

CBIC- CGST

CIRCULARS

ON

VARIOUS REFUND CLAIMS

2017 TO 2019, (Up to June-2019)

Compilation by:

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**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 4th July, 2017

To,

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

Madam/Sir,

Subject: Issues related to furnishing of Bond/ Letter of Undertaking for Exports–Reg.

Various communications have been received from the field formations and exporters on the issue of difficulties being faced while supplying the goods or services for export without payment of integrated tax and filing the FORM GST RFD -11 on the common portal (www.gst.gov.in), because of which exports are being held up.

2. Whereas, as per rule 96A of the Central Goods and Services Tax Rules, 2017, any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking. This bond or Letter of Undertaking is required to be furnished in FORM GST RFD-11 on the common portal. Further, Circular No. 26/2017- Customs dated 1st July, 2017 has clarified that the procedure as prescribed under rule 96A of the said rules requires to be followed for the export of goods from 1st July, 2017.

3. Another issue being raised by various stakeholders is that the Bond/Letter of Undertaking is required to be given through the proper officer which is to be furnished to the jurisdictional Commissioner as per sub-rule (1) of rule 96A of the said rules. Taking cognizance of the fact that a large number of such Bonds/Letter of Undertakings would be required to be filed by the registered exporters who would be located at a distance from the office of the jurisdictional Commissioner, it is understood that the furnishing of such bonds/undertakings before the jurisdictional Commissioner may cause hardship to the exporters.

4. Thus, in exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, 2017, it is hereby stated that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter under rule 96A of the said rules shall be done by the jurisdictional Deputy/Assistant Commissioner.

5. Further, in exercise of the powers conferred by section 168 of the said Act, for the purpose of uniformity in the implementation of the said Act, the Bond/Letter of Undertaking required to be furnished under rule 96A of the said rules may be furnished manually to the jurisdictional Deputy/Assistant Commissioner in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal. The exporters may download the FORM GST RFD-11 from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner.

6. The above specified provisions shall be applicable to all applications which have been filed on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

7. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/-
(Upender Gupta)
Commissioner (GST)

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
(GST Policy Wing)**

New Delhi, the 7th July, 2017

To,

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

Madam/Sir,

**Subject: Issues related to Bond/Letter of Undertaking for exports without payment
of integrated tax – Reg.**

Various communications have been received from the field formations and exporters that difficulties are being faced in complying with the procedure prescribed for making exports of goods and services without payment of integrated tax with respect to furnishing of bonds/Letter of Undertaking. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, these issues are being clarified hereunder.

2. As per rule 96A of the Central Goods and Services Tax Rules, 2017 (The CGST Rules), any registered person exporting goods or services without payment of integrated tax is required to furnish a bond or a Letter of Undertaking (LUT) in FORM GST RFD-11.

3. Attention is invited to notification No. 16/2017-Central Tax dated 01-07-2017 vide which the category of exporters who are eligible to export under LUT has been specified along with the conditions and safeguards. All exporters, not covered by the said notification, would submit bond. The procedure for submission and acceptance of bond has already been prescribed vide circular No. 2/2/2017-GST dated 4th July, 2017. The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished.

4. A clarification has been sought as to whether bond to be furnished for exports is a running bond (with debit / credit facility) or a one-time bond (separate bond for each consignment / export). It is observed consignment wise bond would be a significant compliance burden on the exporters. It is directed that the exporters shall furnish a running bond, in case he is required to furnish a bond, in FORM GST RFD -11. The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself. The exporter shall ensure that the outstanding tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the tax liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability.

5. FORM RFD -11 under rule 96A of the CGST Rules requires furnishing a bank guarantee with bond. Field formations have requested for clarity on the amount of bank guarantee as a security for the bond. In this regard it is directed that the jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

6. As regards LUT, it is clarified that it shall be valid for twelve months. If the exporter fails to comply with the conditions of the LUT he may be asked to furnish a bond. Exports may be allowed under existing LUTs/Bonds till 31st July 2017. Exporters shall submit the LUTs/bond in the revised format latest by 31st July, 2017.

7. It is further stated that the Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayer to respective authority is implemented. However, if in a State, the Commissioner of State Tax so directs, by general instruction, to exporter, the Bond/LUT in all cases be accepted by Central tax officer till such time the said administrative mechanism is implemented. Central Tax officers are directed to take every step to facilitate the exporters.

8. Attention is further invited to circular No. 26/2017 – Customs dated 1st July 2017, vide which it has been clarified that the existing practice of sealing the container with a bottle seal

under Central Excise supervision or otherwise would continue till 01st September, 2017. Such sealing shall be done under the supervision of the officer having physical jurisdiction over the place of business where the sealing is being done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

9. These instructions shall apply to exports on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

-sd-
(Upender Gupta)
Commissioner (GST)

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 11th August, 2017

To,

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

Madam/Sir,

Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for Exports–Reg.

Please refer to Notification No. 16/2017 – GST dated 7th July, 2017 and Circular No. 2/2/2017 – GST dated 5th July, 2017 and Circular No. 4/4/2017 – GST dated 7th July, 2017. A large number of communications have been received from the field formations and exporters citing variation in the interpretation of above referred notification and circulars.

2. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, following issues are being clarified hereunder:

a. Eligibility to export under LUT: Notification No. 16/2017 – Central Tax dated 7th July, 2017 specifies conditions to be fulfilled for export under Letter of Undertaking (LUT) in place of bond. In the extant Central Excise provisions, LUTs were limited to manufacturer exporters only. The intent of the said notification is to liberalize the facility of LUT and extend it to all kind of suppliers. It is hereby clarified that any registered person who has received a minimum foreign inward remittance of 10% of export turnover in the preceding financial year is eligible for availing the facility of LUT provided that the amount received as foreign inward remittance is not less than

Rs. one crore. This means that only such exporters are eligible to LUT facilities who have received a remittance of Rs. one crore or 10% of export turnover, whichever is a higher amount, in the previous financial year. A few illustrations are as follows:

- i. An exporter had a turnover of Rs. 15 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.5 crore or more (10% of export turnover is more than Rs. 1 crore)
- ii. An exporter had a turnover of Rs. 5 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.0 crore or more (10% of export turnover is less than Rs. 1 crore)
- iii. An exporter has an export turnover of Rs. 2 crore. He has received Rs. 80 lacs as foreign inward remittances in FY 2016-17 which is 40% of the export turnover. He will not be eligible for LUT facility as remittance received is less than Rs. 1 crore.
- iv. An exporter has export turnover of Rs. 40crore. He has received Rs. 2 Crores as foreign inward remittances in FY 2016-17 which is 5% of the export turnover. He will not be eligible for LUT facility as remittance received is less than 10% of export turnover, even though it is in excess of Rs. 1 crore.
- v. An exporter has received Rs. 1 Crore 10 lacs as foreign inward remittances in FY 2016-17 which is 20% of the export turnover. In this scenario, he will be eligible for LUT facility.

