



Process of refunds in GST case of export

In this article we have used various sources available for understanding of refund process for exports. Our sources for analysis provided in this article are:

- 1) GST Model Law
- 2) GST draft refund rules
- 3) GST draft refund formats
- 4) GST refund process report

Meaning of refund in GST: Explanation A to section 38 provides the meaning of refund. It says that "refund" includes refund of tax on goods and/or services exported out of India or on inputs or input services used in the goods and/or services which are exported out of India, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (2).

Here this is important to note that refund will be available only for inputs and input services used in goods and/or services which are exported out of India. No refund will be available for the input tax contained in capital goods used in the goods and/or services which are exported out of India.

Time Limit for filing application of refund: Section 38 of GST Model law provide that Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application in that regard to the proper officer of IGST/CGST/SGST before the expiry of two years from the relevant date.

Relevant date: Explanation B to section 38 provides for the meaning of relevant date:

"Relevant date" means –

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of the goods themselves or, as the case may be, the inputs or input services used in such goods, -

(I)if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or

(ii) if the goods are exported by land, the date on which such goods pass the frontier, or

(iii) if the goods are exported by post, the date of dispatch of goods by Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is filed;

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of:

(i) Receipt of payment in convertible foreign exchange, where the supply of service had been completed prior to the receipt of such payment; or

(ii) Issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice;

(Note: Explanation provide for the relevant date in all cases only the relevant portion given here)

Provisions of draft refund rules provide that application for refund shall be filed

- ✦ **In case of Export of Goods:** application for refund shall be filed only after the export manifest or an export report, as the case may be, in respect of such goods is delivered under section 41 of the Customs Act 1962
- ✦ **In case of deemed exports:** in respect of supplies made to an SEZ unit or a developer, or supplies regarded as deemed exports, the application shall be filed *by the said unit or the developer or the recipient of deemed export supplies*

Documents to be filed along with return:

- ✦ a statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices, in a case where the refund is on account of export of goods.
- ✦ a statement containing the number and date of invoices as prescribed in rules. In case of supply of goods made to an SEZ unit or a developer.
- ✦ a statement containing the number and date of invoices, in a case where the refund is on account of deemed exports.
- ✦ a statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of export of services.
- ✦ a statement containing the number and date of invoices and the details of payment, along with proof thereof, made by the claimant to the supplier for authorized operations as defined under the SEZ Act, 2005, in a case where the refund is on account of supply of services made to an SEZ unit or a developer.

When refund will not be available: Proviso 2 to clause 2 to section 38 of Model GST law provide that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.

Payment of refund amount to applicant: Clause 4 and 4A provide for the credit of refund to investor protection fund. Clause 6 of section 38 provides for the payment of amount of refund to applicant in following cases:

- (a) Refund of tax on goods and/or services exported out of India or on inputs used in the goods and/or services which are exported out of India;
- (b) Refund of unutilized input tax credit under sub-section (2);
- (c) 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

(d) The tax or interest borne by such other class of applicants as the Central or a State Government may, on the recommendation of the Council, by notification, specify.

In case of refund arising for exports of goods or services from India refund will be paid to the applicant instead of credit to fund.

Interest On delayed refund: Section 39 of Model GST provide that if any tax refundable under section 38 to any applicant is not refunded within three months from the date of receipt of application. Interest at such rate as may be specified in the notification issued by the Central or a State Government on the recommendation of the Council shall be payable in respect of such refund.

Calculation of amount of refund:

Where any taxable goods or services are exported without payment of tax, under bond or letter of undertaking under relevant section of the IGST Act, refund of input tax credit shall be granted as per the following formula.

Here it is important to mention that every inter-state transaction in course of export or import will be considered as inter-state transaction and IGST will be levied in those cases. Clause 2(1)(c) of IGST Act provide the definition of IGST. Explanation 1 and 2 covers the supply of goods and/or services in the course of import and export to be treated as inter-state supply.

("Integrated Goods and Services Tax" (IGST) means tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce.

Explanation 1.- A supply of goods and/or services in the course of import into the territory of India shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

Explanation 2.- An export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.)

$$\text{Refund Amount} = \frac{(\text{Export turnover of goods} + \text{Export turnover of services}) \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$

Where,-

(A) "Refund amount" means the maximum refund that is admissible.

(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period.

This is clear from this meaning that ITC credit in respect of capital good will not be available even if they were used in supply of exports

(C) "Export turnover of goods" means the value of goods exported during the relevant period without payment of tax under bond or letter of undertaking.

(D) "Export turnover of services" means the value of services exported without payment of tax under bond or letter of undertaking, calculated in the following manner, namely

Export turnover of services = *payments received during the relevant period for export services*

(+)

Export services whose supply has been completed for which payment had been received in advance in any period prior to the relevant period

(-)

Advances received for export services for which the supply of service has not been completed during the relevant period

It is important to notice that in case of goods the value of goods exported during the relevant period will be taken but in case of services value of only those services will be taken in respect of which both of following conditions are fulfilled

+ Supply is complete and

+ Payment is received

If any of them is pending it will not be included in value taken into consideration for calculation of amount of refund as per formula above.

(E) "Adjusted Total turnover" means the value of turnover in a State, as defined under subsection (104) of section 2, excluding the value of exempt supplies, during the relevant period. Subsection (104) of section 2 define the turnover in a state as:

"turnover in a State" means the aggregate value of all taxable and non-taxable supplies, including exempt supplies and exports of goods and / or services made within a State by a taxable person and inter-state supplies of goods and / or services made from the State by the said taxable person excluding taxes, if any charged under the CGST Act, SGST Act and the IGST Act, as the case may be."

(F) "Relevant period" means the period for which the claim has been filed.

Provided that no refund of input tax credit shall be allowed if the supplier of goods and / or services avails of drawback allowed under the applicable Drawback Rules or claims rebate of tax paid under the Act or the IGST Act in respect of such tax.

There can be three potential supplies when refund can arise for export.

1) Export of Goods:

Presently under the Central Law, every exporter has three options available for neutralization of taxes paid on inputs used for export goods or taxes paid on finished goods exported by him which are delineated hereunder:

- a) Obtaining non duty paid inputs and exporting final product without payment of duty.
- b) Obtaining duty paid inputs and claiming refund of the same at the time of export of the finished goods without payment of duty.
- c) Obtaining duty paid inputs, availing the input tax credit thereon and exporting finished goods after payment of duty (after utilizing such input tax credit) and thereafter claiming the rebate of the duty paid on exported goods.

In GST regime exports will be exempt and IGST will be levied on the inputs and input services used in course of exports. Only one option will be available for the taxpayer and that is to pay IGST on inputs and input services and then claim refund of the amount paid as IGST. Here we will discuss the provisions related to the process and grant of refund for exports.

- 2) Export of services: In case of export of services in GST regime refund will be available for the inputs and input services. In case of services invoice and payment are the only two traces to identify export. Export turnover of services as defined in Law will include the supply for which issue of invoice and receipt of payment both are done.
- 3) Deemed Exports: Deemed exports are covered by GST law in same manner as they are currently treated. Definition of deemed exports provided in section 2(37)

"deemed exports", as notified by the Central Government/State Government on the recommendation of the Council, refer to those transactions in which the goods supplied do not leave India, and payment for such supplies is received either in Indian Rupees or in convertible foreign exchange"

Refund for the IGST paid on deemed exports will be available to the recipient of the Goods/services.