CBEC-20/16/04/18-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
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New Delhi, Dated the 18th November, 2019

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All) / The Principal Director Generals/ Director Generals (All)

The Principal Chief Controller of Accounts (CBIC)

Madam/Sir,

Subject: Fully electronic refund process through FORM GST RFD-01 and single disbursement – regarding

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After roll out of GST w.e.f. 01.07.2017, on account of the unavailability of electronic refund module on the common portal, a temporary mechanism had to be devised and implemented wherein applicants were required to file the refund application in **FORM GST RFD-01A** on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of these refund applications, i.e. issuance of acknowledgement of the refund application, issuance of deficiency memo, passing of provisional/final order, payment advice etc. was also being done manually. In order to make the process of submission of the refund application electronic, Circular No. 79/53/2018-GST dated 31.12.2018 was issued wherein it was specified that the refund application in **FORM GST RFD-01A**, along with all supporting documents, shall be submitted electronically. However, various post submission stages of processing of the refund application continued to be manual.

2. The necessary capabilities for making the refund procedure fully electronic, in which all steps of submission and processing shall be undertaken electronically, have been deployed on the common portal with effect from **26.09.2019**. Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims need to be suitably modified and a fresh set of guidelines needs to be issued for electronic submission and processing of refund claims. With this objective and in order to ensure uniformity in the implementation of the provisions of law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby lays down the procedure for electronic submission and processing of refund applications in supersession of earlier Circulars viz. Circular No. 17/17/2017-GST dated 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum dated 18.07.2019), 59/33/2018-GST dated 04.09.2018,

70/44/2018-GST dated 26.10.2018, 79/53/2018-GST dated 31.12.2018 and 94/13/2019-GST dated 28.03.2019. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually as prior to deployment of new system.

Filing of refund applications in FORM GST RFD-01

3. With effect from **26.09.2019**, the applications for the following types of refunds shall be filed in **FORM GST RFD 01** on the common portal and the same shall be processed electronically:

a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
b. Refund of tax paid on export of services with payment of tax;
c. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;
e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;
f. Refund to supplier of tax paid on deemed export supplies;
g. Refund to recipient of tax paid on deemed export supplies;
h. Refund of excess balance in the electronic cash ledger;
i. Refund of excess payment of tax;
j. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;
k. Refund on account of assessment/provisional assessment/appeal/any other order;
l. Refund on account of "any other" ground or reason.

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4. The following modalities shall be followed for all refund applications filed in **FORM GST RFD-01** on the common portal with effect from **26.09.2019:**

a. **FORM GST RFD-01** shall be filled on the common portal by an applicant seeking refund under any of the categories mentioned above. This shall entail filing of statements/declarations/undertakings which are part of **FORM GST RFD-01** itself, and also uploading of other documents/invoices which shall be required to be provided by the applicant for processing of the refund claim. A comprehensive list of such documents is provided at **Annexure-A** and it is clarified that no other document needs to be provided by the applicant at the stage of filing of the refund application. The facility of uploading these other documents/invoices shall be available on the common portal where four documents, each of maximum 5MB, may be uploaded along with the refund application. Neither the refund application in **FORM GST RFD-01** nor any of the supporting documents shall be required to be physically submitted to the office of the jurisdictional proper officer.
b. The Application Reference Number (ARN) will be generated only after the applicant has completed the process of filing the refund application in **FORM GST RFD-01**, and has completed uploading of all the supporting documents/ undertaking/

statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

c. As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under sub-rule (2) of rule 90 of the CGST Rules on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement or a deficiency memo, as the case may be, shall be counted from the said date. This will obviate the need for an applicant to visit the jurisdictional tax office for the submission of the refund application and /or any of the supporting documents. Accordingly, the acknowledgement for the complete application **(FORM GST RFD-02)** or deficiency memo **(FORM GST RFD-03)**, as the case may be, would be issued electronically by the jurisdictional tax officer based on the documents so received from the common portal.

d. If a refund application is electronically transmitted to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically as soon as possible, but not later than three working days, from the date of generation of the ARN. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction.

e. It may be noted that the facility to reassign such refund applications is already available with the Commissioner or the officer(s) authorized by him.

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5. The refund application in **FORM GST RFD-01** filed by all taxpayers, who have already been assigned to the Centre or the State tax authorities, shall be automatically forwarded by the common portal to the concerned authority. At the same time, there might be some migrated taxpayers, who have remained unassigned so far. The refund application in **FORM GST RFD-01** filed by such unassigned taxpayers shall be forwarded, for processing, by the common portal to the jurisdictional proper officer of the tax authority from which the taxpayer has originally migrated. Such officers will continue to process these applications up to the stage of issuance of final order in **FORM GST RFD-06** and the related payment order in **FORM GST RFD-05** even if the applicant is assigned to the counterpart tax authority while the refund claim is under processing. However, if such an applicant gets assigned to one of the tax authorities after generation of the ARN and a deficiency memo gets issued for the refund application submitted by him, then the re-submitted refund application, after correction of deficiencies, shall be treated as a fresh refund application and shall be forwarded to the jurisdictional proper officer of the tax authority to which the taxpayer has now been assigned, irrespective of which authority handled the initial refund claim and issued the deficiency memo.

