

Chapter 14 - Refunds Under GST

14.1 Meaning of word "Refund" [Section 54, Expl. (1)]

Refund' includes

- Refund of tax paid on zero-rated supplies of goods or services or both, or
- Refund of tax paid on input or input services used in making such zero-rated supplies, or
- Refund of tax on the supply of goods regarded as deemed exports, or
- Refund of unutilised input tax credit as provided u/s 54(3),

Thus, all kinds of refund will be dealt with as per this section [including export incentives granted by way of refund.

14.2 Refund of Tax [Section 54 of The CGST Act]

14.2.1 SITUATIONS LEADING TO REFUND CLAIMS

The relevant date provision embodied in section 54 of the CGST Act, 2017, provision contained in Section 77 of the CGST Act, 2017 and the requirement of submission of relevant documents as listed in the CGST Rules, 2017 is an indicator of the various situations that may necessitate a refund claim. A claim for refund may arise in the following situations:

- (i) Goods or services or both are exported or, goods or services or both supplied to an SEZ developer/unit, on payment of IGST and refund of such IGST paid on goods or services or both supplied is claimed [Section 16(3)(b) of ICST Act].
- (ii) A registered person may claim refund of any unutilized input tax credit (ITC) at the end of any tax period in the following cases:
 - (a) **Zero rated supplies:** Supply of goods/services/both to an SEZ developer/unit or export of goods or services or both, and
 - (b) **Accumulated ITC on account of inverted duty structure:** 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), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

However, refund of unutilized ITC shall NOT be allowed if

- The goods exported out of India are subjected to export duty;
 - The supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies,
- (iii) Tax paid on the supply of goods regarded as **deemed exports** may be claimed by recipient or supplier.

- (iv) Refund of any balance in the **electronic cash ledger** after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made there under may be claimed [Section 49(6)].
- (v) Refund on account of issuance of **refund vouchers** for taxes paid on advances against which goods or services have not been supplied, may be claimed [Section 31(3)],
- (vi) Refund of tax **wrongly collected** and paid to the Government Le CGST & SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice versa [Section 77 of the CGST Act and section 19 of the IGST Act].
- (vii) The IGST paid by **tourist** leaving India on any supply of goods taken out of India by him [Section 15 of IGST Act]
- (viii) Tax becomes refundable as a consequence of **judgment**, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court.
- (ix) On finalization of **provisional assessment**, if any tax becomes refundable to assessee (on account of assessed tax on final assessment being less than the tax deposited by the assessee) [Section 60].
- (x) Refund of taxes on purchase made by **UN bodies** or embassies etc. [Section 54(2)].

Detailed provisions relating to various sections referred above have been discussed in the respective chapters.

14.2.2 TIME LIMIT WITHIN WHICH REFUND CLAIM CAN BE FILED

- Any person claiming refund of any tax, interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of 2 years from the 'Relevant Date' in such form and manner as may be prescribed [Section 54(1)].
- A registered person may claim refund of any unutilised ITC in case of zero rated supplies or accumulated ITC on account of inverted duty structure at the end of any tax period [Section 54(3)].
- **Bunching of refund claims across financial years permitted [Circular No. 135/05/2020 GST, dated 31.03.2020]**

It has been clarified that while filing the refund claim, an applicant may, at his option, file a refund claim for a tax period or by clubbing successive tax periods. Earlier, there was a restriction on bunching of refund claims across financial years; now the said restriction has also been relaxed. For instance, a registered person opting to file Form GSTR-1 on quarterly basis can apply for refund on a quarterly basis or clubbing successive quarters and these quarters may spread across different financial years. Thus, he can file refund claim for quarters: Jan-Mar, Apr-Jun and July-Sep, while filing the refund claim.

14.2.3 MEANING OF 'RELEVANT DATE' [EXPLANATION 2 TO SECTION 54]

'Relevant Date' has been defined in Explanation 2 to section 54. Accordingly it means:-

S. No.	Cases	Relevant Date
1.	In case of goods exported out of India where a refund of tax paid is available in	

	respect of goods themselves or the inputs or input services used in such goods and	
	(i) Goods are exported by sea or air	Date on which the ship or the aircraft in which such goods are loaded, leaves India
	(ii) Goods are exported by land	Date on which such goods pass the frontier
	(ii) Goods are exported by post	Date of dispatch of goods by the Post Office concerned to a place outside India
2.	In case of supply of goods regarded as deemed exports Date on which the return relating to such where a refund of tax paid is available in respect of the deemed exports is furnished goods	Date on which the return relating to such deemed export is furnished
3.	In case of services exported out of India where a refund of tax paid is available in respect of services themselves or the inputs or input services used in such services, and	
	(i) the supply of services had been completed prior to the receipt of such payment	Date of receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the RBI
	(ii) Payment for the services had been received in advance prior to the date of issue of the invoice	Date of issue of Invoice
	<i>In case of zero-rated supply of goods or services or both to a SEZ developer or a SEZ unit where a refund of tax paid is available in respect of such supplies themselves, or the inputs or input services used in such supplies</i>	<i>Due date for furnishing of return u/s 39 m respect of such supplies [inserted by Finance Act, 2022, w.e.f. 01.10.2022]</i>
	Where tax becomes refundable as a consequence of judgment , decree, order or direction of the Appellate Authority, Appellate Tribunal or any court	Date of communication of such judgment, decree, order or direction
	In case of refund of unutilized ITC in case of zero-rated supplies or accumulated TTC on account of inverted duty structure	Due date for furnishing of return u/s 39 for the period in which such claim for refund arises.

	In the case where tax is paid provisionally under this Act or the rules made there under	Date of adjustment of tax after the final assessment thereof
	In the case of a person, other than the supplier	Date of receipt of such goods or services or both by such person
	Any other case	Date of payment of tax

14.2.4 DOCUMENTS FOR FILING REFUND CLAIM

Documents required for filing refund claim has been provided under the provisions of section 54(4) read with rule 89(2)

Section 54(4) of the CGST Act stipulates that the application shall be accompanied by

- such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and
- such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that there is no unjust enrichment (i.e. the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person).

However, where the amount claimed as **refund is upto Rs. 2 lakh**, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, **certifying that there is no unjust enrichment** i.e. the incidence of such tax and interest had not been passed on to any other person.

However, where the amount of refund claimed **exceeds Rs. 2 lakh**, a Certificate in Annexure 2 of Form CST RFD-01 by a **Chartered Accountant or a Cost Accountant** to the effect that there is not unjust enrichment in the case of the applicant [ie incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person].

