Circular No. 12/2018-Customs

F. No. 450/119/2017-CusIV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes and Customs)
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Room No. 227-B, North Block,
New Delhi dated 29th May, 2018

To,

All Principal Chief Commissioner/Chief Commissioner of Customs/ Customs & Central Tax / Customs (Preventive)
All Principal Commissioner/Commissioner of Customs/ Customs & Central Tax / Customs (Preventive)
All Director Generals under CBIC.

Subject: Sanction of pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems -reg.

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Sir/ Madam,

A number of representations have been received from the exporters / trade associations seeking resolution of problems which have hindered sanction of refund of IGST paid on exports. From time to time, Board has provided solutions to a number of issues because of which refunds were held up. However, there is still one major hindrance because of which GSTN could not transmit data to Customs EDI system and consequently refunds could not be sanctioned. A validation has been introduced in the GSTN system to ensure that the IGST paid on the export goods in any particular month [3.1(b)] is not less than the refund claimed by the exporter [Table 6A]. However, data provided by GSTN has revealed that this validation has failed in number of cases.

2. Representations received from trade / exporters coupled with the analysis of data received from GSTN indicates that the exporters have committed mistakes while filing GSTR-1 and GSTR-3B. It has been observed that the exporters have inadvertently mis-declared IGST paid on export supplies as IGST paid on interstate domestic outward supplies while filing GSTR-3B. The exporters have also in certain cases short paid IGST vis-à-vis their liability declared in GSTR1. As a result of these mismatches in the amount of IGST paid on export goods between GSTR-1 and GSTR-3B, the transmission of records from GSTN to Customs EDI system has not happened and consequently IGST refunds could not be processed. The problem is compounded by the fact that the facility to adjust GSTR-3B in subsequent months is not available in all cases.

3. In view of the above following procedure is being prescribed to overcome the problem of refund blockage. This would be an interim solution subject to undertakings/ submission of CA certificates by the exporters as given below and post refund audit scrutiny. The proposed procedure is as under:

A. **Cases where there is no short payment**:

(i) The Customs policy wing would prepare a list of exporters whose cumulative IGST amount paid against exports and interstate domestic outward supplies, for the period July' 2017 to March' 2018 mentioned in GSTR-3B is greater than or equal to the cumulative IGST amount indicated in GSTR-1 for the same period. Customs policy wing shall send this list to GSTN.

(ii) GSTN shall send a confirmatory e-mail to these exporters regarding the transmission of records to Customs EDI system.

(iii) The exporters whose refunds are processed/ sanctioned would be required to submit a certificate from Chartered Accountant before 31st October, 2018 to the Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export for submission of the said certificate.

(iv) A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/ State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15th November 2018.

(v) Non submission of CA certificate shall affect the future IGST refunds of the exporter.

(vi) The list of exporters whose refunds have been processed as above shall be sent to DG (Audit)/ DG (GST) by the Board.

B. Cases where there is short payment:

(i) In cases where there is a short payment of IGST i.e. cumulative IGST amount paid against exports and interstate domestic outward supplies together, for the period of July' 2017 to March' 2018 mentioned in GSTR-3B is less than the cumulative IGST amount indicated in GSTR-1 for the same period, the Customs policy wing would send the list of such exporters to the GSTN and all the Chief Commissioner of Customs.

(ii) e-mails shall be sent by GSTN to each exporter referred in para (i) above so as to inform the exporter that their records are held up due to short payment of IGST. The e--mail shall also advise the exporters to observe the procedure under this circular.

(iii) The exporters would have to make the payment of IGST equal to the short payment in GSTR 3B of subsequent months so as to ensure that the total IGST refund being

claimed in the Shipping Bill/GSTR-1(Table 6A) is paid. The proof of payment shall be submitted to Assistant/Deputy Commissioner of Customs in charge of port from where the exports were made. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export.

(iv) Where the aggregate IGST refund amount for the said period is upto Rs. 10 lacs, the exporter shall submit proof of payment (self-certified copy of challans) of IGST payment to the concerned Customs office at the port of export.

However, where the aggregate IGST refund amount for the said period is more than Rs. 10 lacs, the exporter shall submit proof of payment (self-certified copy of challans) of IGST to the concerned Customs office at the port of export along with a certificate from chartered Account that the shortfall amount has been liquidated.

(v) The exporter would give an undertaking they would return the refund amount in case it is found to be not due to them at a later date.

(vi) The Customs zones shall compile the list of exporters (GSTIN only), who have come forward to claim refund after making requisite payment of IGST towards short paid amount and complied with other prescribed requirements.

(vii) The compiled list may be forwarded to Customs policy wing, DG (Audit) and DG (GST). Customs policy wing shall forward the said list of GSTINs to GSTN. On receipt of the list of exporters from Customs policy wing, GSTN shall transmit the records of those exporters to Customs EDI system.

(viii) The exporters whose refunds are processed/ sanctioned as above would be required to submit another certificate from Chartered Accountant before 31st October, 2018 to the same Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018. A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/ State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15th November 2018.

(ix) Non submission of CA certificate shall affect the future IGST refunds of the exporter.

Post refund audit

4. The exporters would be subjected to a post refund audit under the GST law. DG (Audit) shall include the above referred GSTINs for conducting Audit under the GST law. The inclusion of IGST refund aspects in Audit Plan of those units may be ensured by DG (Audit). In case, departmental Audit detects excess refunds to the exporters under this

procedure, the details of such detections may be communicated to the concerned GST formations for appropriate action.

5. DG (GST) shall send the list of exporters to jurisdictional GST officers (both Centre / State) informing that these exporters have taken benefit of the procedure prescribed in this circular. The jurisdictional GST formations shall also verify the payment particulars at their end.

6. This Circular deals only with the cases where the records have not been transmitted by GSTN to Customs EDI system. Once the records are transmitted by GSTN to Customs System based upon the above mentioned procedure, the usual procedure adopted in case of sanction of IGST refunds would have to be followed. In cases where the errors like SB005, SB002, SB006 etc are encountered with the records so transmitted, the provisions of Circulars issued by Board earlier shall apply to them.

7. Field formations may, therefore, take necessary steps to bring these changes to the knowledge of exporters. Difficulties, if any, may be brought to the notice of the Board. Hindi version follows.

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Yours faithfully,

(Zubair Riaz)
Director (Customs)