It may however be noted that a status holder as specified in paragraphs 3.20 and 3.21 of the Foreign Trade Policy 2015-2020 is eligible for LUT facility regardless of whether he satisfies the above conditions.

b. Form for LUT: Bonds are furnished on non-judicial stamp paper, while LUTs are generally submitted on the letterhead containing signature and seal of the person or the person authorized in this behalf as provided in said Notification.

c. Time for acceptance of LUT/Bond: As LUT/bond is *a priori* requirement for export, including supplies to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority and should be accepted within a period of three working days from the date of submission of LUT/bond along with complete documents by the exporter.

d. Purchases from manufacturer and form CT-1: It is learnt that there is lack of clarity about treatment of CT-1 form which was earlier used for purchase of goods by a merchant exporter from a manufacturer without payment of central excise duty. The scheme holds no relevance under GST since transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST even on submission of LUT/bond. Therefore, such supplies would be subject to GST. The zero rating of exports, including supplies to SEZ, is allowed only with respect to supply by the actual exporter under LUT/bond or payment of IGST.

e. Transactions with EOUs: Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them. Therefore, supplies to EOUs are taxable under GST just like any other taxable supplies. The EOUs, to the extent of exports, are eligible for zero rating like any other exporter.

f. Forward inward remittance in Indian Rupee: Various representations have been received with respect to receipts of proceeds of supplies in Indian Rupee especially with respect to exports to Nepal, Bhutan and SEZ developer/SEZ unit. Attention is invited to Para A (v) Part-I of RBI Master Circular no. 14/2015-16 dated July 1, 2015 (updated as on November 5, 2015), which states “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”.

Accordingly, it is clarified that acceptance of LUT instead of a bond for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with applicable RBI guidelines. It may also be noted that supply of services to SEZ developer or SEZ unit will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

g. Bank guarantee: Circular No. 4/4/2017 dated 7th July, 2017 provides that bank guarantee should normally not exceed 15% of the bond amount. However, the Commissioner may waive off the requirement to furnish bank guarantee taking into account the facts and circumstances of each case. It is expected that this provision would be implemented liberally. Some of the instances of liberal interpretation are as follows:

i. an exporter registered with recognized Export Promotion Council can be allowed to submit bond without bank guarantee on submission of a self-attested copy of the proof of registration with a recognized Export Promotion Council

ii. In the GST regime, registration is State-wise which means that the expression ‘registered person’ used in the said notification may mean different registered persons (distinct persons in terms of sub-section (1) of section 25 of the Act) if a person having one Permanent Account Number is registered in more than one State. It may so happen that a registered person may not satisfy the condition regarding foreign inward remittances in respect of one particular registration, because of splitting and accountal of receipts and turnover across different registered person with the same PAN. But the total amount of inward foreign remittances received by all the registered persons, having one Permanent Account Number, maybe Rs. 1 crore or more and it also maybe 10% or more of total export turnover. In such cases, the registered person can be allowed to submit bond without bank guarantee.

h. Jurisdictional officer: It has been clarified in Circular Nos. 2/2/2017 – GST dated 4th July, 2017 and 4/4/2017 – GST dated 7th July, 2017 that Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. It is reiterated that the Central Tax officers shall facilitate all exporters whether or not the exporter was registered with the Central Government in the earlier regime.

i. Documents for LUT: Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise. For example, a self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of notification No.

16/2017 - Central tax dated 7th July, 2017. Verification, if any, may be done on post facto basis. Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient.

j. Applicability of circulars on Bond/LUTs: It is learnt that some field officers have inferred that the instructions given by the said circulars are effective in respect of exports made only from the date of its issue despite the fact that it has been categorically clarified specifically in the said circular (dated 7th July, 2017) that the instructions shall be applicable for exports on or after 1st July, 2017. It is reiterated that the instructions issued vide said circular and this circular are applicable to any export made on or after the 1st July 2017.

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

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

Circular No. 17/17/2017 - GST

**F. No. 349/169/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 15th November, 2017

To,

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub – Manual filing and processing of refund claims in respect of zero-rated supplies - reg.

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the CGST Act’) and for the purpose of ensuring uniformity, the following conditions and procedure are laid down for the manual filing and processing of the refund claims:

2.1 As per sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the IGST Act’) read with clause (i) of sub-section (3) and sub-section (6) of section 54 of the CGST Act and rules 89 to 96A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as ‘the CGST Rules’), a registered person may make zero-rated supplies of goods or services or both on payment of integrated tax and claim refund of the tax so paid, or make zero-rated supplies of goods or services or both under bond or Letter of Undertaking without payment of integrated tax and claim refund of unutilized input tax credit in relation to such zero rated supplies.

2.2 The refund of integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter shall be deemed to be an application for refund in such cases. The application shall be deemed to have been filed only when export manifest or export report is filed and the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be. Upon receipt of the information regarding furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be, from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of such export shall be electronically credited to the bank account of the applicant. Any order regarding withholding of such refund or its further sanction respectively in PART-B of **FORM GST RFD-07** or **FORM GST RFD-06** shall be done manually till the refund module is operational on the common portal.

2.3 The application for refund of integrated tax paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services (that is, except the cases covered in paragraph 2.2 above and para 2.4 below) is required to be filed in **FORM GST RFD-01A** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable (as per the details in statement 2 or 4 of Annexure to **FORM GST RFD – 01**), within the time stipulated for filing of such refund under the CGST Act.

2.4 The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in **FORM GST RFD-01A** on the common portal and the amount claimed as refund shall get debited in accordance with sub-rule (3) of rule 86 of the CGST Rules from the amount in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN- Acknowledgement Receipt Number) which would be mentioned in the **FORM GST RFD-01A** submitted manually, along with the print out of **FORM GST RFD-01A** to the jurisdictional proper officer, and with all necessary documentary evidences as applicable (as per details in statement 3 or 5 of Annexure to **FORM GST RFD-01**), within the time stipulated for filing of such refund under the CGST Act.

2.5 The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner

of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime.