Further, neither a declaration by the applicant nor a certificate by a Chartered Accountant/Cost Accountant is required to be furnished in the following cases:

- Refund of tax paid on **zero-rated supplies** of goods or services or both or on inputs or input services used in making such zero-rated supplies;
- Refund of **unutilized ITC** in case of **zero rated supplies** or accumulated ITC on account of inverted duty structure;
- Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued. The expression "invoice" referred here means invoice conforming to the provisions contained in section 31.
- Refund of tax in pursuance of **section 77**, Le tax paid tax on a transaction treating it as an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa.
- The tax or interest borne by such other class of applicants as the **Government** may, on the recommendations of the Council, by notification, specify.

NOTE: Where the amount of tax has been recovered from the recipient, it shall be deemed that THE 'INCIDENCE OF TAX HAS BEEN PASSED ON TO THE ULTIMATE CONSUMER. [Explanation (ii) to rule 89]

14.2.5 Deficiencies in the Refund Application [Rule 90(3)]

Where the proper officer notices deficiencies in the refund application, the same will be communicated to the applicant requiring the claimant to file a fresh refund application after rectification of such deficiencies.

However, the time period, from the date of filing of the original refund application till the communication of deficiencies by the proper officer, shall be excluded for counting the limitation period of 2 years, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

Analysis of Amendment: Earlier, Circular No. 125/44/2019 - GST, dated 18.11.2019 had clarified that the filing of the fresh refund application (after curing the deficiencies) must also be done within the limitation period of 2 years from the relevant date. Due to this, in many situations where the department issues deficiency notices, the filing of the fresh refund application after curing the deficiencies use to happen after the limitation period of 2 years which then resulted in the rejection of the refund claim. Now with the present amendment excluding the period from the filing of the original claim till the communication of deficiencies shall result in the grant of additional time to file the fresh refund application to ensure that the said application is also filed within the overall period of 2 years.

14.2.6 Withdrawal of Refund Application [Rule 90(5) & (6)]

Rule 90(5): The applicant may, at any time before issuance of provisional refund sanction order or final refund sanction order or payment order or refund withhold order or notice, in respect of any refund application filed, withdraw the said application for refund, by filing an application.

Rule 90(6): On submission of application for withdrawal of refund, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, while filing application for refund, shall be credited back to the ledger from which such debit was made.

14.3 Order of Refund [Section 54(5), (7) & (8A)]

- Section 54(5) stipulates that if, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Consumer Welfare Fund [discussed in detail in subsequent paras].
- Refund order shall be issued by the proper officer within 60 days from the date of receipt of application complete in all respects [Section 54(7)].

The time limit of 60 days shall be counted from the date of filing claim for refund as mentioned in the acknowledgment received for refund claim (Section 54(7) read with rule 90(1) and 90(2)].

[Circular No. 125/44/2019 - GST, dated 18.11.2019] Any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order and the payment order within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days

- **Section 54(8A):** The Central Government may disburse the refund of the SGST in such manner as may be prescribed.

- **Disbursal of refunds [Circular No. 125/44/2019 - GST, dated 18.11.2019]**

Separate disbursement of refund amounts under different tax heads by different tax authorities, i.e., disbursement of CGST, IGST and Compensation Cess by Central tax officers and disbursement of SCST 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 and the corresponding payment order 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 and the corresponding payment order for the sanctioned refund amount, under all tax heads, shall be issued by the State/UT tax officer only.

- **Rule 92(1A):** Where, upon examination of the application of refund of any amount paid as tax, the proper officer is satisfied that a refund u/s 54(5) of the Act is due and payable to the applicant, then, he shall make order sanctioning the amount of refund to be paid.

Further, the proper officer will divide the amount refundable in 2 portions [one refundable in cash and another refundable in electronic credit ledger). This proportion shall be done on the basis of the amount utilized from electronic cash ledger and electronic credit ledger while discharging total tax liability for the relevant period.

Note:

1. Amount refundable in cash shall be refunded after making adjustment of any outstanding demand under the Act or under any existing law.
2. In respect of amount refundable in electronic credit ledger, the proper officer shall issue order re-crediting the said amount as Input Tax Credit in the electronic credit ledger.
3. This sub-rule is not applicable in following 2 cases
 - (i) refund of tax paid on zero-rated supplies or
 - (ii) refund of tax paid on deemed export.

- **Grant of provisional refund [Section 54(6) read with rule 911]**

- The proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than notified category of registered persons,
- refund on a provisional basis, 90% of the total amount so claimed, excluding the amount of ITC provisionally accepted and
- thereafter make an order under section 56(5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

14.4 Principle of Unjust Enrichment [Section 54(8) & (9)]

- Theory of unjust enrichment postulates that only the person who has NOT passed the incidence of tax will be eligible to claim the refund. Under GST law, related provisions are contained under section 54(8)
- Under unjust enrichment, a presumption is always drawn that the businessman will shift the incidence of tax to the final consumer. This is because GST is an indirect tax whose incidence is to be borne by the consumer. It is for this reason that every refund claim if sanctioned is first transferred to the Consumer Welfare Fund.
- If the refund claim of refund (barring specified exceptions) passes the test of unjust enrichment, it is paid to the applicant. The GST law makes this test inapplicable in case of refund of accumulated ITC, refund on account of exports, refund of payment of wrong tax (IGST instead of CGST + SCST and vice versa), refund of tax paid on a supply, which is not provided or when refund voucher is issued or if the applicant shows that he has not passed on the incidence of tax to any other person [Listed below in detail]. In all other cases, the test of unjust enrichment needs to be satisfied for the claim to be paid to the applicant.
- For crossing the bar of unjust enrichment, if the refund claim is upto Rs. 2 lakh, then a self-declaration of the applicant to the effect that the incidence of tax has not been passed to any other person will suffice to process the refund claim.
- For refund claims exceeding Rs. 2 lakh, a certificate from a Chartered Accountant/Cost Accountant will have to be given.
- Cases where refundable amount shall be paid to the applicant [Exceptions to Doctrine of Unjust Enrichment]: Section 54(8) stipulates that the refundable amount shall, instead of being credited to the Consumer Welfare Fund, be paid to the applicant, if such amount is relatable to -
 - (a) Refund of tax paid on zero rated supplies export of goods or services or both or on inputs or input services used in making such zero-rated supplies exports; as amended by CGST (Amendment) Act, 2018]
 - (b) refund of unutilized ITC in case of zero rated supplies or accumulated ITC on account of inverted duty structure;
 - (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
 - (d) refund of tax in pursuance of section 77, i.e. tax paid tax on a transaction treated to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa.

- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate or any Court or in any other provisions of this Act or the rules made there under or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8). Instead, refundable amount shall be credited to Consumer Welfare Fund [Section 54(9)].

Illustration 1:

State five cases where refundable amount shall be paid to the applicant, instead of being credited to Consumer Welfare Fund under CGST Act, 2017.

