

ANALYSIS OF REFUND AVAILABLE UNDER GST AND PROCESS THEREOF.



Presented By:

**FCA. Puneet Goyal
9211274295**

Important Questions

- ▶ What type of refund available under GST?
- ▶ Whether refund process is online or offline?
- ▶ Whether refund can be processed in any case by custom authorities?
- ▶ How can refund be applied in different cases?
- ▶ Whether refund amount can be adjusted with demand under any existing law? Yes.
- ▶ Whether both refund of IGST paid and refund of unutilized ITC on Zero Rated supply can be claimed? No. (Section 54(3) restrict)
- ▶ Whether both refund of IGST paid under deemed export or on supply to merchant exporter and refund of unutilized ITC can be claimed? No. Can be possible only if fall in inverted tax structure.
- ▶ What is drawback?
- ▶ AS receipt of payment in foreign currency compulsory for export of services whether same is also required for export of goods? No. (Also clarified in circular no. 37/2018).
- ▶ Whether exempted goods can be covered in Zero rated supply if exported? Yes. (IGST Sec. 16)

Types of REFUND Under GST Law

1. General Refund

1(A). Any balance in electronic cash ledger

2. Tax paid on Inward Supplies of Goods and Services by United Nations

3. Unutilised ITC on Zero rated supplies

4. Unutilised ITC on inverted tax structure

5. Casual dealer/ Non resident taxable person

6. Amount of CGST and SGST paid instead of IGST and vice versa

7. Tax paid on non taxable supply

8. Integrated tax paid on supply of goods to tourist

9. Amount of IGST paid on Zero Rated supply of goods or services on payment of IGST

10. Refund of interest paid u/s 42(9) or u/s 43(9) due to mismatch of ITC



TYPE OF REFUND AVAILABLE UNDER GST LAW

- ▶ **General Refund**
- ▶ **Any balance in the electronic cash ledger**
- ▶ Refund of **tax paid on inward supplies of goods or services or both by** (See Note-1).
- ▶ Refund of **unutilised ITC on zero rated supplies**
- ▶ Refund of **unutilised ITC accumulated**
- ▶ **Refund to Casual Dealer/Non Resident taxable person**
- ▶ Amount of CGST and SGST paid instead of IGST and Vice Versa
- ▶ Refund of Tax paid on non taxable supply.
- ▶ Refund of **integrated tax paid on supply of goods to tourist** leaving India
- ▶ Refund amount of IGST in case of **Zero Rated Supply of goods or services** on payment of IGST.
- ▶ **Refund of Interest paid under section 42(9) or 43(9) due to mismatch of ITC.**

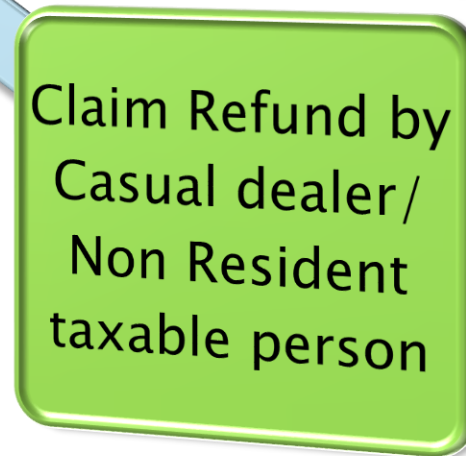
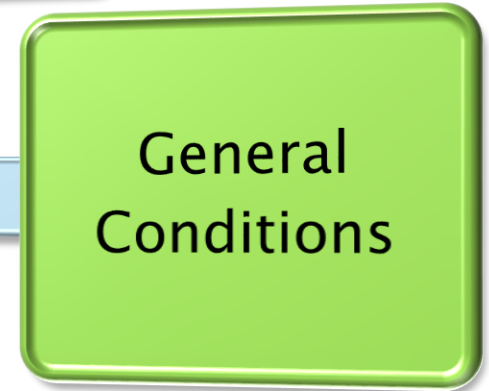
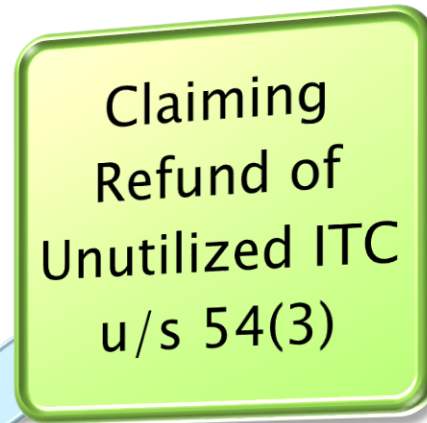
TYPE OF REFUND AVAILABLE UNDER GST LAW