2.6 Once such a refund application in **FORM GST RFD-01A** is received in the office of the jurisdictional proper officer, an entry shall be made in a refund register to be maintained for this purpose with the following details –

Table 1

Sl. No.	Applicant's name	GSTIN	Date of receipt of application	Period to which the claim pertains	Nature of refund – Refund of integrated tax paid/Refund of unutilized ITC	Amount of refund claimed	Date of issue of acknowledgment in FORM GST RFD-02	Date of receipt of complete application (as mentioned in FORM GST RFD-02)
1	2	3	4	5	6	7	8	9

2.7 Further, all communication in regard to the FORMS mentioned below shall be done manually, within the timelines as specified in the relevant rules, till the module is operational on the common portal, and all such communications shall also be recorded appropriately in the refund register as discussed in the succeeding paragraphs –

Sl.No.	FORM	Details	Relevant provision of the CGST Rules, 2017
1.	FORM GST RFD-02	Acknowledgement	Rules 90(1) and 90(2)
2.	FORM GST RFD-03	Deficiency memo	Rule 90(3)
3.	FORM GST RFD-04	Provisional refund order	Rule 91(2)
4.	FORM GST RFD-05	Payment advice	Rules 91(3), 92(4), 92(5)

			and 94
5.	FORM GST RFD-06	Refund sanction/Rejection order	Rules 92(1), 92(3), 92(4), 92(5) and 96(7)
6.	FORM GST RFD-07	Order for complete adjustment/withholding of sanctioned refund	Rules 92(1), 92(2) and 96(6)
7.	FORM GST RFD-08	Notice for rejection of application for refund	Rule 92(3)
8.	FORM GST RFD-09	Reply to show cause notice	Rule 92(3)

2.8 The processing of the claim till the provisional sanction of refund shall be recorded in the refund register as in the table indicated below -

Table 2

Date of issue of Deficiency Memo in FORM GST RFD-03	Date of receipt of reply from the applicant	Date of issue of provisional refund order in FORM GST-RFD-04	Amount of refund claimed	Amount of provisional refund sanctioned				Date of issue of Payment Advice in FORM GST RFD-05
				CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9

2.9 After the sanction of provisional refund, the claim shall be processed and the final order issued within sixty days of the date of receipt of the complete application form. The process shall be recorded in the refund register as in the table indicated below -

Table 3

Date of issue of notice, if any for rejection of refund in FORM	Date of receipt of reply, if any to SCN in FORM	Date of issue of Refund sanction/rejection order in FORM GST RFD-06	Total amount of refund sanctioned	Date of issue of Payment Advice in FORM GST RFD-05	Amount of refund rejected	Date of issue of order for adjustment of sanctioned refund/withholding
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GST RFD-08	GST RFD-09											refund in FORM GST RFD-07
			C T	ST/UT T	I T	Ces s		C T	ST/UT T	IT	Ces s	
1	2	3	4	5	6	7	8	9	10	11	12	13

2.10 After the refund claim is processed in accordance with the provisions of the CGST Act and the rules made thereunder and where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**. The amount would be credited by the proper officer using **FORM GST RFD-01B** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) subject to the provisions of rule 93 of the CGST Rules.

3. For the sake of clarity and uniformity, the entire process of filing and processing of refunds manually is tabulated as below:

3.1 Filing of Refund Claims:

Sl. No.	Category of Refund	Process of Filing
1.	Refund of IGST paid on export of goods	No separate application is required as shipping bill itself will be treated as application for refund.
2.	Refund of IGST paid on export of services / zero rated supplies to SEZ units or SEZ developers	Printout of FORM GST RFD-01A needs to be filed manually with the jurisdictional GST officer (only at one place - Centre or State) along with relevant documentary evidences, wherever applicable.
3.	Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both	FORM GST RFD-01A needs to be filed on the common portal. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the

		FORM GST RFD- 01A needs to be submitted before the jurisdictional GST officer along with necessary documentary evidences, wherever applicable.
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3.2 Steps to be followed for processing of Refund Claims:

Three different refund registers are to be maintained for record keeping of the manually sanctioned refunds – for receipts, sanction of provisional refunds and sanction of final refunds. The steps are as follows:

Step No.	Action to be Taken
Step-1	Entry to be made in the Refund register for receipt of refund applications
Step-2	Check for completeness of application as well as availability of the supporting documents in totality. Once completeness in all respects is ascertained, acknowledgement in FORM GST RFD-02 shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register for receipt of refund applications
Step-3	• All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in the format prescribed in the Forms appended to the CGST Rules, and shall be done manually (i.e. not on the common portal) within the timelines prescribed in the rules; • Processing for grant of provisional refund shall be completed within 7 days as per the CGST Rules and details to be maintained in the register for provisional refunds. Bifurcation of the taxes to be refunded under CGST (CT) /SGST (ST) /UTGST (UT) /IGST (IT) /Cess shall be maintained in the register mandatorily; • After the sanction of the provisional refund, final order is to be issued within sixty days (after due verification of the documentary evidences) of the date of receipt of the complete application form. The details of the finally sanctioned refund and rejected portion of the refund along with the breakup (CT / ST / UT / IT/ Cess) to be maintained in the final refund register; • The amount not sanctioned and eligible for re-credit is to be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03. The actual credit of this amount will be done by the proper officer in FORM GST RFD-01B.

3.3 Detailed procedure for manual processing of refund claims:

The detailed procedure for disposal of Refund claims filed manually is as under:

MANUAL PROCESSING OF REFUND		
STEPS	REMARKS	LEGAL PROVISIONS
Filing of refund application in FORM GST RFD- 01A online on the common portal (only when refund of unutilized ITC is claimed)	The corresponding electronic credit ledger of CT / ST / UT / IT/ Cess would get debited and an ARN number would get generated.	Rule 89
Filing of printout of FORMGST RFD-01A	- The printout of the ARN along with application of refund shall be submitted manually in the appropriate jurisdiction. - This form needs to be accompanied with the requisite documentary evidences. This Form shall contain the debit entry in the electronic credit ledger of the amount claimed as refund in FORM GST RFD-01A.	Rule 89(1) – Application Rule 89(2) – Requisite Documents Rule 89(3) – Debiting of electronic credit ledger
Initial scrutiny of the Documents by the proper officer	- The proper officer shall validate the GSTIN details on the portal to validate whether return in FORM GSTR-3 or FORM GSTR- 3B, as the case may be, has been filed. A declaration is required to be submitted by the claimant that no refund has been claimed against the relevant invoices. - Deficiencies, if any, in documentary evidences are to be ascertained and communicated in	Rule 90(2) – 15 day time for scrutiny Rule 90(3) – Issuance of Deficiency memo Rule 90(3) – Fresh refund application requirement Rule 93(1) – re-credit of refund amount applied for

	FORM GST RFD-03 within 15 days of filing of the refund application. • Deficiency Memo should be complete in all respects and only one Deficiency Memo shall be given. • Submission of application after Deficiency Memo shall be treated as a fresh application. • Resubmission of the application, after rectifying the deficiencies pointed out in the Deficiency memo, shall be made by using the ARN and debit entry number generated originally. • If the application is not filed afresh within thirty days of the communication of the deficiency memo, the proper officer shall pass an order in FORM GST PMT-03 and re-credit the amount claimed as refund through FORM GST RFD-01B.	
Issue acknowledgement manually within 15 days in FORM GST RFD-02	• The date of submission of application for which acknowledgement has been given will be considered as the date for ensuring whether the refund application has been sanctioned within the stipulated time period.	Rule 90(2) - Acknowledgement