[CA Final, May 2018 - New] (5 Marks)

Solution:

Section 54(8) stipulates that the refundable amount shall, instead of being credited to the Consumer Welfare Fund, be paid to the applicant, if such amount is relatable to -

- (a) Refund of tax paid on export of goods or services or both or on inputs or input services used in making such export.
- (b) refund of unutilized ITC in case of zero rated supplies or accumulated ITC on account of inverted duty structure;
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued:
- (d) refund of tax in pursuance of section 77, i.e., tax paid tax on a transaction treated to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa.,
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

the tax or interest borne by such other class of applicants as the Government may, on the recommendations Council, by notification, specify.

14.5 No Refund of Advance tax by casual or NR persons [Sec. 54(13)]

Notwithstanding anything to contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person u/s 27(2), shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the return required u/s 30.

Non-resident taxable person: Refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him u/s 27 at the time of registration, shall be claimed in the last return required to be furnished by him. [Rule 89(1), 4th proviso]

14.6 Withholding of Refund Claim [Section 54(10), (11) & (12)]

Sec. 54(10): Where any refund is due to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority till the last date for filing an appeal, the proper officer may-

- (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty:
- (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Sec. 54(11): Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he determine and shall pass the order informing him the reasons for withholding of such refund.

However, where the proper officer or the Commissioner is satisfied that the refund is no longer liable to be withheld, he may pass an order for release of withheld refund.

Sec. 54(12): Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest @ 6% p.a., if as a result of the appeal or further proceedings he becomes entitled to refund.

14.7 Minimum Refund Claim [Section 54(14)]

No refund shall be paid to an applicant, if the amount is less than Rs. 1,000.

14.8 Refund of ITC [Section 54(3)]

Subject to the provision of sub-section 10, the registered person may claim refund of any unutilized input tax credit at the end of any tax period; however, refund is allowed only in following cases-

- (i) Zero rated supplies made without payment of tax:
- (ii) Inverted tax: 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 exempted)
 - Except supplies of goods or services or both as may be notified by the Government.

Nil-rated/Exempt supplies not covered here [Analysis]: The nil-rated/exempted supplies cannot claim benefit of inverted tax structure and therefore, cannot claim benefit of input tax borne by tax. Inverted tax means there is same tax but it is lower than input tax.

No refund on exports, if export liable to export duty: No refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subject to export duty.

Clarification in respect of refund of unutilized ITC, in case of exports of goods which are having NIL rate of export duty under Customs [Circular No. 160/16/2021-GST, dated 20.09.2021]

The term 'subjected to export duty used in second proviso to section 54(3) of the CGST Act, 2017 means where the goods are actually leviable to export duty and suffering export duty at the time of export. Therefore, it is clarified that only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under the restriction imposed under section 54(3) from availment of refund of accumulated ITC. Goods, which are not subject to any export duty and in respect of which either NIL rate is specified in Second Schedule to the Customs Tariff Act, 1975 or which are fully exempted from payment of export duty by virtue of any customs notification or which are not covered under Second Schedule to the Customs Tariff Act, 1975, would not be covered by the restriction imposed under the second proviso to section 54(3) of the CGST Act for the purpose of availment of refund of accumulated ITC.

No refund, if drawback of CGST or refund of IGST claimed: No refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central GST or has availed refund of integrated tax paid on such supplies.

Clarification in respect of Refund of ITC u/s 54(3) restricted to the extent of credit reflected in Form GSTR-2B [Circular No.135/05/2020-GST, dated 31.03.2020]

In wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 [Refer Chapter 5- Input Tax Credit), it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in Form GSTR-1 and are reflected in the Form GSTR-2B of the applicant.

Further, it is clarified that the aforesaid circular does not in any way impact the refund of ITC availed on the invoices/ documents relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) etc. It is hereby clarified that the treatment of refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge will continue to be same as it was before the issuance of Circular No. 135/05/2020-GST, because these invoices are not uploaded by the suppliers in Form GSTR-1. [Circular No. 139/09/2020-GST, dated 10.06.2020]

14.9 Refund of Inverted-tax Structure [Rule 89(5)]

As per Rule 89(5) of the CGST Rules, 2018, in the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

Maximum Refund Amount = [(Turnover of inverted rated supply of goods and services) x Net ITC + Adjusted Total Turnover) - *[Tax payable on such inverted rated supply of goods and services x (Net ITC + ITC availed on inputs and input services) (as amended by NN 14/2022-CT, w.e.f. 05.07.2022)]*

Explanation:- For the purposes of this sub-rule, the expressions -

- (a) Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (48) or both; and
- (b) "Adjusted Total Turnover means the sum total of the value of
- (i) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
 - (ii) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding -
 - (i) the value of exempt supplies other than zero-rated supplies; and
 - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.
- (c) "**Relevant period**" means the period for which the claim has been filed.

Note: No refund permissible for accumulated ITC on input services in cases of Inverted duty structure.

Analysis of Amendment made by NN 14/2022 - CT, w.e.f. 05.07.2022:

Rule 89(5) of the CGST Rules is amended vide NN. 14/2022- CT, dated 05.07.2022, to change the formula for calculation of Maximum Refund Amount under this rule. This change is done to take into account utilization of ITC on account of inputs as well as input services for payment of output tax on inverted rated supplies in the same ratio in which ITC has been availed on inputs and input services during the said period. This would help those taxpayers who are availing ITC on input services also.

Analytical Example: M/s Yash Enterprises is a registered manufacturer in Mumbai, Maharashtra indulged in the business of processing of woven fabrics which is taxable @ 5%, The inputs used for making such product are taxable 12%. The company wants to determine the amount of input tax credit eligible for refund.

Following are the information provided by the company during the period January to March, 2023:

S. N.	Particulars	Amount (Rs. in Lakhs)	Tax Amount (Rs. in Lakhs)
1	Raw materials used (inward supply) @12%	500	60
2	Woven fabrics (outward supply) @5%	300	15
3	Consultancy service @18% (other inward supply)	100	18

Solution:

Maximum Refund Amount = ((Turnover of inverted rated supply of goods and services) x Net ITC Adjusted Total Turnover) - tax payable on supply of goods and services x (Net ITC-ITC availed on inputs and input services)

Maximum Refund amount = $((300*60)/300)-[15*(60/78)]=60-11.53=48.47$ Lakhs

Prior to the amendment in formula for calculation of refund under this rule, the maximum refund amount would be calculated as under.

Maximum Refund Amount = ((Turnover of inverted rated supply of goods and services) x Net ITC - Adjusted Total Turnover) - tax payable on such inverted rated supply of goods and services.

Maximum Refund Amount = $[(300*60)/300]-15=45$ lakhs

Clarification on refund related issues [Circular No. 79/53/2018-GST, dated 31-12-2018]

1. Refund of accumulated ITC of input services and capital goods arising on account of inverted duty structure:

Section 54(3) 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, section 2(59) 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. Accordingly, in order to align the CGST Rules with the CGST Act, NN. 26/2018-CT, dated 13.06.2018 was issued wherein it was stated that the term Net ITC, as used in the formula for calculating the maximum refund amount under rule 89(5) of the CGST Rules, shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both. In view of the above, it is clarified that both 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 duty structure.