6. Any refund claim for a tax period may be filed only after furnishing all the returns in **FORM GSTR-1** and **FORM GSTR-3B** which were due to be furnished on or before the date on which the refund application is being filed. However, in case of a claim for refund filed by a

composition taxpayer, a non-resident taxable person, or an Input Service Distributor (ISD) furnishing of returns in **FORM GSTR-1** and **FORM GSTR-3B** is not required. Instead, the applicant should have furnished returns in **FORM GSTR-4(along with FORM GST CMP-08)**, **FORM GSTR-5** or **FORM GSTR-6**, as the case may be, which were due to be furnished on or before the date on which the refund application is being filed.

7. Since the functionality of furnishing of **FORM GSTR-2** and **FORM GSTR-3** remains unimplemented, it has been decided by the GST Council to sanction refund of provisionally accepted input tax credit. However, the applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of section 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim.

8. The applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund claim has been filed, however, cannot spread across different financial years. Registered persons having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or the current financial year opting to file **FORM GSTR-1** on quarterly basis, can only apply for refund on a quarterly basis or clubbing successive quarters as aforesaid. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier.

Deficiency Memos

9. It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in **FORM GST RFD-02** should be issued within 15 days of the filing of the refund application. The date of generation of ARN for **FORM GST RFD-01** is to be considered as the date of filing of the refund application. Sub-rule (3) of rule 90 of the CGST Rules provides for communication of deficiencies in **FORM GST RFD-03** where deficiencies are noticed within the aforesaid period of 15 days. It is clarified that either an acknowledgement or a deficiency memo should be issued within the aforesaid period of 15 days starting from the date of generation of ARN. Once an acknowledgement has been issued in relation to a refund application, no deficiency memo, on any grounds, may be subsequently issued for the said application.

10. After a deficiency memo has been issued, the refund application would not be further processed and a fresh application would have to be filed. Any amount of input tax credit/cash debited from electronic credit/ cash ledger would be re-credited automatically once the deficiency

memo has been issued. It may be noted that the re-credit would take place automatically and no order in **FORM GST PMT-03** is required to be issued. The applicant is required to rectify the deficiencies highlighted in deficiency memo and file fresh refund application electronically in **FORM GST RFD-01** again for the same period and this application would have a new and distinct ARN.

11. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original deficiency memo remain un-rectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

12. It is also clarified that since a refund application filed after correction of deficiency is treated as a fresh refund application, such a rectified refund application, submitted after correction of deficiencies, shall also have to be submitted within 2 years of the relevant date, as defined in the explanation after sub-section (14) of section 54 of the CGST Act.

Provisional Refund

13. Doubts get raised as to whether provisional refund would be given even in those cases where the proper officer prima-facie has sufficient reasons to believe that there are irregularities in the refund application which would result in rejection of whole or part of the refund amount so claimed. It is clarified that in such cases, the proper officer shall refund on a provisional basis ninety percent of the refundable amount of the claim (amount of refund claim less the inadmissible portion of refund so found) in accordance with the provisions of rule 91 of the CGST Rules. Final sanction of refund shall be made in accordance with the provisions of rule 92 of the CGST Rules.

14. It is further clarified that there is no prohibition under the law preventing a proper officer from sanctioning the entire amount within 7 days of the issuance of acknowledgement through issuance of **FORM GST RFD-06,** instead of grant of provisional refund of 90 per cent of the amount claimed through **FORM GST RFD-04**. If the proper officer is fully satisfied about the eligibility of a refund claim on account of zero-rated supplies, and is of the opinion that no further scrutiny is required, the proper officer may issue final order in **FORM GST RFD-06** within 7 days of the issuance of acknowledgement. In such cases, the issuance of a provisional refund order in **FORM GST RFD-04** will not be necessary.

15. Further, there are doubts on the procedure to be followed in situations where the final refund amount to be sanctioned in **FORM GST RFD-06** is less than the amount of refund sanctioned provisionally through **FORM GST RFD-04**. For example, consider a situation where an applicant files a refund claim of Rs.100/- on account of zero-rated supplies. The proper officer, after prima-facie examination of the application, sanctions Rs. 90 as provisional refund through **FORM GST RFD-04** and the same is electronically credited to his bank account. However, on detailed examination, it appears to the proper officer that only an amount of Rs. 70 is admissible as refund to the applicant. In such cases, the proper officer shall have to issue a show cause notice

to the applicant, in **FORM GST RFD-08**, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:

(a) the amount claimed of Rs. 30/- should not be rejected as per the relevant provisions of the law; and

(b) the amount of Rs. 20/- erroneously refunded should not be recovered under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