S. No.	Type of Refund	Section	Time Line for apply refund	Time Line for Passing Refund Order
1	General Refund of any tax, interest or any other amount paid by applicant.	54(1)	2 years from relevant date.	60 days from the date of receipt of application. (Section 54(7))
1A	<u>Any balance in the electronic cash ledger</u>	54(1) Proviso	Can be claimed in return furnished under section 39 and within 2 years from relevant date.	Do
2	Refund of <u>tax paid on inward supplies of goods or services or both by UN organizations etc</u> (See Note-1).	54(2) and 55	6 months from last day of quarter in which such supply was received.	Do
3	Refund of <u>unutilised ITC on zero rated supplies</u> made without payment of tax.	54(3)	Refund application may be filed at the end of <u>any tax period and within 2</u> years from relevant date.	Provisional refund within 7 days as per rule 91(2) and section 54(6) and balance within 60 days

S. No.	Type of Refund	Section	Time Line for apply refund	Time Line for Passing Refund Order
4	Refund of <u>unutilised ITC accumulated</u> on account of inverted tax structure. 2. Question whether applicable in case of ITC available on CG.	54(3)	Refund application may be filed at the end of <u>any tax period and within 2 years</u> from relevant date.	1. 60 days from the date of receipt of application. (Section 54(7))
5	<u>Refund to Casual Dealer/Non Resident taxable person</u>	54(13) & 27	As per 4 th proviso of rule 89(1), refund shall be claimed in last return.	60 days from the date of receipt of application. (Section 54(7))
6	Amount of CGST and SGST paid instead of IGST and Vice Versa	54(1) & 77	2 years from relevant date	Do
7	Refund of Tax paid on non taxable supply.	54(1) & 76(11)	2 years from relevant Date	Do

S. No.	Type of Refund	Section	Time Line for apply refund	Time Line for Passing Refund Order
8	Refund of IGST paid on supply of goods to tourist leaving India.	15 of IGST Act	Rules not yet provided.	Rules not yet provided.
9	Refund amount of IGST in case of Zero Rated Supply of goods or services on payment of IGST.	16(3)(b)	2 years from relevant date	Do
10	Refund of Interest paid under section 42(9) or 43(9) due to mismatch of ITC.	42(9) or 43(9)	2 years from relevant date	Do. As per rule 77, it may be credited in electronic cash ledger also.





A. General conditions for claiming refund

As per section 54(4), the application shall be accompanied by—

- documentary evidence to establish that a refund is due to the applicant; and
- such documentary or other evidence to establish that the amount of tax etc. was collected from, or paid by applicant and the incidence of it had not been passed on to any other person.

Provided that where the amount of refund is less than 2,00,000/- then declaration, based on the documentary or other evidences available with him shall be sufficient.

- Section 54(8) specified cases where refund amount shall be paid to applicant instead credited to Consumer Welfare Fund. (For detail see note-5)
- No refund if amount less than 1,000 rupees.

As per section 54(14), no refund shall be paid to an applicant, if the amount is less than rupees 1,000/-.

B. Conditions for claiming refund of unutilized ITC u/s 54(3)

- ❑ As per 1st proviso of 54(3), no refund of unutilised ITC shall be allowed in cases where the **goods exported out of India are subjected to export duty.**

- ❑ As per 2nd proviso of 54(3), no refund 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.**

- ❑ As per section 54(6), in the case of **any claim for refund on account of zero-rated supply of goods or services or both** made by registered persons, the **proper officer may refund on a provisional basis, 90% of the total amount so claimed**, excluding the amount of input tax credit provisionally accepted.
- ❑ Proper officer may
 - (i) **withhold refund if defaulted in furnishing any return or required to pay any tax**, interest or penalty (which is not stayed by any court etc.) or
 - (ii) **deduct from the refund due**, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay. (Section 54(10)).
 - (iii) **withhold refund where an order giving rise to a refund is the subject matter of an appeal etc.** (Section 54(11)).