2. Misinterpretation of the meaning of the term "inputs":

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 claimant.

In relation to the above, it is clarified that the input tax credit of the GST paid on inputs shall be available to a registered person as long as he/she uses or intends to use such inputs for the purposes of his/her business and there is no specific restriction on the availment of

such ITC anywhere else in the GST Act. The CST paid on 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.

3. Calculation of refund amount for claims of refund of accumulated Input Tax Credit (ITC) on account of inverted duty structure:

Representations have been received stating that while processing the refund of unutilized ITC on account of inverted tax structure, the departmental officers are denying the refund of TTC 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 of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with help of the following example:
 - i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18% GST) to manufacture output Y (attracting 12% GST).
 - ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CCST 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 claimant 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 claimant 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. 3857-

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/-

Refund of accumulated ITC on account of reduction in GST rate on goods, not available [Circular No. 135/05/2020- GST, dated 31.03.2020] [As further clarified by Circular No. 173/05/2022-GST, dated 06.07.2022]

The issue which arose for consideration is whether an applicant can seek refund of unutilized ITC on account of inverted duty structure, under section 54(3)(ii) of the CGST Act, 2017, in a case where the inversion is due to change in the GST rate on the same goods. For example, an applicant trading in goods has purchased, say goods "X" attracting 18% GST. However, subsequently, the rate of GST on "X" has been reduced to, say 12%.

It is clarified that, in such cases, the input and output being the same, though attracting different tax rates at different points in time, do not get covered under section 54(3)(ii) of the CGST Act, 2017. Thus, refund of accumulated ITC under said clause would not be applicable in cases where the input and the output supplies are the same.

Further, there may however, be cases where though inputs and output goods are same but the output supplies are made under a concessional notification due to which the rate of tax on output supplies is less than the rate of tax on inputs. In such cases, as the rate of tax of output supply is less than the rate of tax on inputs at the same point of time due to supply of goods by the supplier under such concessional notification, the credit accumulated on account of the same is admissible for refund under the provisions of clause (ii) of the first proviso to section 54(3) of the CGST Act.

However, no refund shall be allowed in cases where output supply is either Nil rated or fully exempted.

Further, no refund shall be allowed in case of supply of such goods or services which are notified by the Government for their exclusion from refund of accumulated ITC under this clause. [Circular No. 173/05/2022-GST, dated 06.07.2022]

Illustration 2:

Super Engineering Works, a registered supplier in Haryana, is engaged in supply of taxable goods within the State: Given below are the details of the turnover and applicable CST rates of the final products manufactured by Super Engineering Works as also the input tax credit (ITC) availed on inputs used in manufacture of each of the final products and GST rates applicable on the same, during a tax period:

Products	Turnover* (Rs.)	Output GST Rates	ITC availed (Rs.)	Input GST Rates
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A	5,00,000	5%	54,000	18%
B	3,50,000	5%	54,000	18%
C	1,00,000	18%	10,000	18%

"excluding GST

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii) of the CGST Act, 2017 provided that Product B is notified as a product, in respect of which no refund of unutilised input tax credit shall be allowed under said section.

Answer:

Section 54(3)(ii) of the CGST Act, 2017 allows refund of unutilized input tax credit (TTC) at the end of any tax period to a person where the credit has accumulated on account of inverted duty structure i.e. rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

In the supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3)(ii) of the CGST Act, 2017. Therefore, only Product A is eligible for refund under section 54(3)(ii).

Maximum Refund Amount = ((Turnover of inverted rated supply of goods and services) x Net ITC + Adjusted Total Turnover) – [Tax payable on such rated supply of goods and services x (Net ITC + ITC availed on inputs and input services) (as amended by NN sqrt(1) * 14 / 2022 - 4 CT, w.e.f. 05.07.2022)]

Explanation:- For the purposes of this sub-rule, the expressions -

- (a) Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- (b) Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4). [Rule 89(5), as substituted retrospectively by NN 26/2018-CT, w.e.f. 01.07.2017]

As per sub-rule (4) "Adjusted Total Turnover" means the sum total of the value of

- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

excluding-

- (i) the value of exempt supplies other than zero-rated supplies; and
- (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period. [This definition as substituted by N * N * 39/2018 - CL w.e.f. 04.09.2018]

Tax payable on inverted rated supply of Product A = $R \times s_{\{c\}} 5,00,000 \times 5\% = \text{Rs. } 25,000$

Net ITC= Rs. 1,18,000 (Rs. 54,000+ Rs. 54,000 + Rs. 10,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not]

Adjusted Total Turnover Rs. 9,50,000 (Rs. 5,00,000+ Rs. 3,50,000+ Rs. 1,00,000) Turnover of inverted rated supply of Product A= Rs. 5,00,000

Maximum refund amount for Super Engineering Works is as follows:

= [(Rs. 5,00,000 - Rs. 1,18,000) / Rs. 9,50,000] × Rs. 25,000 = Rs. 37,105 (rounded off)

14.10 Refund to UN Bodies, Embassies, etc. [Section 55 read with Section 54(2) of CGST Act]

Supplies made to UN bodies and embassies may be exempted from payment of GST as per international obligations. However, this exemption has been operationalized by way of a refund mechanism. So, a taxable person making supplies to such bodies would charge the tax due and remit the same to Government account.

However, the UN bodies and other entities notified under section 55 of the CGST Act, 2017 can claim refund of the taxes paid by them on their purchases. The claim has to be made before the expiry of 2 years 6-months 18 months (as amended by Finance Act, 2022 w.e.f.01.10.2022) from the last day of the quarter in which such supply was received. Detailed provisions have been discussed hereunder:

A. WHO IS ENTITLED TO REFUND UNDER SECTION 55?

Government may, on the recommendations of the Council, by notification, specify:

- (i) any specialized agency of the United Nations Organization; or
- (ii) any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947; or
- (iii) Consulate or Embassy of foreign countries;
- (iv) Retail outlets established in departure area of an international Airport, beyond the immigration counters, making tax free supply to an outgoing international tourist [specified by NN 11/2019-CT (R), w.e.f. 01.07.2019]; and
- (v) any other person or class of persons as may be specified in this behalf,

who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified inward supplies of goods or services or both received by them.

Note: To provide for a parity between the IGST applicable on the domestic supplies of goods and the IGST applicable u/s 3(7) of the Customs Tariff Act, 1975 on imported goods, the specialised agencies will also get the refund of the IGST paid on imported goods. [Circular No. 23/2019-Customs, dated 01.08.2019]

Clarifications [Circular no. 36/10/2018-GST, dated 13-03-2018 & 43/17/2018-GST, dated 13-4-2018]:

- Entities having UINs are not covered under registered person and are granted UINs to enable them to claim refund of GST paid on inward supplies. Therefore, if any such entity is making outward supply, then, it will have to apply for GSTIN
- Entity may opt to have single UIN all over India or may seek more than one UIN.
- Recording of UIN on the invoice is a necessary condition under Rule 46 of the CGST Rules, 2017. If suppliers / vendors are not recording the UINS, action may be initiated against them under the provisions of the CGST Act, 2017.