16. The proper officer for adjudicating the above case shall be the same as the proper officer for sanctioning refund under section 54 of the CGST Act. The above notice shall be adjudicated following the principles of natural justice and an order shall be issued, in **FORM GST RFD-06,** under section 54 of the CGST Act, read with section 73 or section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, then an amount of Rs. 70/- will have to be sanctioned in **FORM GST RFD-06**, and an amount of Rs. 20/-, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of **FORM GST DRC-07**. Further, if the application pertains to refund of unutilized/accumulated ITC, then Rs. 30/-, i.e. the amount rejected, shall have to be re-credited to the electronic credit ledger of the applicant through **FORM GST PMT-03**. However, this re-credit shall be done only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same has been finally decided against the applicant. In such cases, it may be noted that **FORM GST RFD-08** and **FORM GST RFD-06**, are to be considered as show cause notice and adjudication order respectively, under both section 54 (for rejection of refund) and section 73/74 of the CGST Act as the case may be (for recovery of erroneous refund).

17. It is further clarified that no adjustment or withholding of refund, as provided under sub-sections (10) and (11) of section 54 of the CGST Act, shall be allowed in respect of the amount of refund which has been provisionally sanctioned. In cases where there is an outstanding recoverable amount due from the applicant, the proper officer, instead of granting refund on provisional basis, may process and sanction refund on final basis at the earliest and recover the amount from the amount so sanctioned.

Scrutiny of Application

18. In case of refund claim on account of export of goods without payment of tax, the Shipping bill details shall be checked by the proper officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date. It is advised that while processing refund claims, information contained in Table 9 of **FORM GSTR-1** of the relevant tax period as well as that of the subsequent tax periods should also be taken into cognizance, wherever applicable. In this regard, Circular No. 26/26/2017−GST dated 29.12.2017 may be referred, wherein the procedure for rectification of errors made while filing the returns in **FORM GSTR-3B** has been provided. Therefore, in case of

discrepancies between the data furnished by the taxpayer in **FORM GSTR-3B** and **FORM GSTR-1**, the proper officer shall refer to the said Circular and process the refund application accordingly.

19. Detailed guidelines laid down in subsequent paragraphs of this Circular covering various types of refund claims may also be followed while scrutinizing refund claims for completeness and eligibility.

Re-crediting of electronic credit ledger on account of rejection of refund claim

20. In case of rejection of refund claim of unutilized/accumulated ITC due to ineligibility of the input tax credit under any provisions of the CGST Act and rules made thereunder, the proper officer shall have to issue a show cause notice in **FORM GST RFD-08**, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:

(a) the refund amount corresponding to the ineligible ITC should not be rejected as per the relevant provisions of the law; and

(b) the amount of ineligible ITC should not be recovered as wrongly availed ITC under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

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21. The above notice shall be adjudicated following the principles of natural justice and an order shall be issued, in **FORM GST RFD-06,** under section 54 of the CGST Act, read with section 73 or section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, then **FORM GST RFD-06** shall have to be issued accordingly, and the amount of ineligible ITC, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of **FORM GST DRC-07**. Alternatively, the applicant can voluntarily pay this amount, along with interest and penalty, as applicable, before service of the demand notice, and intimate the same to the proper officer in **FORM GST DRC-03** in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of the CGST Act, as the case may be, read with sub-rule (2) of rule 142 of the CGST Rules. In such cases, the need for serving a demand notice for recovery of ineligible ITC will be obviated. In any case, the proper officer shall order for the rejected amount to be re-credited to the electronic credit ledger of the applicant using **FORM GST PMT-03,** only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

22. In case of rejection of a claim for refund, on account of any reason other than the ineligibility of credit, the process described in **para 20 and 21** above shall be followed with the only difference that there shall be no proceedings for recovery of ineligible ITC under section 73 or section 74, as the case may be.

23. Consider an example where against a refund claim of unutilized/accumulated ITC of Rs.100/-, only Rs.80/- is sanctioned (Rs.15/- is rejected on account of ineligible ITC and Rs.5/- is

rejected on account of any other reason). As stated above, a show cause notice, in **FORM GST RFD-08** shall have to be issued to the applicant, requiring him to show cause as to why the refund claim amounting to Rs.20/-should not be rejected under the relevant provisions of the law and why the ineligible ITC of Rs. 15/- should not be recovered under section 73 or section 74, as the case may be, with interest and penalty, if any. If the said notice is decided against the applicant, Rs. 15/-, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of **FORM GST DRC-07.** Further, Rs. 20/- would be re-credited through **FORM GST PMT-03** only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

24. Continuing with the above example, further assume that the applicant files an appeal against this order and the appellate authority decides wholly in the applicant's favour. It is hereby clarified in such a case the petitioner would file a fresh refund claim for the said amount of Rs. 20/- under the option of claiming refund "On Account of Assessment/Provisional Assessment/Appeal/Any other order".