Grant of provisional refund within seven days of issue of acknowledgement	• The amount of provisional refund shall be calculated taking into account the total input tax credit, without making any reduction for credit being provisionally accepted. • Provisional refund shall be granted separately for each head CT / ST / UT / IT/ Cess within 7 days of acknowledgement in FORM GST RFD-04. • Before sanction of the refund a declaration shall be obtained that the applicant has not contravened rule 91(1). • Payment advice to be issued in FORM GST RFD-05. • Refund would be made directly in the bank account mentioned in the registration.	Rule 91(1) – Requirement of no prosecution for last 5 years Rule 91(2) – Prima facie satisfaction, seven day requirement Rule 91(3) – Payment advice, electronic credit to bank account
Detailed scrutiny of the refund application along with submitted documents	• The officer shall validate refund statement details with details in FORM GSTR 1 (or Table 6A of FORM GSTR-1) available on the common portal. • The Shipping bill details shall be checked by officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date. • Further, details of IGST paid also needs to be	Rule 89(4) – Refund Amount Calculation Rule 92(1) – Any adjustments made in the amount against existing demands Rule 92(2) – reasons for withholding of refunds

	verified from FORM GSTR- 3 or FORM GSTR- 3B, as the case may be, filed by the applicant and it needs to be verified that the refund amount claimed shall be less than the tax paid on account of zero rated supplies as per FORM GSTR-3 or FORM GSTR- 3B, as the case may be. • Ascertain what amount may be sanctioned finally and see whether any adjustments against any outstanding liability is required (FORM GST RFD-07 – Part A). • Ascertain what amount of the input tax credit is sanction-able, and amount of refund, if any, liable to be withheld. • Order needs to be passed in FORM GST RFD-07 – Part B.	
If the sanction-able amount is less than the applied amount	• Notice has to be issued to the applicant in FORM GST RFD-08. • The applicant has to reply within 15 days of receipt of the notice in FORM GST RFD-09. • Principles of natural justice to be followed before making the final decision. • Final order to be made in FORM GST RFD-06.	Rule 92(3) – Notice for refund not admissible / payable Rule 92(3) – Requirement of reply to the notice within 15 days Rule 92(3), 92(4), 92(5) – Sanction of Refund order
Pre-Audit	• Pre-audit of the manually processed refund applications is not required to be	

	carried out, irrespective of the amount involved, till separate detailed guidelines are issued. • Post-audit of the orders may however continue on the basis of extant guidelines.	
Final sanction of refund	• The proper officer shall issue the refund order manually for each head i.e. CT / ST / UT / IT/ Cess. • Amount paid provisionally needs to be adjusted accordingly. • Payment advice is to be made in FORM GST RFD-05. • The amount of credit rejected has to be re-credited to the credit ledger by an order in FORM GST PMT- 03 and shall be intimated to the common portal in FORM GST RFD-01B. • Refund, if any, will be paid by an order with payment advice in FORM GST RFD-05. • The details of the refund along with taxpayer bank account details shall be manually submitted in PFMS/[States'] system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to PAO office for release of payment.	Rule 92(3), 92(4), 92(5) – Sanction of Refund order Rule 92(4), 92(5) – Payment advice issue
Payment of interest if any	• Amount, if any, will be paid by an order with	Rule 94

	payment advice in FORM GST RFD-05.	
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4. The refund application for various taxes i.e. CT / ST / UT / IT/ Cess can be filed with any one of the tax authorities and shall be processed by the said authority, however the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Centre or State government. In other words, the payment of the sanctioned refund amount in relation to CT / IT / Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to ST / UT would be made by the State tax/Union territory tax authority. It therefore becomes necessary that the refund order issued either by the Central tax authority or the State tax/UT tax authority is communicated to the concerned counter-part tax authority within three days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.

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

6. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

F. No. 354/320/2017-TRU-Pt.1

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**North Block, New Delhi
16th November 2017**

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

Madam/Sir,

Subject: Clarification on refund of unutilized input tax credit of GST paid on inputs in respect of exporters of fabrics - regarding.

Doubts have been raised regarding the restrictions of refund of unutilized input tax credit of GST paid on inputs to manufacturer exporters of fabrics [falling under chapters 50 to 55 and 60 and headings 5608, 5801, 5806] under GST.

2.1 The matter has been examined. In this context, subsection 3 of section 54 of the CGST Act, 2017 provides as under:

“(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

- (i) zero rated supplies made without payment of tax;
- (ii) 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.

2.2 Based on the recommendations of the GST Council, Notification No. 5/2017-Central Tax(Rate) dated 28.06.2017 [as amended from time to time] has been issued under clause (ii) of the proviso to sub-section (3) of section 54 of the CGST Act, 2017 restricting refund of unutilised input tax credit of GST paid on inputs in respect of certain specified goods, including input tax credit of GST paid on inputs.

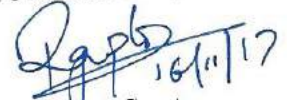
2.3 However, the aforesaid notification having been issued under clause (ii) of the proviso to sub-section (3) of section 54 of the CGST Act, 2017, restriction on refund of unutilised input tax credit of GST paid on inputs will not be applicable to zero rated

supplies, that is (a) exports of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

2.4 Accordingly, as regards export of fabrics it is clarified that, subject to the provisions of sub-section (10) of the section 54 of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

3. Difficulty, if any, in the implementation of this circular should be brought to the notice of the Board.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Rahul Gupta', with the date '16/11/17' written below it.

Rahul Gupta

Technical Officer (TRU)

**F. No. 349/58/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, dated the 21st December, 2017

To,

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub – Manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger- Reg.

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of inverted duty structure (including supplies in terms of notification Nos. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23.10.2017), deemed exports and excess balance in electronic cash ledger shall be filed and processed manually till further orders. In this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies that the provisions of Circular No. 17/17/2017-GST dated 15.11.2017 shall also be applicable to the following types of refund inasmuch as they pertain to the method of filing of the refund claim and its processing which is consistent with the relevant provisions of the CGST Act, 2017 (hereafter referred to as ‘the CGST Act’) and the CGST Rules, 2017 (hereafter referred to as ‘the CGST Rules’):-

- (i) refund of unutilized input tax credit 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) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council (section 54(3) of the CGST Act refers);
- (ii) refund of tax on the supply of goods regarded as deemed exports; and
- (iii) refund of balance in the electronic cash ledger.