- ❑ **No refund in case of notified supplies of goods or services or both as per section 54(3).** (See Note-4)

C. Conditions to claim refund by Casual Dealer/Non Resident taxable person

As per section 54(13), amount of advance tax deposited by a casual taxable person or a non-resident taxable person under section 27(2), shall be refunded only if all the returns required under section 39, furnished in respect of the entire period for which the RC granted to him.

Relevant Notes

Note-1

- ❖ 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
- ❖ any other person or class of persons, as notified under section 55

Note-2

Relevant date meaning is given in Explanation 2 of Section 54.

Note-3

Section 142 deals with cases of transitional phase refund.

Note-4

S. No	NN	Date	NN type	Particular
1	05/2017	28-06-2017	NN (Rate)	Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed under section 54 (3) like woven fabric, goods related with rail etc.
2	15/2017	28-06-2017	NN (Rate)	To notify the supplies not eligible for refund of unutilized ITC under CGST Act i.e. in case construction etc service as per Schedule-II 5(b)

Relevant Notes

As per section 54(8) (this provision override provision of section 54(5)), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(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) (i.e. due to inverted tax structure);

(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; (IGST paid instead of CGST or SGST and vice versa)

(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.

Here it is important to note that section 54(9) overrides any judgment, decree, order etc of any tribunal court etc or provision of any other act and allow refund only in cases covered in section 54(8).

Refund Process Under GST



Process and Forms For Claiming Refund

As per normal provisions, refund application shall be filed and processed **online** through Form GST **RFD-01 to Form GST RFD-10**. However, as it could not be implemented till date, vide **NN 55-CGST dated 15/11/2017, CGST Circular No. 17/17/2017 – GST dated 15.11.17 & CGST Circular No. 24/24/2017 – GST dated 21.12.18, manual filing** and processing of refund allowed through Form **GST RFD-01A**.

Chart-1 Online Filing and Processing of Refund Under GST

As Per Rule 89 (1), file an application electronically in FORM GST RFD-01.

This application require

1. Declarations under various sections and rules and
2. Statements in Anne-1 for various calculations and invoice level tracking and linking with shipping bills etc. and CA and CMA certificate in Anne-2



Refund Ack. Rule 90

1. In case of refund from the electronic cash ledger, Ack. in FORM GST RFD-02 made available electronically.
2. In other cases, application forwarded to the proper officer who shall within a period of 15 days electronically made available Ack. in FORM GST RFD-02



Refund Ack. Rule 90

3. Where any **deficiencies are noticed on initial scrutiny**, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 electronically, requiring him to file a fresh refund application.

Whether proper officer is satisfied under Rule 92(1)

Yes. Make an order in FORM GST RFD-06 within 60 days mentioning provisional refund amount, o/s demand adjusted and balance refund amount and issue a payment advice in FORM GST RFD-05.

- No.1 .Withheld refund and pass an order in Part B of FORM GST RFD-07 if defaulted in filing return, tax etc. due or refund order is subject matter of appeal etc.; or
2. Issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD-09 within a period of 15 days.
3. Make refund order in FORM GST RFD-06 sanctioning refund amount in whole or part, or rejecting it.

Chart-2 Manual Filing and Processing of Refund Under GST

Now file an online application in FORM GST RFD-01A for manual processing of refund. This application require

1. Declarations under various sections and rules and
2. Statements in Anne-1 for various calculations and invoice level tracking and linking with shipping bills etc. and CA and CMA certificate in Anne-2.



Refund Ack. Rule 90

1. Now online ARN shall be generated.
2. Submit print out of FORM GST RFD-01A along with ARN and requisite documentary evidence.
3. Get ack. manually within 15 days in FORM GST RFD-02.



Refund Ack. Rule 90

4. If **deficiencies are found on initial scrutiny**, the proper officer shall communicate the same to the applicant in FORM GST RFD-03 manually, requiring him to file a fresh refund application.
5. Resubmit application by using ARN and debit entry number generated originally..