Application for refund of integrated tax paid on export of services and supplies made to a Special Economic Zone developer or a Special Economic Zone unit

25. It has been represented that while filing the return in **FORM GSTR-3B** for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero-rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of **FORM GSTR-3B** whilst they have shown the correct details in Table 6A or 6B of **FORM GSTR-1** for the relevant tax period and duly discharged their tax liabilities. Such registered persons were earlier unable to file the refund application in **FORM GST RFD-01A** for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricted the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of **FORM GSTR-3B** (zero rated supplies) filed for the corresponding tax period.

26. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01** on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period.

Disbursal of refunds

27. Separate disbursement of refund amounts under different tax heads by different tax authorities, i.e. disbursement of Central tax, Integrated tax and Compensation Cess by Central tax

officers and disbursement of State tax by State tax officers, was causing undue hardship to the refund applicants. In order to facilitate refund applicants on this account, it has now been decided that for a refund application assigned to a Central tax officer, both the sanction order **(FORM GST RFD-04/06)** and the corresponding payment order **(FORM GST RFD-05)** for the sanctioned refund amount, under all tax heads, shall be issued by the Central tax officer only. Similarly, for refund applications assigned to a State/UT tax officer, both the sanction order **(FORM GST RFD-04/06)** and the corresponding payment order **(FORM GST RFD-05)** for the sanctioned refund amount, under all tax heads, shall be issued by the State/UT tax officer only.

28. The sanctioned refund amounts, as entered in the payment orders issued by the Central and State/UT tax officers, shall be disbursed through the Public Financial Management System (PFMS) of the Controller General of Accounts (CGA), Ministry of Finance, Government of India. On filing of a refund application in **FORM GST RFD-01**, the common portal shall generate a master file for the applicant containing the relevant details like name, GSTIN, bank account details etc. This master file shall be shared with PFMS for validation of the bank account details provided by the applicant in the refund application. Once the bank account is validated, PFMS will create a unique assessee code (combination of GSTIN + validated bank account number) for the applicant. This unique assessee code will be used by PFMS for all refund payments made to the applicant in the said bank account. Therefore, in order to avoid repeat validations and generation of multiple unique assessee codes for the same GSTIN, it shall be advisable for the applicants to enter the same bank account details in successive refund applications submitted in **FORM GST RFD-01**. In cases where an applicant wishes to avail the refund in a different bank account, which has not yet been validated, a new unique assessee code (comprising of GSTIN + new bank account) will be generated by PFMS after validation of the said bank account.

29. If the bank account details mentioned by an applicant in the refund application submitted in **FORM GST RFD-01** are invalidated, an error message shall be transmitted by PFMS to the common portal electronically and the common portal shall make the error message available to the applicant and the refund officers on their dashboards. On receiving such an error message, an applicant can:

a) rectify the invalidated bank account details by filing a non-core amendment in **FORM GST REG-14**; or
b) add a new bank account by filing a non-core amendment in **FORM GST REG-14**

30. The updated bank account details will be reflected in a drop-down menu on the dashboard. From this drop-down menu, the applicant can choose any bank account, including the ones rectified (option (a)) or newly added (option (b)), from the list of bank accounts available in his registration database. The chosen bank account details will again be sent to PFMS for validation. The proper officer will be able to issue the payment order in **FORM GST RFD-05** only after the selected bank account has been validated.

31. By following the above process, validation errors, if any, will generally be corrected before the issuance of payment order in **FORM GST RFD-05**. Therefore, there should generally not be any validation errors after issuance of a payment order in **FORM GST RFD-05**. However, in certain exceptional cases, it is possible that a validation error occurs after issuance of the payment order. In such cases, the said payment order will be invalidated by the common portal and a new payment order will have to be issued by the proper officer after following the rectification process described in **paras 29 and 30** above. The re-issued payment order will have a new reference number and shall contain the newly selected bank account details. However, there will be no change in either the original ARN or the sanction order number or the amount for which the payment order was originally issued.

32. It may be noted that the applicant, at the time of filing of refund application in **FORM GST RFD-01**, can select a bank account only from the list of bank accounts provided by him at the time of registration in **FORM GST REG-01,** or subsequently through filing a non-core amendment in **FORM GST REG-14**. The same account details will be auto-populated in the payment order issued in **FORM GST RFD-05**. Any change in these auto-populated bank account details shall not be allowed unless there is a validation error in relation to the same.

33. The disbursement status of the refund amount would be communicated by PFMS to the common portal. The common portal shall notify the same to the taxpayer by email/SMS. Such details shall also be available on the status tracking facility on the dashboard.

34. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the applicant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05** within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.

35. The provisions relating to refund provide for partial as well as complete adjustment of refund against any outstanding demand under GST or under any existing law. It is hereby clarified that both partial or complete adjustment of sanctioned amount of refund against any outstanding demand under GST or under any existing law would be made in **FORM GST RFD-06**. Furthermore, sub-clause (b) of sub-section (6), sub-clause (a) of sub-section (7), sub-clause (a) of sub-section (8) and sub-clause (a) of sub-section (9) of Section 142 of the CGST Act provides for recovery of any tax, interest, fine, penalty or any other amount recoverable under the existing law as an arrear of tax under GST unless such amount is recovered under the existing law. It is hereby

clarified that adjustment of refund amount against any outstanding demand under the existing law can be done.