2.0 It is clarified that refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in **FORM GST RFD-01A**. However, in case registered persons having aggregate turnover of up to Rs1.5 crore in the preceding financial year or the current financial year are opting to file **FORM GSTR-1** quarterly (notification No. 57/2017-Central Tax dated 15.11.2017 refers), such persons shall apply for refund on a quarterly basis. Further, it is stated that the refund claim for a tax period may be filed only

after filing the details in **FORM GSTR-1** for the said tax period. It is also to be ensured that a valid return in **FORM GSTR-3B** has been filed for the last tax period before the one in which the refund application is being filed. Since the date of furnishing of **FORM GSTR 1** from July, 2017 onwards has been extended while the dates of furnishing of **FORM GSTR 2** and **FORM GSTR 3** for such period are yet to be notified, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in **FORM RFD-01A** on the common portal.

3.0 In case of refund claim arising due to inverted duty structure, the following statements - Statement 1 and Statement 1A of **FORM GST RFD-01A** have to be filled:-

Statement -1 [rule 89(5)]

Refund Type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

(Amount in Rs.)

Turnover of inverted rated supply of goods	Tax payable on such inverted rated supply of goods	Adjusted total turnover	Net input tax credit	Maximum refund amount to be claimed [(1×4÷3)-2]
1	2	3	4	5

Statement 1A [rule 89(2)(h)]

Refund type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

Sl. N o.	Details of invoices of inward supplies received			Tax paid on inward supplies			Details of invoices of outward supplies issued			Tax paid on outward supplies		
	N o.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union territory Tax	N o.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union territory Tax
1	2	3	4	5	6	7	8	9	10	11	12	13

4.0 Whereas, the Government has issued notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act wherein certain supplies of goods have been notified as deemed export. Further, the third proviso to rule 89(1) of the CGST Rules allows the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017-Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed of by him. The undertaking should be submitted manually along with the refund claim. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall not claim the refund in respect of such supplies is also required to be furnished manually. The procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with.

4.1 Further, as per the provisions of rule 89(2)(g) of the CGST Rules, the following statement 5B of **FORM GST RFD-01A** is required to be furnished for claiming refund on supplies declared as deemed exports:-

Statement 5B [rule 89(2)(g)]

Refund type: On account of deemed exports

(Amount in Rs)

Sl. No.	Details of invoices of outward supplies in case refund is claimed by supplier/ Details of invoices of inward supplies in case refund is claimed by recipient			Tax paid			
	No.	Date	Taxable Value	Integrated Tax	Central Tax	State /Union Territory Tax	Cess
1	2	3	4	5	6	7	8

5.0 It is reiterated that para 2.5 of Circular No. 17/17/2017-GST dated 15.11.2017 may be referred to in order to ascertain the jurisdictional proper officer to whom the manual application for refund is to be submitted. Where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST RFD-1B** until the **FORM GST PMT-03** is available on the common portal. Further, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Central or State Government. Thus, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counter-

part tax authority within seven working days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular No. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in para 4 of the said Circular. It must be ensured that the timelines specified under section 54(7) and rule 91(2) of the CGST Rules for the sanction of refund are adhered to.

6.0 In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liaisoning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule 91(2) of the CGST Rules, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa. The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the sanction order [**FORM GST RFD-04** and **FORM GST RFD-06**], the application for refund in **FORM GST RFD-01A** and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue **FORM GST RFD-05** and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

7.0 In case of refund claim for the balance amount in the electronic cash ledger, upon filing of **FORM GST RFD-01A** as per the procedure laid down in para 2.4 of Circular No. 17/17/2017-GST dated 15.11.2017, the amount of refund claimed shall get debited in the electronic cash ledger.

8.0 It is also clarified that the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act. A declaration to this effect forms part of **FORM GST RFD-01A** as well.

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

10.0 Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board.

11.0 Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

**F. No. 349/74/2017-GST (Pt.) Vol.-II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 4th October, 2017

To,

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

The Principal Director Generals/Director Generals (All)

Madam/Sir,

Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports

In view of the difficulties being faced by the exporters in submission of bonds/Letter of Undertaking (LUT for short) for exporting goods or services or both without payment of integrated tax, Notification No. 37/2017 – Central Tax dated 4th October, 2017 has been issued which extends the facility of LUT to all exporters under rule 96A of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as “the CGST Rules”) subject to certain conditions and safeguards. This notification has been issued in supersession of Notification No. 16/2017 – Central Tax dated 7th July, 2017 except as respects things done or omitted to be done before such supersession.

2. In the light of the new notification, three circulars in this matter, namely Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017, which were issued for providing clarity on the procedure to be followed for export under bond/LUT, now require revision and a consolidated circular on this matter is warranted. Accordingly, to ensure uniformity in the

procedure in this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 clarifies the following issues:

- a) **Eligibility to export under LUT:** The facility of export under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees unlike Notification No. 16/2017-Central Tax dated 7th July, 2017 which extended the facility of export under LUT to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore.
- b) **Validity of LUT:** The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.
- c) **Form for bond/LUT:** Till the time **FORM GST RFD-11** is available on the common portal, the registered person (exporters) may download the **FORM GST RFD-11** from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business. The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.

- d) **Documents for LUT:** Self-declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. That is, self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of Notification No. 37/2017- Central Tax dated 4th October, 2017. Verification, if any, may be done on post-facto basis.
- e) **Time for acceptance of LUT/Bond:** As LUT/Bond is a *a priori* requirement for export, including exports to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority. It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration as stated in para 2(d) above by the exporter. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall deemed to be accepted.
- f) **Bank guarantee:** Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.
- g) **Clarification regarding running bond:** The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.
- h) **Sealing by officers:** Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

- i) **Purchases from manufacturer and Form CT-1:** It is clarified that there is no provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime. The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST.
- j) **Transactions with EOUs:** Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them under GST regime. Therefore, supplies to EOUs are taxable like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter.
- k) **Realization of export proceeds in Indian Rupee:** Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that *“there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan”*.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

- l) **Jurisdictional officer:** In exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, it is hereby stated that the LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place

of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

3. Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017 are hereby rescinded except as respects things already done or omitted to be done.

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 the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

**F. No. 349/48/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 13th March, 2018

To,

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

The Principal Director Generals / Director Generals (All)

The Principal Chief Controller of Accounts, CBEC

Madam / sir,

Subject: Processing of refund applications for UIN entities

The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has decided that the entities having Unique Identity Number (UIN) may be given centralized registration at the option of such entities. Further, it was also decided that the Central Government will be responsible for all administrative compliances in respect of such entities.