Whether proper officer is satisfied under Rule 92(1)

- Yes. 1. Make an order in FORM GST RFD-06 within 60 days mentioning provisional refund amount, o/s demand adjusted and balance refund amount and issue a payment advice in FORM GST RFD-05.
2. Intimated to the common portal in FORM GST RFD01B i.e. Refund Order details

- No.1. Withheld refund and pass an order in Part B of FORM GST RFD-07 if defaulted in filing return, tax etc. due or refund order is subject matter of appeal etc.; or
2. Issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD-09 within a period of 15 days.
3. Make refund order in FORM GST RFD-06 sanctioning refund amount whole or part, or rejecting it.
4. Intimated to the common portal in FORM GST RFD01B i.e. Refund Order details.

Note-1

In case of balance in the electronic cash ledger, refund may be claimed through the return furnished for the relevant tax period in FORM GSTR-3 or FORM GSTR-4 or FORM GSTR-7.

Note-2

Refund to Casual Dealer/Non Resident Taxable Person

As per 4th proviso of Rule 89(4), refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him.

Note-3

As per rule 91(2), the proper officer, on being prima facie satisfied, shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding 7 days from the date of the acknowledgement in case of refund of unutilized ITC in case of zero rated supply.

As per rule 91(1), provisional refund shall not be granted if claimant prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees during any period of five years immediately preceding the tax period.

Note-4

Where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, an order giving details of the adjustment shall be issued in Part A of FORM GST RFD-07.

Note-5

Refund to UN organization etc.

As per Rule 95, in case of refund of tax paid on inward supplies of goods or services or both by a specialised agency of the United Nations Organisation etc., refund shall be applied in RFD-10 once in every quarter along with a statement of the inward supplies of goods or services or both in FORM GSTR-11.

Note-6

Refund of **unutilised ITC on zero rated supplies** made without payment of tax. Refund amount shall be calculated as per formula given in Rule 89(4). (Rule 89)

In addition to chart given above, we need to ensure following documents and evidences with refund application:

Refund of <u>unutilized ITC on Zero Rated Supply –Goods</u>		Refund of <u>unutilized ITC on Zero Rated Supply– Services</u>	
To SEZ Units or Developers	Exported out of India	To SEZ Units or Developers	Exported out of India
<p>As per 2nd proviso to Rule 89(1), application shall be filed by supplier after goods have been admitted in full in the SEZ for authorised operations, as endorsed by the specified officer of the Zone;</p>	-	<p>As per 2nd proviso to Rule 89(1), application shall be filed by supplier along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone:</p>	-
<p>a statement containing the number and date of invoices + evidence regarding the endorsement specified above. Rule 89(2)(d)</p>	<p>a statement containing the number and date of shipping bills or bills of export + the number and the date of the relevant export invoices. Rule 89(2)(b)</p>	<p>a statement containing the number and date of invoices + the evidence regarding the endorsement specified + the details of payment proof made by the recipient. Rule 89(2)(e).</p>	<p>a statement containing the number and date of invoices + the relevant BRC* or FIRC** Rule 89(2)(c).</p>
<p>a declaration to the effect that the SEZ unit or developer has not availed the ITC of the tax paid by the supplier of goods or services or both. Rule 89(2)(f)</p>		<p>a declaration to the effect that the SEZ unit or developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both. Rule 89(2)(f)</p>	

*BRC=Bank Realisation Certificates ** FIRC=Foreign Inward Remittance Certificates

Note-7

Refund in case of deemed export.

As per 3rd proviso of rule 89(1), in respect of supplies regarded as deemed exports, the application may be filed by

(a) the recipient of deemed export supplies; or

(b) the supplier of deemed export supplies where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

As per Rule 89(2)(g) refund application shall be accompanied by a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf.

Further NN48-CGST dated 18.10.2017, notified following category of supply as deemed export:

S. No.	Description of supply
1	Supply of goods by a registered person against Advance Authorisation
2	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3	Supply of goods by a registered person to Export Oriented Unit
4	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

Above notification is applicable wef 18.10.2017 means upto 17.10.17 these supplies was considered as normal supply and GST was applicable as normal supply.