Guidelines for refunds of unutilized Input Tax Credit

36. Applicants of refunds of unutilized ITC, i.e. refunds pertaining to items listed at (a), (c) and (e) in **para 3** above, shall have to upload a copy of **FORM GSTR-2A** for the relevant period (or any prior or subsequent period(s) in which the relevant invoices have been auto-populated) for which the refund is claimed. The proper officer shall rely upon **FORM GSTR-2A** as an evidence of the accountal of the supply by the corresponding supplier(s) in relation to which the input tax credit has been availed by the applicant. Such applicants shall also upload the details of all the invoices on the basis of which input tax credit has been availed during the relevant period for which the refund is being claimed, in the format enclosed as **Annexure-B** along with the application for refund claim. Such availment of ITC will be subject to restriction imposed under sub-rule (4) in rule 36 of the CGST rules inserted vide Notification No. 49/2019-CT dated 09.10.2019. The applicant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said format for enabling the proper officer to determine the same. Self-certified copies of invoices in relation to which the refund of ITC is being claimed and which are declared as eligible for ITC in **Annexure – B**, but which are not populated in **FORM GSTR-2A,** shall be uploaded by the applicant along with the application in **FORM GST RFD 01**. It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are available in **FORM GSTR-2A** of the relevant period uploaded by the applicant.

37. In case of refunds pertaining to items listed at (a), (c) and (e) in **para 3** above, the common portal calculates the refundable amount as the least of the following amounts:

a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the CGST Rules [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];
b) The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in **FORM GSTR-3B** for the said period has been filed; and
c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

a) Integrated tax, to the extent of balance available;
b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

38. The order of debit described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications. However, for applications where this order is not adhered to by the applicant, no adverse view may be taken by the tax authorities. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in **FORM GST RFD-01** is generated.

39. For all refund applications where refund of unutilized ITC of compensation cess is being claimed, the calculation of the refundable amount of compensation cess shall be done separately and the amount so calculated will be entirely debited from the balance of compensation cess available in the electronic credit ledger.

40. The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of Central tax. It is clarified that if a supplier avails of drawback in respect of duties rebated under the Customs and Central Excise Duties Drawback Rules, 2017, he shall be eligible for refund of unutilized input tax credit of Central tax/ State tax/ Union Territory tax / Integrated tax/ Compensation cess. It is also clarified that refund of eligible credit on account of State tax shall be available if the supplier of goods or services or both has availed of drawback in respect of Central tax.

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Guidelines for refund of tax paid on deemed exports

41. Certain supplies of goods have been notified as deemed exports vide notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act. Further, the third proviso to rule 89(1) of the CGST Rules allows either the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017-Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking that the recipient of deemed export supplies shall not claim the refund in respect of such supplies and shall not avail any input tax credit on such supplies. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking shall have to be furnished by him stating that refund has been claimed only for those invoices which have been detailed in statement 5B for the tax period for which refund is being claimed and that he has not availed input tax credit on such invoices. The recipient shall also be required to declare that the supplier has not claimed refund with respect to the said supplies. The procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with.

Guidelines for claims of refund of Compensation Cess

42. Doubts have been raised whether a registered person is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the zero-rated final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminium products, whereas cess is not levied on aluminium products. In this context, attention is invited to section 16(2) of the Integrated Goods and Services Tax Act, 2017 (hereafter referred to as the "IGST Act") which states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, section 16 of the IGST Act has been *mutatis mutandis* made applicable to inter-State supplies under the Cess Act vide section 11 (2) of the Cess Act. Thus, it implies that input tax credit of Compensation Cess may be availed for making zero-rated supplies. Further, by virtue of section 54(3) of the CGST Act, the refund of such unutilized ITC shall be available. Accordingly, it is clarified that a registered person making zero rated supply of aluminium products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal. Such registered persons may also make zero-rated supply of aluminium products on payment of Integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of Integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies.

43. As regards the certain issues related to refund of accumulated input tax credit of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking on which clarifications have been sought since GST roll out, the same have been examined and are clarified as below:

a) **Issue:** A registered person uses inputs on which compensation cess is leviable (e.g. coal) to export goods on which there is no levy of compensation cess (e.g. aluminium). For the period July, 2017 to May, 2018, no ITC is availed of the compensation cess paid on the inputs received during this period. ITC is only availed of the Central tax, State tax/Union Territory tax or Integrated tax charged on the invoices for these inputs. This ITC is utilized for payment of Integrated tax on export of goods. Vide Circular No. 45/19/2018-GST dated 30.05.2018, it was clarified that refund of accumulated ITC of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking is available even if the exported product is not subject to levy of cess. After the issuance of this Circular, the registered person decides to start exporting under bond/LUT without payment of tax. He also decides to avail (through the return in **FORM GSTR-3B**) the ITC of compensation cess, paid on the inputs used in the months of July, 2017 to May, 2018, in the month of July, 2018. The registered person then goes on to file a refund claim for ITC accumulated on account of exports for the month of July, 2018 and includes the said accumulated ITC for the month of July, 2018. How should the amount of compensation cess to be refunded be calculated?

