F. No. CBEC/20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 2018

To,

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

The Principal Directors General / Directors General (All)

The Principal CCA, CBIC

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Madam/Sir,

Subject: Clarification on certain issues related to refund – Reg.

The Board is in receipt of representations seeking clarification on certain issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the 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 the "CGST Act"), hereby clarifies the issues as detailed hereunder:

2. S**tatus of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:**

2.1 Para 7.1 of circular No. 59/33/2018-GST dated the 4th September, 2018 clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim. In para 7.2 of the said circular, the practise being followed in the field formations was elaborated and it was clarified that show cause notices are not required to be issued (and consequently no orders are required to be issued in **FORM GST RFD-04/06**) in cases where refund application is not re-submitted after the issuance of a deficiency memo (in **FORM GST RFD-03**). It was also clarified that once a deficiency memo has been issued against an application for refund, the

amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") is required to be re-credited to the electronic credit ledger of the applicant by using **FORM GST RFD-01B** and the taxpayer is expected to file a fresh application for refund.

2.2 The issue has been re-examined and it has been observed that presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in **FORM GST RFD-03** is issued to taxpayers, re-credit in the electronic credit ledger (using **FORM GST RFD-01B**) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

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3. **Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:**

3.1 Sub-rule (10) of Rule 96 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "said sub-rule"), restricts exporters from availing the facility of claiming refund of IGST 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 have been 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 IGST paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, had 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 has been issued to carry out the changes recommended by the GST Council. Alongside the amendment carried out in the said sub-rule through the notification No. 39/2018- Central Tax dated 4th September, 2018 has been rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

3.2 For removal of doubts, it is clarified that the net effect of these changes would be 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 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification No. 54/2018 – Central Tax dated the 9th October, 2018 referred to above.

3.3 Further, after the issuance of notification No. 54/2018 – Central Tax dated the 9th October, 2018 , exporters who are importing goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule. All clarifications issued in this regard vide any Circular issued earlier are hereby superseded.

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4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

5. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)