 It is clarified that 'Net ITC' u/s 89(4) of CGST rules means ITC availed on inputs and input services during the relevant period for which refund is claimed by the taxpayer.

9.2 Therefore, ITC on invoices issued in earlier tax period 'say Aug'2017' can not be excluded from the calculation of the refund amount for the month of 'say Sept 2017' if ITC availed in Sept-2017.

9.3 This has been clarified for the reason that certain GST officer were denying to give refund of ITC for earlier tax periods claimed in subsequent tax period.

### **10. Misinterpretation of the meaning of the term 'inputs':**

It is clarified that ITC on inputs like stores and spares, packaging material, materials purchased for machinery repairs, printing and stationary items, is allowable as the same qualify as inputs and therefore, entitled for refund and GST officers should not deny the same, if the said goods are used or intended to be used in the course or furtherance of business and not covered u/s. 17(5) of CGST Act.

Further, store and spares, the expenditure on which has been charged to revenue expenses cannot be held as capital goods and ITC for the same is available for refund.

**Note:** The above has been clarified as many GST officers were denying ITC on above items while processing refund claim.

### **11. Issues related to refund of accumulated ITC of compensation**

**cess:**

Vide [Circular No 45/19/2018 GST dated 30.05.2018](#), CBEC clarified that refund of accumulated ITC of compensation cess on account of Zero rated supplies made under LUT/ Bond is available even if the exported product is not subject to levy of cess.

Now following issues are further clarified:

**(a) Calculation of refund of compensation cess of past periods:**

How the amount of compensation cess to be refunded will be calculated in case the claimant claims the refund of accumulated cess for the period from July 2017 to May 2018 (i.e. upto the date on which [circular No 45/19/2018 Dt. 30.05.2018](#) was issued) in the month of July, 2018 along with refund claim of ITC for the month of July, 2018.

**It has been clarified**, that refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of CGST/ SGST/ IGST/ UTGST was claimed on account of exports made under LUT/ Bond.

If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective month would be admissible.

Further, the recomputed amount of eligible refund of compensation cess in respect of past periods (July 2017 to May 2018) would not be admissible for consignments exported on payment of IGST.

**(b) No distinction between intermediate and final goods or services:**

Refund for compensation cess paid on coal which has been used for the captive generation for electricity which is further used for the manufacture and export of aluminium products will be allowed as there is no distinction between intermediate goods or services or final goods or services under GST.

**In conclusion**, clarifications given in latest [Circular No 79/53/2018 – GST dated 31.12.2018](#) as discussed above, is a big relief to claimants of refund as now they can submit application and supporting documents online and need not to visit the office of jurisdictional proper officer to

submit the documents physically. These clarifications are also guidance for tax officers in processing of refund claims related to zero rated supply, inverted duty structure and compensation cess (for past periods from July 2017 to May 2018) more smoothly and to do it within 45 days from the date of generation of ARN and crediting the refund amount in taxpayer's bank account within 60 days failing which interest will be payable by Govt.@6%.

**No doubt** Govt. has clarified the legal position for payment of Interest @ 6% on delayed refunds but how it will be monitored, whether tax officer has granted interest alongwith refund amount suo-moto, has not been clarified. It is a matter of record, that tax officers, have not paid interest in case of delayed processing of refunds for the period from July 2017 to March 2018 in most of the cases. Such tax payers may have to approach the higher authorities in appeals to claim the interest which is their right otherwise. Therefore, to give relief, to such taxpayers Govt. should advice the tax officers by way of another circular to compile the data of such cases of delayed refunds, calculate interest thereon, and credit the taxpayer bank account suo-moto instead taxpayer going for appeals in almost all cases. In my view Govt. will consider the issue if effectively brought to the knowledge of higher authorities and issue advisory to tax officers to allow interest of past periods and monitor that interest is paid in future refund claims along with the refund amount itself. In addition, if columns/rows for date of generation of ARN, date of sanction of refund, period of delay in sanction, interest on delay are added in GST-RFD-06(Refund sanction order), it will be a self check on the proper officer to calculate interest along with refund amount. This will save lot of precious time of taxpayers, energy, harassment and will reduce corruption also.