Clarification: In the instant case, 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 Central tax/State tax/Union Territory tax/Integrated tax 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 months would be admissible. However, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of Integrated tax. This process would be applicable for application(s) for refund of compensation cess (not claimed earlier) in respect of the past period.

b) **Issue:** A registered person uses coal for the captive generation of electricity which is further used for the manufacture of goods (say aluminium) which are exported under Bond/Letter of Undertaking without payment of duty. Refund claim is filed for accumulated Input Tax Credit of compensation cess paid on coal. Can the said refund claim be rejected on the ground that coal is used for the generation of electricity which is an intermediate product and not the final product which is exported and since electricity is exempt from GST, the ITC of the tax paid on coal for generation of electricity is not available?

Clarification: There is no distinction between intermediate goods or services and final goods or services under GST. Inputs have been clearly defined to include any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Since coal is an input used in the production of aluminium, albeit indirectly through the captive generation of electricity, which is directly connected with the business of the registered person, input tax credit in relation to the same cannot be denied.

c) **Issue:** A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e. Rs. 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the **FORM GSTR-3B** filed for the month as a result of which an amount of Rs. 50/- only is credited in the electronic credit ledger. The reversed amount (Rs. 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares Rs. 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be Rs. 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the balance in the electronic credit ledger at the time of filing the refund claim is Rs. 50/- (assuming that no other debits/credits have happened),

the common portal will proceed to debit Rs. 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction Rs. 50/- as the refund amount or Rs. 25/- (i.e. half of the ITC availed after adjusting for reversals)?

Clarification: ITC which is reversed cannot be held to have been 'availed' in the relevant period. Therefore, the same cannot be part of refund of unutilized ITC on account of zero-rated supplies. Moreover, the reversed ITC has been accounted as a cost which would have reduced the income tax liability of the applicant. Therefore, the same amount cannot, at the same time, be refunded to him/her in the ratio of export turnover to total turnover. However, if the said reversed amount is again availed in a later tax period, subject to the restriction under section 16(4) of the CGST Act, it can be refunded in the ratio of export turnover to total turnover in that tax period in the same manner as detailed in **para 37** above. This is subject to the restriction that the accounting entry showing the said ITC as cost is also reversed.

Clarifications on issues related to making zero-rated supplies

44. Export of goods or services can be made without payment of Integrated tax under the provisions of rule 96A of the CGST Rules. Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has been specified vide Circular No. 8/8/2017 –GST dated 4.10.2017. It has been brought to the notice of the Board that in some cases, such zero-rated supplies were made before filing the LUT and refund claims for unutilized input tax credit got filed. In this regard, it is emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

45. Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of Integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange. It has been reported that the exporters have been asked to pay Integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, payment of Integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the

jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

46. It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the applicant has not been prosecuted. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 04.10.2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 04.10.2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self–declaration with every refund claim where the exports have been made under LUT is not warranted.

47. It has also been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero-rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are meant for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund.

48. It is clarified that the realization of consideration in convertible foreign exchange, or in Indian rupees wherever permitted by Reserve Bank of India, is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

49. As per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. In terms of section 2 (47) of

the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of Integrated tax. However, in case of zero-rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of Integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, the exporter would be eligible for refund of unutilized input tax credit of Central tax, State tax, Union Territory tax, Integrated tax and compensation cess in such cases.

Refund of transitional credit

50. Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC' and thus no refund of such unutilized transitional credit is admissible.

Restrictions imposed by sub-rule (10) of rule 96 of the CGST Rules

51. Sub-rule (10) of rule 96 of the CGST Rules, restricted exporters from availing the facility of claiming refund of Integrated tax paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations were received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the Integrated tax paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility. Notification No. 54/2018 – Central Tax dated the 9th October, 2018 was issued to carry out the changes recommended by the GST Council. In addition, notification No. 39/2018- Central Tax dated 4th September, 2018 was rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

52. The net effect of these changes is that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13.10.2017, before the issuance of the notification No. 54/2018 – Central Tax dated 09.10.2018, shall be eligible to claim refund of the Integrated tax paid on exports. Further, exporters who have imported inputs in terms of notification Nos. 78/2017-Customs dated 13.10.2017, after the issuance of notification No. 54/2018 – Central Tax dated 09.10.2018, would not be eligible to claim refund of Integrated tax paid on exports. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13.10. 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18.10.2017, shall continue to be eligible to claim refund of Integrated tax paid on exports and would not be hit by the restrictions provided in sub-rule (10) of rule 96 of the CGST Rules.

Clarification on calculation of refund amount for claims of refund of accumulated ITC on account of inverted tax structure

53. Sub-section (3) of section 54 of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, sub-section (59) of section 2 of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. It is clarified that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted tax structure.