B. TIME LIMIT FOR FILING REFUND CLAIM [SECTION 54(2) READ WITH RULE 95(1)]

Persons eligible to claim refund under section 55 [as mentioned in point A above), entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, once in every quarter, but before the expiry of **2 years 6-months** from the last day of the quarter in which such supply was received. *[Time Period of claiming refund extended to '2 years' from '6 months' by Finance Act, 2022, w.e.f. 01.10.2022]*

~~**Extension of time to 18 months [NN. 20/2018-C.T., dated 28/03/2018]:** The said persons shall make application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as may be specified, before the expiry of 18 months from the last date of the quarter in which such supply was received. *[Omitted by NN 20/2022- CT, w.e.f. 01.10.2022]*~~

Notifications issued under CGST Act, 2017 are also applicable to GST (Compensation to States) Act, 2017 [Circular No. 68/42/2018-GST, dated 05.10.2018]

1. Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017 (hereinafter referred to as 'the Compensation Cess Act), provides that provisions of CGST Act and IGST Act apply in relation to levy and collection of Compensation Cess. Further, section 9(2) of the Compensation Cess Act provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CCST Act and the rules made thereunder, shall apply in relation to the levy and collection of Compensation Cess. Therefore, notifications issued under the CGST Act except those prescribing rate or granting exemptions, are applicable for the purpose of the Compensation Cess Act.
2. In view of the above, it is clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra- State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis as prescribed in Notifications issued in the CGST Act

14.11 Rule 97A - Manual Filing and Processing

In the statement or issuance of the notice, order or certificate in respect of refund is also allowed in the prescribed Forms.

Notwithstanding anything contained in this chapter, in respect of any process or procedure prescribed herein-

- Any reference to electronic filing of an application, intimation, reply, declaration, statement or issuance of notice, order or certificate on the common portal
- Shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of said notice, order or certificate in such Forms as appended to these Rules

14.12 Consumer Welfare Fund [Sections 57 & 58 of CGST Act]

Consumer Welfare Fund was created to promote and protect the welfare of consumer, create consumer awareness and strengthen consumer movement in the country, particularly in rural areas. Amount of refund which is not payable to the applicant is credited to the Consumer Welfare Fund.

As already discussed in this chapter, amount of refund is paid to the applicant in case where there is no unjust enrichment; i.e. the incidence of tax has not been passed by the supplier to the recipient as also in the circumstances where the principle of unjust enrichment is not applicable [specified in section 54(8)]. Otherwise, the said amount is credited to the Consumer Welfare Fund.

- **Amount to be credited to Consumer Welfare Fund**

Section 57 of the CGST Act stipulates that the Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund:

- (a) Amount of refund determined by an order passed under section 54(5),
- (b) any income from investment of the amount credited to the Fund; and
- (c) such other monies received by it, in such manner as may be prescribed.

- All sums credited to the Consumer Welfare Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed [Section 58(1) of the CGST Act]

- **Maintenance of Books of Accounts**

The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the CAG (Comptroller and Auditor-General of India).

- Amounts to be credited to/paid from Consumer Welfare Fund [Rule 97 of the CGST Rules, 2017]
 - All amounts of duty CGST/SCST/ IGST/ UTGST/cess and income from investment along with other monies specified in section 12C(2) of the erstwhile Central Excise Act, 1944, section 57 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017, section 21 of the UTGST Act, 2017 and section 12 of the GST (Compensation to Act, 2017 shall be credited to the Fund [Rule 97(1)].

- An amount equivalent to 50% of the amount of IGST determined under section 54(5) of the CGST Act, read with section 20 of the IGST Act, shall be deposited in the Fund [Proviso to rule 97(1)].
- An amount equivalent to 50% of the amount of compensation cess determined under section 54(5) of the CGST Act, read with section 11 of the GST (Compensation to States) Act, shall be deposited in the Fund. [Second Proviso to rule 97(1)]
- Any having been credited to the Consumer Welfare Fund, ordered or directed as payable to any claimant by orders of the proper officer, Appellate Authority or Appellate Tribunal or Court, shall be paid from the Fund [Rule 97(2)].

14.13 Interest on Delayed Refunds [Section 56 of CGST Act]

A. Interest on amount refundable consequent to order passed by Proper Officer under section 54(5)

- Where any tax ordered to be refunded under section 54(5) to any applicant is not refunded within 60 days from the date of receipt of application under section 54(1), interest shall be payable to the applicant.
- Interest is payable on such refund 0.6% pa. [as notified vide NN. 13/2017 CT dated 28.06.2017].
- Interest is payable from the date immediately after the expiry of 60 days from the date of receipt of application under the section 54(1) till the date of refund of such tax [Section 56 of CGST Act]

B. Interest on amount refundable consequent to order passed in an appeal or further proceedings

- Where any claim of refund arises from an order passed by an Adjudicating Authority or Appellate Authority or Appellate Tribunal or Court which has attained finality and the same is not refunded within 60 days from the date of receipt of application filed consequent to such order, interest shall be payable on such refund.
- Interest is payable on such refund 9% pa. [as notified vide NN. 13/2017 CT dated 28.06.2017]
- Interest is payable from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund. [Proviso to Section 56 of CGST Act]

Note: For the purpose of this section, the order of refund made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under section 54(5), shall also be deemed to be an order passed under the said section 54(5) [Explanation to section 56].

C. Order sanctioning interest on delayed refunds [Rule 94]

- Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a payment order in prescribed form
- Such order shall specify therein:
 - the amount of refund which is delayed,
 - the period of delay for which interest is payable and
 - the amount of interest payable.

- Such interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

D. [Circular No. 125/44/2019 - GST, dated 18.11.2019]: Any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order and the payment order within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.

14.14 Refund of Integrated Tax Paid on Supply of Goods to Tourist Leaving India [Section 15 of IGST Act]

The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

The term "tourist" means a person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.