Select the Refund type:

➤	Refund of Excess Balance in Electronic Cash Ledger	CREATE
➤	Refund of ITC on Export of Goods & Services without Payment of Integrated Tax	CREATE
➤	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)	CREATE
➤	Refund on account of ITC accumulated due to Inverted Tax Structure	CREATE
➤	Recipient of Deemed Exports	CREATE
➤	On Account of Assessment/Provisional Assessment/Appeal/Any other order	CREATE
➤	Refund on account of Supplies to SEZ unit/ SEZ Developer (with payment of tax)	CREATE
➤	Export of services with payment of tax	CREATE

Chart-3 Online Process of Refund of IGST paid on Export of Goods Rule 96

Refund Application

Shipping bill Filed by exporter shall be deemed refund application subject to following:

1. Person in charge of the conveyance duly files an export manifest or an export report
2. Applicant has **furnished a valid return in FORM GSTR-3 or FORM GSTR- 3B**, as the case may be. (Rule 96(1))



Communication between GST portal and Custom System or proper officer of custom.

1. Export invoices details in FORM GSTR-1 (Table 6A in case date extended) transmitted electronically by GST portal to the Customs system.
2. Custom system shall electronically transmit to GST portal, a **confirmation** that the goods have been exported out of India.

Custom System upon the **receipt of the information of valid GSTR-3 or GSTR-3B**

Process and payment of refund amount.

Shall process the claim of refund and electronically credit the same to the bank account of the applicant..

Withheld and intimate the the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax.

1. Withheld refund and intimate to concern persons if defaulted in filing return, tax etc. due or refund order is subject matter of appeal etc. or goods exported in violation of the provisions of the Customs Act, 1962;
2. Proper officer of GST, shall pass an order in Part B of FORM GST RFD-07.
3. Where applicant become entitle, proper officer shall make refund order in FORM GST RFD-06.

Note-1

As per rule 96(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.

Note-2

The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit.

S. No.	NN	Nature of transactions
1	48/2017-Central Tax dated the 18th October, 2017	Deemed Export
2	<u>40/2017-Central Tax (Rate)</u> dated the 23rd October, 2017	Merchant Exporter
3	<u>41/2017-Integrated Tax (Rate)</u> dated the 23rd October, 2017	Merchant Exporter
4	<u>78/2017-Customs dated</u> the 13 th October, 2017	Allows import by SEZ in custom without payment of IGST.
5	<u>79/2017-Customs dated</u> the 13th October, 2017	Allows import by Deemed Exporter in custom without payment of IGST.

Note-3

Vide circular no. 42/2017-Customs dated 7/11/2017, customs department, analysis the common errors that are hindering the disbursal of IGST refund and decisions taken to address such errors.

Note-4

Refund of amount of IGST paid on Zero rated Supply of goods or services.
Rule 96

<u>Refund of IGST Paid on Zero Rated Supply of Goods</u>		<u>Refund of IGST Paid on Zero Rated Supply of Services</u>	
<u>Export out of India</u>	<u>Supplied to SEZ Units or Developers</u>	<u>Export out of India</u>	<u>Supplied to SEZ Units or Developers (</u>
See Chart-3 above.	See Chart-1 & 2 and See Note 6 above.	See Chart-1 & 2 and See Note 6 above.	See Chart-1 & 2 and See Note 6 above.

Refund Meaning:

As per Explanation of Section 54.—For the purposes of this section,—
“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 ITC as provided under sub-section (3).

Drawback Meaning:

As per section 2(42) of CGST Act, “drawback” in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods.

Disclaimer

The above write up has been compiled from various provisions of CGST Act 2017, IGST Act 2017 and rules and notifications issued there under. The compilation may not be entirely correct for reader to reader due to different interpretations by different readers. The readers are advised to take into the consideration the prevailing legal position before acting on any of the comments in this write up. Readers are also requested to convey the correct position as per their interpretation of the provisions of CGST Act 2017, IGST Act 2017 and rules and notifications issued there under which shall be most welcome for correcting this write up.)



I hope above presentation is useful for you. Your valuable feedback in respect of same would be highly appreciated.

Thanks and Regards,



CA. Puneet Goyal
(FCA, B.Com(Hons.)
9211274295
Capuneetgoyal.delhi@gmail.com