2. In order to clarify some of the issues and to ensure uniformity of implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) hereby clarifies the following issues:

3. **Status of registration for UINs:**

i. Entities having UINs are given a special status under the CGST Act as these are not covered under the definition of registered person. These entities have been granted UINs to enable them to claim refund of GST paid on inward supply of goods or services or both received by them. Therefore, if any such entity is making supply of goods or services or both in the course or furtherance of business then such entity will need to apply for GSTIN as per the provisions contained in the CGST Act read with the rules made thereunder.

ii. The process for applying for UIN has been outlined under Rule 17 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”). As stated in the said rule, any person covered under clause (a) of sub-section (9) of section 25 of

the CGST Act may submit an application electronically in **FORM GST REG-13** on the common portal. Therefore, Specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall apply for grant of UIN electronically by filling **FORM GST REG-13**.

iii. Due to delays in making available **FORM GST REG-13** on the common portal, an alternative mechanism has been developed. Entities covered under clause (a) of sub-section (9) of Section 25 of the CGST Act may approach the Protocol Division, Ministry of External Affairs in this regard, who will facilitate grant of UINs in coordination with the Central Board of Excise and Customs (CBEC) and GSTN.

iv. It is clarified that the facility of single UIN is optional and an entity may seek more than one UIN.

4. **Filing of return by UIN agencies:**

i. The procedure for filing returns by UIN entities is specified under sub-rule (1) of Rule 82 of the CGST Rules. The UIN entity is required to file details of inward supplies in **FORM GSTR-11**.

ii. It may be noted that return in **FORM GSTR-11** is required to be filed only for those tax periods for which refund is being claimed. In other words, if an UIN entity is not claiming refund for a particular period, it need not file return in **FORM GSTR-11** for that period.

5. **Applying for refund by UIN agencies:**

i. All the entities who have been issued UINs and are notified under Section 55 of the CGST Act will be eligible for refund of inward supply of goods or services in terms of notification No. 16/2017-Central Tax (Rate) dated 28th June 2017 as amended.

ii. It may be noted that the conditions specified under the said notification need to be complied with while applying for refund claims. Further, field officers are hereby instructed to ensure that all the certificates / undertaking etc. as stipulated in the said notification be duly checked while processing the refund claims.

iii. The procedure for filing a refund application has been outlined under Rule 95 of the CGST Rules which provides for filing of refund on quarterly basis in **FORM RFD-10** along with a statement of inward invoices in **FORM GSTR-11**. It is hereby clarified that **FORM GSTR-11** along with **FORM GST RFD-10** has to be filed separately for each of those quarters for which refund claim is being filed.

iv. Agencies which have been allotted UINs may visit User Manual / FAQ section on the common portal (www.gst.gov.in) for step by step instructions on how to file **FORM GSTR-11** and **FORM RFD-10**.

v. It is hereby clarified that all the entities claiming refund shall submit the duly filled in print out of **FORM RFD-10** to the jurisdictional Central Tax Commissionerate. All refund claims shall be processed and sanctioned by respective Central Tax offices. In order to facilitate processing of refund claims of UIN entities, a nodal officer has been designated in each State details of whom are given in **Annexure A**. Application for refund claim may be submitted before the designated Central Tax nodal officers in the State in which the UIN has been obtained.

vi. There may be cases where multiple UINs existed for the same entity but were later merged into one single UIN. In such cases, field formations are requested to process refund claims for earlier unmerged UINs also. Hence, the refund application will be made with the single UIN only but invoices of old UINs may be declared in the refund claim, which may be accepted and taken into account while processing the refund claim.

6. Passing of refund order and settlement of funds:

i. The facility of centralized UIN ensures that irrespective of the type of tax (CGST, SGST, IGST or Cess) and the State where such inward supply of goods or services have been procured, all refunds would be processed by Central authorities only. Therefore, field formations are advised that all refunds are to be processed on merits irrespective of where and which type of tax is paid on inward supply of goods or services or both by such entities.

ii. A monthly report as prescribed in **Annexure B** is required to be furnished to the Director General of Goods and Services Tax by the 30th of the succeeding month.

iii. Field officers shall send a copy of the order passed for such refunds to their State counterparts for information purposes only.

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

8. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

-sd-
(Upendar Gupta)
Commissioner (GST)

<u>Annexure A</u>					
S.No.	State/UT	Nodal Commissionerate	Contact Address of the Commissionerate	Nodal Officer	Phone number and E-mail id of Nodal Officer
1	Andhra Pradesh	Guntur CGST	GST Bhavan, Kannavarithota, Guntur-522004	Mr. K. Mahipal Chandra, Assistant Commissioner	0863-2234713, mahipal.chandra@gov.in
2	Andaman & Nicobar Islands	Haldia	Assistant Commissioner of Central Tax. A & N Division, Kandahar Marg (VIP Road), Port Blair – 744103	Mr. T Inigo, Assistant Commissioner, Andaman & Nicobar	Inigo.timothy@gov.in
3	Arunachal Pradesh	Itanagar	CGST & CX Commissionerate, Itanagar-791110	Mr. N.K.Nandi, Assistant Commissioner	0360-2351213, nknandi2014@gmail.com
4	Assam	Dibrugarh	CGST & CX Commissionerate, Dibrugarh-786003	Mr. B.B.Baruah, Assistant Commissioner	0373-2314082 , Bbhusan.baruah@gov.in
5	Assam	Guwahati	CGST & CX Commissionerate, Guwahati-781005	Mr. Sanjeet Kumar, Assistant Commissioner	0361-2465197 , sanjeet.kumar@icegate.gov.in
6	Bihar	Patna-II	4th Floor, C.R.Building (Annexe), Bir Chand Patel Path, Patna-800001	Mr. Suhrit Mukherjee, Assistant Commissioner	0612-2504814, suhrit9933@gmail.com
7	Chandigarh	Chandigarh	Plot No. 19 Sector 17-C, C.R Building Chandigarh	Ms.Mamta Saini, Deputy Commissioner	0172-2704196, mamtasaini.india@gmail.com
8	Chhattisgarh	Raipur	Division-II, CGST Bhawan Civil Lines, Raipur	Mr. Sumit Kumar Agrawal, Assistant Commissioner	0771-2425636 sumitk.agrawal@gov.in
9	Dadra and Nagar Haveli	Daman	2nd Floor, Hani's Landmark, Vapi-Daman Road, Chala , Vapi, Gujarat	Mr. B.P. Singh, Additional Commissioner, Daman	0260-2460502, binay.singh@icegate.gov.in
10	Daman and Diu	Daman	2nd Floor, Hani's Landmark, Vapi-Daman Road, Chala , Vapi, Gujarat	Mr. B.P. Singh, Additional Commissioner, Daman	0260-2460502, binay.singh@icegate.gov.in
11	Goa	Goa	GST Bhavan, EDC Complex, Patto, Panaji-403001	Mr. S. K. Sinha, Additional Commissioner	0832-2437190, sanjay1.sinha@icegate.gov.in
12	Gujarat	Gandhinagar	O/o the Commissioner, CGST, Gandhinagar Custom House,Near All India Radio, Navrangpura, Ahmedabad-380009.	Dr. Amit Singal, Joint Commissioner	079-27540424, singalamit@rediffmail.com