14.15 Refund of taxes to the retail outlets established in departure area of international Airport beyond immigration counters making tax free supply to an outgoing international tourist [Rule 95A]

[Rule 95A-Omitted by NN 14/2022- CT, retrospectively w.e.f. 01.07.2019]

- ~~(1) Who is eligible for Refund: Retail outlet established in departure area of an international airport, beyond the 478 immigration counters, supplying indigenous goods to an outgoing international tourist who is leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.~~
- ~~(2) Application for Refund: Retail outlet claiming refund of the taxes paid on his inward supplies, shall furnish the application for refund claim in FORM GST RFD-10B on a monthly or quarterly basis, as the case may be, through the common portal either directly or through a facilitation Centre notified by the Commissioner~~
- ~~(3) Documents to be submitted: The self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice shall be submitted along with the refund application~~
- ~~(4) Conditions for claiming Refund: The refund of tax paid by the said retail outlet shall be available if

 - ~~(a) the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;~~
 - ~~(b) the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax,~~~~

- ~~(e) name and GSTIN of the retail outlet is mentioned in the tax invoice for the inward supply and~~
- ~~(d) such other restrictions or conditions, as may be specified, are satisfied.~~
- ~~(5) The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.~~

Explanation. ~~For the purposes of this rule, the expression "outgoing international tourist" shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes."~~

Note: The Central Government, on the recommendations of the Council, has exempted whole of the IGST on any supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an outgoing international tourist. [NN 11/2019-IT (R), w.e.f. 01.07.2019]

14.16 Sec. 147: Deemed Export

The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

ANALYTICAL VIEW OF THE TOPIC

Vide NN 48/2017-CT, dated 18.10.2017, the Central Government, on the recommendations of the Council, hereby notifies the supplies of goods listed in column (2) of the Table below as deemed exports, namely:

S.N.	Description of Supply
1.	Supply of goods by a registered person against Advance Authorisation Provided that goods so supplied, when exports have already been made after availing input tax credit on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply: Provided further that no such certificate shall be required if input tax credit has not been availed on inputs used in manufacture of export goods.
2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation.
3.	Supply of goods by a registered person to Export Oriented Unit.
4.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Custotte dated the 30th June, 2017 (as amended) against Advance Authorisation.

Explanation:

For the purposes of this notification,-

1. **"Advance Authorisation"** means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs for physical exports.
2. **"Export Promotion Capital Goods Authorisation"** means an authorisation issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015-20 for import of capital goods for physical exports.
3. **"Export Oriented Unit"** means an Export Oriented Unit (EOU) or Electronic Hardware Technology Park Unit (EHTPU) or Software Technology Park Unit (STPU) or Bio-Technology Park Unit (BTPU) approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.

Clarification in respect of refund claim by recipient of Deemed Export Supply [Circular No. 147/03/2021 - GST, dated 12.03.2021]:

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 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 the amount does not exceed the amount of input tax credit availed in the valid return filed for the said tax period. The recipient shall also be required to declare that the supplier has not claimed refund with respect to the said supplies.

14.17 Zero Rated Supply [Section 16(3) of IGST]

A registered person making Zero rated supply shall be eligible to claim refund under either of the following option, namely -

Option (a) Supply without tax & refund of credit: He may-

- Supply goods or services or both under bond or Letter of undertaking, subject to such condition, safeguard and procedure as may be prescribed, without payment of integrated tax and,
- Claim refund of unutilized input tax credit; or

Option (b) Pay IGST (using credit/otherwise) & claim refund: He may -

Supply goods or services or both, subject to such condition, safeguard and procedure as may be prescribed, on payment of integrated tax and,

Claim refund of tax paid on goods or services or both supplied, in accordance with the provision of section 54 of CGST Act or Rules made thereunder.

Amount to be claimed as refund in case of zero rated supply of goods or services made without payment of tax [Rule 89(4), 89(4A), 89(4B)]:

Rule 89(4) stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act, 2017, refund of ITC shall be granted as per the following formula:

$$\text{Maximum refund that is admissible} = [(A + B)/C \text{ Net ITC}]$$

where-

- a. Refund amount" means the maximum refund that is admissible,
- b. "Net ITC" means ITC availed on **inputs and input service** during the period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both;
- c. **A (i.e. "Turnover of zero-rated supply of goods")** means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;
- d. **B (i.e., "Turnover of zero-rated supply of services")** means the value of zero-rated supply of services made without payment of tax under bond or LUT, calculated in the following manner, namely:-
Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.
- e. **C (i.e., "Adjusted Total Turnover"** as per sub-rule (4)) means the sum total of the value of
 - (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
 - (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-
 - (i) the value of exempt supplies other than zero-rated supplies; and
 - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.
- f. "**Relevant period**" means the period for which the claim has been filed.

Explanation. - For the purposes of this sub-rule, the value of goods exported out of India shall be taken as lower of the followings-

- (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export; or
- (ii) the value declared in tax invoice or bill of supply

[Explanation inserted by NN 14/2022 - CT, w.e.f. 05.07.2022]

NOTE: Where the application relates to refund of ITC, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed [Rule 89(3)].

The manner of calculation of Adjusted Total Turnover under Rule 89(4) of CGST Rules, 2017 [Circular No. 147/03/2021-GST, dated 12.03.2021]

The same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", need to be taken into consideration while calculating "turnover in a state or a union territory". and accordingly, in "adjusted total turnover" for the purpose of sub-rule (4) of Rule 89. Thus, the restriction of 150% of the value of like goods domestically supplied, as applied in "turnover of zero-rated supply of goods", would also apply to the value of "Adjusted Total Turnover" in Rule 89(4) of the CGST Rules, 2017.

Illustration: Suppose a supplier is manufacturing only one type of goods and is supplying the same goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table below [Net admissible TTC = Rs. 270]:

Outward Supply	Value per unit (Rs.)	No. of units supplied	Turnover (Rs.)	Turnover as per amended definition Rs.)
Local (Quantity 5)	200	5	1000	1000
Export (Quantity 5)	350	5	1750	1500 (210)×5×15)
Total			2750	2500

The formula for calculation of refund as per Rule 89(4) is:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC+ Adjusted Total Turnover

Turnover of Zero-rated supply of goods (as per amended definition) Rs. 1500

Adjusted Total Turnover Rs. 1000+ Rs. 1500 Rs. 2500 [and not Rs. 1000 + Rs. 1750]

Net ITCRs. 270 (Given in illustration)

Refund Amount = Rs. 1500 x 270/2500 = Rs. 162

Thus, the admissible refund amount in the instant case is Rs. 162

Determination of refundable amount in case of refund of unutilised ITC on account of (i) exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure, clarified [Master Circular on Refunds - Circular No. 125/44/2019 GST dated 18.11.2019]

In case of refund of unutilized input tax credit (ITC) on account of (i) exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure, 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, 2017 [formula is applied on the consolidated amount of ITC, Le. 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 CSTR-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 above 3 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 different amount is to be debited from the other electronic ledger (i.e., State tax/Union Territory tax, in this case).

Rule 89(4A): In the case of supplies received on which the supplier has availed the benefit of Deemed Exports, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

Rule 89(4B): Where the person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax has

- (a) received inward supplies at concessional rate of 0.1% [IGST or (CGST+SGST)]; or
- (b) imported goods without payment of IGST & GST Compensation Cess, if imported by EOU or under Advance Authorisation or EPCG Scheme,

the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.