54. There have been instances where while processing the refund of unutilized ITC on account of inverted tax structure, some of the tax authorities denied the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

a) Refund of unutilized ITC in case of inverted tax structure, as provided in section 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability. Where there are multiple inputs attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules, the term "Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with the help of following example:

i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).

ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.

iii. Further assume that the applicant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the applicant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.

iv. If we assume that Input A, having value of Rs. 500/- and Input B, having value of Rs. 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to Rs. 385/- (Rs. 25/- and Rs. 360/- on Input A and Input B respectively).

v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of Rs. 385/-.

vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

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Refund of TDS/TCS deposited in excess

55. Tax deducted in accordance with the provisions of section 51 of the CGST Act or tax collected in accordance with the provisions of section 52 of the CGST Act is required to be paid while discharging the liability in **FORM GSTR 7** or **FORM GSTR 8**, as the case may be, by the deductor or the collector, as the case may be.

56. It has been reported that, there are instances where taxes so deducted or collected is deposited under the wrong head (e.g. an amount deducted as Central tax is deposited as Integrated tax/State tax), thereby creating excess balance in the cash ledger of the deductor or the collector as the case may be. Doubts have been raised on the fate of this excess balance of TDS/TCS in the cash ledger of the deductor or the collector. It is clarified that such excess balance may be claimed by the tax deductor or the collector as the excess balance in electronic cash ledger. In this case, the common portal would debit the amount so claimed as refund. However, in case where tax deducted or collected in excess is also paid while discharging the liability in **FORM GSTR 7** or **FORM GSTR 8**, as the case may be, and the said amount has been credited to the electronic cash ledger of the deductee, the deductee can adjust the same while discharging his output liability or he can claim refund of the same under the category "refund of excess balance in the electronic cash ledger".

Debit of electronic credit ledger using FORM GST DRC-03

57. Various representations have been received seeking clarifications on certain refund related issues, the solutions to which involve debiting the electronic credit ledger using **FORM GST DRC-03**. These issues are clarified as under:

Sl. No.	Issue	Clarification
1	Certain registered persons have reversed, through return in **FORM GSTR-3B** filed for the month of August, 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 read with circular No. 56/30/2018-GST dated 24.08.2018 (hereinafter referred to as the "said notification"). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of **FORM GST RFD-01A**from being higher than the amount of ITC availed in **FORM GSTR-3B** of the relevant period minus the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?	a) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required to be lapsed in terms of the said notification, is to be claimed under the category "any other" instead of under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure" in **FORM GST RFD-01A**. It is emphasized that this application for refund should relate to the same tax period in which such reversal has been made. b) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a "refund claim of unutilized ITC on account of accumulation due to inverted tax structure". On receiving the said application, the proper officer shall himself calculate the refund amount admissible as per rule 89(5) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), in the manner detailed in **para 37** above. After calculating the admissible refund amount, as described above, and scrutinizing the application

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Sl. No.	Issue	Clarification
		for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05**. c) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in **FORM GST RFD-01** under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure"**.**
2	The clarification at Sl. No. 1 above applies to registered persons who have already reversed the ITC required to be lapsed in terms of the said notification through return in **FORM GSTR-3B**. What about those registered persons who are yet to perform this reversal?	It is hereby clarified that all those registered persons required to make the reversal in terms of the said notification and who have not yet done so, may reverse the said amount through **FORM GST DRC-03** instead of through **FORM GSTR-3B**.
3	What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, through the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018?	a) As the registered person has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for a month subsequent to the month of August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018, he shall be liable to pay interest under sub-section (1) of section 50

IndiaCode

Sl. No.	Issue	Clarification
		of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in **FORM GSTR-3B** for the month of August, 2018 till the date of reversal of said amount through **FORM GSTR-3B** or through **FORM GST DRC-03**, as the case may be. b) The registered person who has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f. 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed, either through **FORM GSTR-3B** or **FORM GST DRC-03,** along with payment of interest, as applicable.
4	How should a merchant exporter claim refund of input tax credit availed on supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017,	a) Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted. b) This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall

IndiaCode

Sl. No.	Issue	Clarification
	published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017 (hereinafter referred to as the "said notifications")?	be applied under the category "any other" instead of under the category "refund of unutilized ITC on account of exports without payment of tax" in **FORM GST RFD-01** and shall be accompanied by all supporting documents required for substantiating the refund claim under the category "refund of unutilized ITC on account of exports without payment of tax". After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05**.

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Refund of Integrated Tax paid on Exports

58. The refund of Integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter is deemed to be an application for refund in such cases, but the same is deemed to have been filed only when the export manifest or export report is filed and the applicant has filed the return in **FORM GSTR-3B** for the relevant period duly indicating the integrated tax paid on goods exported in Table 3.1(b) of **FORM-GSTR-3B** . In addition, the exporter is expected to furnish the details of the exported goods in Table 6A of **FORM GSTR-1** of the relevant period. Only where the common portal is able to validate the consistency of the details so entered by the applicant, the relevant information regarding the refund claim is forwarded to Customs Systems. Upon receipt of the information from the common portal regarding furnishing of these details, the Customs Systems processes the claim for refund and an amount equal to the Integrated tax paid in respect of such export is electronically credited to the bank account of the applicant.