13	Haryana	Gurugram	Plot No. 36-37, Sector-32, Gurugram	Mr. Raj Karan Aggarwal, Assistant Commissioner	0124-2380269, Aggarwalrajkaran@gmail.com
14	Himachal Pradesh	Shimla	Camp at Plot No. 19 Sector 17-C, C.R Building Chandigarh	Mr.Nikhil Kumar Singh, Assistant Commissioner	0172-2704196, nikhil.singh@icegate.gov.in
15	Jammu and Kashmir	Jammu	OB-32, Rail Head Complex, Jammu	Mr.Prakash Choudhary, Assistant Commissioner	0191-2475320, prakash.online1984@gmail.com
16	Jharkhand	Ranchi	5th Floor, C.R.Building, 5-A, Main Road, Ranchi-834001	Mr. Debabrata Chatterjee, Assistant Commissioner	0651-2330218, debabrata.chaterjee@gmail.com
17	Karnataka	Bengaluru (South)	Bengaluru South Commissionerate, C.R. Building, Queen's Road, Bengaluru-560001	Mrs. Gayathri Chandra Menon, Assistant Commissioner	080-25522370 sd07.gst@gov.in
18	Kerala	Kochi	Central Revenue Building, I.S. Press Road, Kochi-682018	Mr. Ashwin John George, Assistant Commissioner	0484-2533169 ashwinjohngeorge@gmail.com
19	Lakshadweep	Kochi	Central Revenue Building, I.S. Press Road, Kochi-682018	Mr. Ashwin John George, Assistant Commissioner	0484-2533169 ashwinjohngeorge@gmail.com
20	Madhya Pradesh	Bhopal	Division – I Bhopal, Jail Road Paryawas Bhawan, Bhopal	Mr. Piyush Thorat, Assistant Commissioner	0755-2761620, piyushthorat19@gmail.com
21	Maharashtra	Mumbai Central	4 th Floor, GST Bhavan, 115, M.K.Road, Opp Churchgate Station, Mumbai-400020	Ms. Manpreet Arya, Additional Commissioner	022-26210384, manpreetarya@yahoo.co.in
22	Manipur	Imphal	CGST &CX Commissionerate, Imphal-795001	Mr. R.K.Shurchandra Singh,Assistant Commissioner	0385-2460735, shurchandra.rk@gov.in
23	Meghalaya	Shillong	CGST &CX Commissionerate, Shillong-793001	Mr. Om Prakash Tiwary, Assistant Commissioner	0364-2506758, tiwary.op@gov.in
24	Mizoram	Aizawl	CGST & CX Commissionerate, Aizawl-796001	Mr. L.Ralte, Deputy Commissioner	0389-2346515 , lal.ralte@icegate.gov.in
25	Nagaland	Dimapur	CGST &CX Commissionerate, Dimapur-797112	Mr. Gopeswar Chandra Paul, Assistant Commissioner	0386-2351772, paul.gopeswar3@gmail.com
26	NCT of Delhi	Delhi (South)	2nd & 3rd Floor, EIL Annexe Building, Bhikaji Cama Place, New Delhi, Delhi 110066	Mr. Shikhar Pant, Assistant Commissioner	011-40785842 shikhar.pant@gov.in

27	Odisha	Bhubaneswar	C.R. Building, (GST Bhawan),Rajaswa Vihar, Bhubaneswar-751007	Mr. Sateesh Chandar, Joint Commissioner	0674-2589694 sateesh.chandar@nic.in
28	Puducherry	Puducherry	I, Goubert Avenue (Beach Road), Puducherry -605001.	Joint Commissioner	0413-2224062, 0413-2331244, pondycex.gst@gov.in
29	Punjab	Ludhiana	Central Excise House, F-Block, Rishi Nagar, Ludhiana.	Mr.Neeraj Soi, Deputy Commissioner	0161-2679452, soineeraj@gmail.com
30	Rajasthan	Jaipur	N.C.R. Building, Statue Circle, Jaipur	Mrs. Ruchita Vij, Additional Commissioner	0141-2385342 ruchitavij@gmail.com
31	Sikkim	Siliguri	Gangtok CGST Division, Indira Bypass Road, Sichey Near District Court, Gangtok – 737101	Mr. Puran Lama, Assistant Commissioner, Sikkim (Gangtok)	03592-284182, Gtk_div@rediffmail.com
32	Tamil Nadu	Chennai (North)	GST Bhawan, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034	Additional Commissioner	044-28331177, 044-28331188, commr-cexchn1@nic.in
33	Telangana	Hyderabad	O/o the Principal Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhawan, L B Stadium Road, Basheerbagh, Hyderabad - 500004.	Mr. P. Anand Kumar, Additional Commissioner	040-23240725, ak.pulapaka@gov.in
34	Tripura	Agartala	CGST &CX Commissionerate, Agartala-799001	Mr. S.K.Mazumdar, Assistant Commissioner	0381-2304099 , sanjoymaz85@gmail.com
35	Uttar Pradesh	Lucknow	7-A, Ashok Marg,Lucknow-226001	Mr. Avijit Pegu, Assistant Commissioner	0522-2233001, avijit.pegu@icegate.gov.in
36	Uttarakhand	Dehradun	Office of the Commissioner, Central Goods & Services Tax, E-Block, Nehru Colony, Dehradun	Mr. Sanjay Kumar Shukla	0135-2668668, sanjay2.shukla@icegate.gov.in
37	West Bengal	Kolkata (North)	180, Shanti Pally, Rajganda Main Road, Kolkata	Mr. Shobhit Sinha, Assistant Commissioner	033-24416813, Shobhitsinha.jsr@gov.in

Annexure B

Office of the Commissioner -----

Report for the month of -----

<u>Name of the State</u>	<u>Details of the Entity</u>		<u>Time Period</u>		<u>Name of the State for which refund has been sanctioned</u>	<u>Central Tax</u>	<u>State Tax / UT Tax</u>	<u>Integrated tax</u>	<u>Cess</u>
	<u>Name</u>	<u>UIN</u>	<u>From</u>	<u>To</u>					

**F. No.349/47/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 15th March, 2018

To,

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

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarifications on exports related refund issues- regarding

Board vide Circular No. 17/17/2017 – GST dated 15th November 2017 and Circular No. 24/24/2017 – GST dated 21st December 2017 clarified various issues in relation to processing of claims for refund. Since then, several representations have been received seeking further clarifications on issues relating to refund. In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (CGST Act), hereby clarifies the issues raised as below:

2. **Non-availment of drawback:** The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of central tax.