Refund of IGST paid on goods or services exported out of India [Rule 96]

- (1) The shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:
 - (a) the person in charge of the conveyance carrying the export goods duly files a departure manifest or an export report covering the number and the date of shipping bills or bills of export;
 - (b) **the applicant has furnished a valid return in Form GSTR-3B:**
Provided that if there is any mismatch between the data furnished by the exporter of goods in Shipping Bill and those furnished in statement of outward supplies in FORM GSTR-1, such application for refund of IGST paid on the goods exported out of India shall be deemed to have been filed on such date when such mismatch in respect of the said shipping bill is rectified by the exporter; [Proviso inserted by NN. 14/2022 - CT, retrospectively w.e.f. 01.07.2017]

- (c) the applicant has undergone Aadhaar authentication in the manner provided in rule 108. [clause (c) inserted by NN 35/2021-CT, w.e.f. 01.01.2022]
- (2) The details of the relevant export invoices contained in Form GSTR-1 shall be transmitted electronically by the GST common portal to the system designated by the Customs. And the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.
- (3) Upon the receipt of the information regarding the furnishing of a valid return from the common portal, the Customs system shall process the claim of refund in respect of export of goods and an amount equal to the IGST paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant.
- (4) The claim for refund shall be withheld where,
- a request has been received from the jurisdictional Commissioner of GST to withhold the payment of refund; or
 - the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962; or
 - the Commissioner in the Board or an officer authorised by the Board, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue. [inserted by NN. 14/2022-CT, retrospectively w.e.f. 01.07.2017]*
- (5A) *Where refund is withheld in accordance with the provisions of clause (a) or clause (c) of sub-rule (4), such claim shall be transmitted to the proper officer of GST electronically through the common portal in a system generated FORM GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of transmission.*
- (5B) *Where refund is withheld accordance with the provisions of clause (b) of sub- in rule (4) and the proper officer of the Customs passes an order that the goods have been exported in violation of the provisions of the Customs Act, 1962, then, such claim shall be transmitted to the proper officer of Central tax, State tax or Union territory tax, as the case may be, electronically through the common portal in a system generated FORM GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission.*

(5C) *The application for refund in FORM GST RFD-01 transmitted electronically through the common portal in terms of sub-rules (5A) and (5B) shall be dealt in accordance with the provisions of Rule 89 [sub-rules (5A), (5B) & (5C) inserted by NN. 14/2022-CT, retrospectively w.e.f. 01.07.2017]*

- (6) The application for refund of IGST paid on the services exported out of India shall be filed in FORM GST RFD- 01 and shall be dealt with in accordance with the provisions of rule 89.
- (7) The refund under this rule is not allowed to the persons who have claimed the following benefits:
- (i) Receipt of supplies under "deemed export" benefits (except receipt of capital goods under EPCG Scheme)
 - (ii) Receipt of supplies under benefit of NN 40/2017 - CT (R) or NN 41/2017 - IT (R) i.e. inward supplies at concessional rate of 0.1% (IGST or CCST+SGST)]
 - (iii) Import of goods without payment of IGST & GST Compensation Cess, if imported by EOU or under Advance Authorisation or EPCG Scheme (except receipt of capital goods under EPCG Scheme).

Explanation: However, this restriction shall not apply where the registered person has paid IGST and CST Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD).

Export of goods or services under bond or Letter of Undertaking (LUT) [Rule 96A]

- Rule 96A(1): Any registered person availing the option to supply goods/services for export without payment of IGST shall furnish, prior to export, a bond/LUT in prescribed form to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest @ 18% p.a. within a period of from the
 - (a) 15 days after the expiry of 3 months or such further period as may be allowed by the Commissioner, date of issue of the invoice for export, if the goods are not exported out of India; or
 - (b) 15 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 or in Indian rupees, wherever permitted by the RBL
- All registered persons who intend to supply goods or services for export without payment of IGST shall be eligible to furnish a LUT in place of a bond except 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 Rs. 2,50,00,000.

Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realized [Rule 96B]

- (1) Where any refund of unutilised input tax credit on account of export of goods or of IGST paid on export of goods has been paid to an applicant but the sale proceeds in respect of

such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999, including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, along with applicable interest **within 30 days** of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999, but the **Reserve Bank of India writes off the requirement of realisation** of sale proceeds on merits, the **refund** paid to the applicant shall **not be recovered**.

- (2) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of 3 months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

14.18 Duty Drawback under GST [Section 2(42) of CGST]

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

Under Customs, full drawback (BCD, GST etc.) is allowed in case of re-export of imported goods.

However, in case of manufacture of goods using duty/tax paid inputs, drawback is allowed only of customs duties and not of IGST or GST cess paid on import.

14.19 Imports by SEZ

Import of goods by SEZ exempt from IGST INN. 64/2017- Customs New Delhi, 05.07.2017]

All goods imported by a unit or a developer in the Special Economic Zone for authorized operations are exempt from whole of IGST leviable u/s 3(7) of Customs Tariff Act, 1975.

Imports of services by SEZ exempt from IGST [NN. 18/2017- IT (R) dated 05.07.2017]:

The Central Government has exempted services imported by a unit or a developer in the Special Economic Zone For authorised operations from the whole of the integrated tax leviable thereon u/s 5 of IGST Act, 2017.

14.20 Refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act

Section 77 of the CGST Act, 2017: Tax wrongfully collected and paid to Central Government or State Government

- (1) *A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.*
- (2) *A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or as the case may be, the Central tax and the Union territory tax payable.*

Section 19 of the IGST Act, 2017: Tax wrongfully collected and paid to Central Government or State Government

- (1) A registered person who has paid integrated tax on a supply considered by him to be an inter-State supply, but which is **subsequently held** to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.
- (2) A registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.

Rule 89(1A) of the CGST Rules, 2017 (Prescribing manner & condition for claiming refund) [Rule 89(1A) inserted by NN 35/2021-CT, w.e.f. 24.09.2021]:

Any person, claiming refund under section 77 of the Act of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of two years the date of payment of the tax on the inter-State supply, file an application electronically in FORM GST RFD-01.

However, the said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of two years from the date on which this sub-rule comes into force.

Clarification in respect of refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act [Circular No. 162/18/2021-GST, dated 25.09.2021]

1. **Interpretation of the term "subsequently held" used in section 77(1) & 19(1)**

Issue: Doubts have been raised regarding the interpretation of the term "subsequently held" in the aforementioned sections, and whether refund claim under the said sections is available only if supply made by a taxpayer as inter-State or intra-State, is subsequently held by tax officers

as intra-State and inter-State respectively, either on scrutiny/ assessment/ audit/ investigation, or as a result of any adjudication, appellate or any other proceeding or whether the refund under the said sections is also available when the inter-State or intra-State supply made by a taxpayer, is subsequently found by taxpayer himself as intra-State and inter-State respectively.