Clarifications on other issues

59. Notification No. 40/2017 – Central Tax (Rate) and notification No. 41/2017 – Integrated Tax (Rate) both dated 23.10.2017 provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications. It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate. It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of Integrated tax.

60. Sub-section (14) of section 54 of the CGST Act provides that no refund under subsection (5) or sub-section (6) of section 54 of the CGST Act shall be paid to an applicant, if the amount is less than one thousand rupees. In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively.

61. Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self-declaration basis in **FORM GSTR-3B** for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2018, may be declared in the **FORM GSTR-3B** filed for a subsequent month, say September 2018. This is inevitable in cases where the supplier raises an invoice, say in August, 2018, and the goods reach the recipient's premises in September, 2018. Since GST law mandates that ITC can be availed only after the goods have been received, the recipient can only avail the ITC on such goods in the **FORM GSTR-3B** filed for the month of September, 2018. However, it has been reported that tax authorities are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September, 2018. In this regard, it is clarified that "Net ITC" as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been "availed" when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in **FORM GSTR-3B**. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2019, "availed" in September, 2019 cannot be excluded from the calculation of the refund amount for the month of September, 2019.

62. It has been represented that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the

manufacturing process and therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the applicant. It is clarified that the ITC of the GST paid on inputs, including inward supplies of stores and spares, packing materials etc., shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

63. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

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Annexure-A

List of all statements/declarations/undertakings/certificates and other supporting documents to be provided along with the refund application

Sl. No.	Type of Refund	Declaration/Statement/Undertaking/Certificates to be filled online	Supporting documents to be additionally uploaded
1	Refund of unutilized ITC on account of exports without payment of tax	Declaration under second and third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Statement of invoices (Annexure-B)
		Statement 3 under rule 89(2)(b) and rule 89(2)(c)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Statement 3A under rule 89(4)	BRC/FIRC in case of export of services and shipping bill (only in case of exports made through non-EDI ports) in case of goods
2	Refund of tax paid on export of services made with payment of tax	Declaration under second and third proviso to section 54(3)	BRC/FIRC /any other document indicating the receipt of sale proceeds of services
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Copy of GSTR-2A of the relevant period
		Statement 2 under rule 89(2)(c)	Statement of invoices (Annexure-B)
			Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period
			Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
3	Refund of unutilized ITC on account of Supplies made to SEZ units/developer without payment of tax	Declaration under third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Statement 5 under rule 89(2)(d) and rule 89(2)(e)	Statement of invoices (Annexure-B)
		Statement 5A under rule 89(4)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Declaration under rule 89(2)(f)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
4	Refund of tax paid on supplies made to SEZ	Declaration under second and third proviso to section 54(3)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)

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Sl. No.	Type of Refund	Declaration/Statement/Undertaking/Certificates to be filled online	Supporting documents to be additionally uploaded
	units/developer with payment of tax	Declaration under rule 89(2)(f)	Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period
		Statement 4 under rule 89(2)(d) and rule 89(2)(e)	Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
5	Refund of ITC unutilized on account of accumulation due to inverted tax structure	Declaration under second and third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Declaration under section 54(3)(ii)	Statement of invoices (Annexure-B)
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Statement 1 under rule 89(5)	
		Statement 1A under rule 89(2)(h)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
6	Refund to supplier of tax paid on deemed export supplies	Statement 5(B) under rule 89(2)(g)	Documents required under Notification No. 49/2017-Central Tax dated 18.10.2017 and Circular No. 14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
7	Refund to recipient of tax paid on deemed export supplies	Statement 5(B) under rule 89(2)(g)	Documents required under Circular No. 14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	

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Sl. No.	Type of Refund	Declaration/Statement/Undertaking/Certificates to be filled online	Supporting documents to be additionally uploaded
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
8	Refund of excess payment of tax	Statement 7 under rule 89(2)(k)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
9	Refund of tax paid on intra-state supply which is subsequently held to be an inter-state supply and vice versa	Statement 6 under rule 89(2)(j)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
10	Refund on account of assessment / provisional assessment / appeal / any other order	Undertaking in relation to sections 16(2)(c) and section 42(2)	Reference number of the order and a copy of the Assessment / Provisional Assessment / Appeal / Any Other Order
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	Reference number/proof of payment of pre-deposit made earlier for which refund is being claimed
11	Refund on account of any other ground or reason	Undertaking in relation to sections 16(2)(c) and section 42(2)	Documents in support of the claim
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	

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Annexure-B

Statement of invoices to be submitted with application for refund of unutilized ITC

Sr. No.	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Type	Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Cess	Eligible for ITC	Amount of eligible ITC	Whether invoices included in GSTR-2A Y/N
			Invoice No.	**Date**	**Value**	Inputs/Input Services/capital goods					Yes/No/Partially		
1	2	3	4	5	6	7	8	9	10	11	12	13	14

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