Clarification: In this regard, it is clarified that the term "subsequently held" in section 77 of CGST Act, 2017 or under section 19 of IGST Act, 2017 covers both the cases where the inter-State or intra-State supply made by a taxpayer, is either subsequently found by **taxpayer himself** as intra-State or inter-State respectively or where the inter-State or intra-State supply made by a taxpayer is subsequently found/ held as intra-State or inter-State respectively by the tax officer in any proceeding. Accordingly, refund claim under the said sections can be claimed by the taxpayer in both the above mentioned situations, provided the taxpayer pays the required amount of tax in the correct head.

2. The relevant date for claiming refund under section 77 of the CGST Act/ Section 19 of the IGST Act, 2017

- 2.1 In order to prescribe the manner and conditions for refund under section 77 of the CGST Act and section 19 of the IGST Act, sub-rule (1A) of rule 89 of the CGST Rules has been inserted vide NN 35/2021 - CT dated 24.09.2021
- 2.2 Rule 89(1A) of CGST Rules, 2017 clarifies that the refund under section 77 of CGST Act/ Section 19 of IGST Act, 2017 can be claimed before the expiry of 2 years from the date of payment of tax under the correct head, i.e. integrated tax paid in respect of subsequently held inter-State supply, or central and state tax in respect of subsequently held intra-State supply, as the case may be. However, in cases, where the taxpayer has made the payment in the correct head before the date of issuance of notification No.35/2021-Central Tax dated 24.09.2021, the refund application under section 77 of the CGST Act/ section 19 of the IGST Act can be filed before the expiry of two years from the date of issuance of the said notification. i.e. from 24.09.2021.
- 2.3 Application of sub-rule (1A) of rule 89 read with section 77 of the CGST Act / section 19 of the IGST Act is explained through following illustrations.

A taxpayer "A" has issued the invoice dated 10.03.2018 charging CGST and SCST on a transaction and accordingly paid the applicable tax (CGST and SGST) in the return for March, 2018 tax period. The following scenarios are explained hereunder.

S.N.	Scenario	Last date for filing the refund claim
1.	Having realized on his own that the said transaction is an inter-State supply, "A" paid IGST in respect of the said transaction on 10.05.2021.	Since "A" has paid the tax in the correct head before issuance of NN 35/2021 - CT, dated 24.09.2021, the last date for filing refund application in FORM GST RFD-01 would be 23.09.2023 (2 years from date of notification)
2.	Having realized on his own that the said transaction is an inter-State supply, "A" paid IGST in respect of the said transaction on 10.11.2021	Since "A" has paid the correct tax on 10.11.2021, in terms of rule 89 (1A) of the CGST Rules, the last date for filing refund

	i.e. after issuance of NN 35/2021-09.11.2023 (2 years from the date of payment of tax under CT, dated 24.09.2021.	application in FORM GST RFD-01 would be the correct head, i.e. integrated tax)
3.	Proper officer or adjudication authority or appellate authority of "A" has held the transaction as an inter-State supply and accordingly, "A" has paid the IGST in respect of the said transaction on 10.05.2019.	Since "A" has paid the tax in the correct head before issuance of N * N * 35/2021 - CT dated 24.09.2021, the last date for filing refund application in FORM GST RFD-01 would be 23.09.2023 (2 years from date of notification)
4.	Proper officer or adjudication authority or appellate authority of "A" has held the transaction as an inter-State supply and accordingly, "A" has paid the IGST in respect of the said transaction on 10.11.2022 Le. after issuance of NN 35/2021 CT, dated 24.09.2021.	Since "A" has paid the correct tax on 10.11.2022, in terms of rule 89 (LA) of the CGST Rules, the last date for filing refund application in FORM GST RFD-01 would be 09.11.2024 (2 years from the date of payment of tax under the correct head, Le integrated tax)

The examples above are only indicative one and not an exhaustive list. Rule 89 (1A) of the CGST Rules would be applicable for section 19 of the IGST Act also, where the taxpayer has initially paid IGST on a specific transaction which later on is held as intra-State supply and the taxpayer accordingly pays CGST and SGST on the said transaction. It is also clarified that any refund applications filed, whether pending or disposed off, before issuance of N * N * 35/2021 - CT dated 24.09.2021, would also be dealt in accordance with the provisions of rule 89(1A) of the CGST Rules, 2017.

Clarification on certain Refund related issues [Circular No. 166/22/2021-GST, dated 17.11.2021]

S.N.	Issue	Clarification
1.	Whether the provisions of section 54(1) of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?	No, the provisions of section 54(1) of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.
2.	Whether certification/declaration under Rule 89(2)(1) or 89(2)(m) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?	No, furnishing of certification/declaration under Rule 89(2)(1) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash

		ledger as unjust enrichment clause is not applicable in such cases.
3.	Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51/52 of the CGST Act can be refunded as excess balance in cash ledger?	<p>The amount deducted/collected as TDS/TCS by TDS/ TCS deductors under the provisions of section 51/52 of the CGST Act, as the case may be, and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose for discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers.</p> <p>Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger.</p>
4.	Whether relevant date for the refund of tax paid on supplies regarded as under: deemed export by recipient is to be determined per clause (b) of as Explanation (2) under section 54 of CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining relevant date for such refunds?	<p>Clause (b) of Explanation (2) under Section 54 of CGST Act reads as under:</p> <p>"(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, <u>the date on which the return relating to such deemed exports is furnished</u>"</p> <p>On perusal of the above, it is clear that clause (b) of Explanation (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.</p> <p>Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund</p>

	claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.
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Clarification in respect of Refund claimed by the recipients of supplies regarded as Deemed Export [Circular No. 172/04/2022-GST, dated 06.07.2022]

S.N.	Issue	Clarification
1.	<i>Whether the Input Tax Credit (ITC) availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports would be subjected to provisions of Sec. 17 of the CGST Act, 2017.</i>	<i>The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the recipients of deemed export supplies were facing difficulties on the portal to claim refund of tax paid due to requirement of the portal to debit the amount so claimed from their electronic credit ledger. Considering this difficulty, the tax paid on such supplies, has been made available as ITC to the recipients vide Circular No. 147/03/2021-GST dated 12.03.2021 only for enabling them to claim such refunds on the portal. The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of Sec. 17 of the CGST Act, 2017.</i>
2.	<i>Whether the ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is to be included in the "Net ITC" for computation of refund of unutilised ITC under rule 89(4) & rule 89 (5) of the CGST Rules, 2017.</i>	<i>The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, such ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is not to be included in the "Net ITC" for computation of refund of unutilised ITC on account of zero-rated supplies under rule 89(4) or on account of inverted rated structure under rule 89(5) of the CGST Rules, 2017.</i>