2.1 This has been clarified in paragraph 8.0 of Circular No. 24/24/2017 – GST, dated 21st December 2017. In the said paragraph, reference to “section 54(3)(ii) of the CGST Act” is a typographical error and it should read as “section 54(3)(i) of the CGST Act”. It may be noted that in the said circular reference has been made only to central tax, integrated tax, State / Union territory tax and not to customs duty leviable under the Customs Act, 1962. Therefore, a supplier availing of drawback only with respect to basic customs duty shall be eligible for refund of unutilized input tax credit of central tax / State tax / Union territory tax / integrated tax / compensation cess under the said provision. It is further clarified that refund of eligible

credit on account of State tax shall be available even if the supplier of goods or services or both has availed of drawback in respect of central tax.

3. **Amendment through Table 9 of GSTR-1:** It has been reported that refund claims are not being processed on account of mis-matches between data contained in **FORM GSTR-1**, **FORM GSTR-3B** and shipping bills/bills of export. In this connection, it may be noted that the facility of filing of Table 9 in **FORM GSTR-1**, an amendment table which allows for amendments of invoices/ shipping bills details furnished in **FORM GSTR-1** for earlier tax period, is already available. If a taxpayer has committed an error while entering the details of an invoice / shipping bill / bill of export in Table 6A or Table 6B of **FORM GSTR-1**, he can rectify the same in Table 9 of **FORM GSTR-1**.

3.1. It is advised that while processing refund claims on account of zero rated supplies, information contained in Table 9 of **FORM GSTR-1** of the subsequent tax periods should be taken into cognizance, wherever applicable.

3.2. Field formations are also advised to refer to Circular No. 26/26/2017 – GST dated 29th December, 2017, wherein the procedure for rectification of errors made while filing the returns in **FORM GSTR-3B** has been provided. Therefore, in case of discrepancies between the data furnished by the taxpayer in **FORM GSTR-3B** and **FORM GSTR-1**, the officer shall refer to the said Circular and process the refund application accordingly.

4. **Exports without LUT:** Export of goods or services can be made without payment of integrated tax under the provisions of rule 96A of the Central Goods and Services Tax Rules, 2017 (the CGST Rules). Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has already been specified vide Circular No. 8/8/2017 –GST dated 4th October, 2017. It has been brought to the notice of the Board that in some cases, such zero rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit have been filed.

4.1. In this regard, it is emphasised that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on *ex post facto* basis taking into account the facts and circumstances of each case.

5. **Exports after specified period:** Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further

period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

5.1 It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasised that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on *post facto* basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

6. **Deficiency memo:** It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in **FORM GST RFD-02** should be issued. Rule 90 (3) of the CGST Rules provides for communication in **FORM GST RFD-03** (deficiency memo) where deficiencies are noticed. The said sub-rule also provides that once the deficiency memo has been issued, the claimant is required to file a fresh refund application after the rectification of the deficiencies.

6.1. In this connection, a clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the CGST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. It is therefore, clarified that there can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application, manually in **FORM GST RFD-01A**. This fresh application would be accompanied with the original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original memo remain unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

7. **Self-declaration for non-prosecution:** It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the claimant has not been prosecuted.

7.1. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 4th October, 2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 4th October, 2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond.

7.2. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.

8. **Refund of transitional credit:** Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC'.

9. **Discrepancy between values of GST invoice and shipping bill/bill of export:** It has been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under

section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export.

9.1 During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

10. **Refund of taxes paid under existing laws:** Sub-sections (3), (4) and (5) of section 142 of the CGST Act provide that refunds of tax/duty paid under the existing law shall be disposed of in accordance with the provisions of the existing law. It is observed that certain taxpayers have applied for such refund claims in **FORM GST RFD-01A** also. In this regard, the field formations are advised to reject such applications and pass a rejection order in **FORM GST PMT-03** and communicate the same on the common portal in **FORM GST RFD-01B**. The procedures laid down under the existing laws viz., Central Excise Act, 1944 and Chapter V of the Finance Act, 1994 read with above referred sub-sections of section 142 of the CGST Act shall be followed while processing such refund claims.

10.1 Furthermore, it has been brought to the notice of the Board that the field formations are rejecting, withholding or re-crediting CENVAT credit, while processing claims of refund filed under the existing laws. In this regard, attention is invited to sub-section (3) of section 142 of the CGST Act which provides that the amount of refund arising out of such claims shall be refunded in cash. Further, the first proviso to the said sub-section provides that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse and therefore, will not be transitioned into GST. Furthermore, it should be ensured that no refund of the amount of CENVAT credit is granted in case the said amount has been transitioned under GST. The field formations are advised to process such refund applications accordingly.

11. **Filing frequency of Refunds:** Various representations have been made to the Board regarding the period for which refund applications can be filed. Section 2(107) of the CGST Act defines the term “tax period” as the period for which the return is required to be furnished. The terms ‘Net ITC’ and ‘turnover of zero rated supply of goods/services’ are used in the context of the relevant period in rule 89(4) of CGST Rules. The phrase ‘relevant period’ has been defined in the said sub-rule as ‘the period for which the claim has been filed’.

11.1 In many scenarios, exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed. Similarly, there may be cases where exports may have been made in a period but no input tax credit has been availed

in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.

11.2 In this regard, it is hereby clarified that the exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters. The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years.

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

13. **Supplies to Merchant Exporters:** Notification No. 40/2017 – Central Tax (Rate), dated 23rd October 2017 and notification No. 41/2017 – Integrated Tax (Rate) dated 23rd October 2017 provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications.

13.1 It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate.

13.2 It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of integrated tax. In this connection, notification No. 3/2018-Central Tax, dated 23.01.2018 may be referred.

14. **Requirement of invoices for processing of claims for refund:** It has been brought to the notice of the Board that for processing of refund claims, copies of invoices and other additional information are being insisted upon by many field formations.

14.1 It was envisaged that only the specified statements would be required for processing of refund claims because the details of outward supplies and inward supplies would be available on the common portal which would be matched. Most of the other information like shipping bills details etc. would also be available because of the linkage of the common portal with the Customs system. However, because of delays in operationalizing the requisite modules on the common portal, in many cases, suppliers' invoices on the basis of which the exporter is claiming refund may not be available on the system. For processing of refund claims of input tax credit, verifying the invoice details is quintessential. In a completely electronic environment, the information of the recipients' invoices would be dependent upon the suppliers' information, thus putting an in-built check-and-balance in the system. However, as the refund claims are being filed by the recipient in a semi-electronic environment and is completely based on the information provided by them, it is necessary that invoices are scrutinized.

14.2 A list of documents required for processing the various categories of refund claims on exports is provided in the Table below. Apart from the documents listed in the Table below, no other documents should be called for from the taxpayers, unless the same are not available with the officers electronically:

Table	
Type of Refund	Documents
Export of Services with payment of tax (Refund of IGST paid on export of services)	✓ Copy of FORM RFD-01A filed on common portal ✓ Copy of Statement 2 of FORM RFD-01A ✓ Invoices w.r.t. input, input services and capital goods ✓ BRC/FIRC for export of services ✓ Undertaking / Declaration in FORM RFD-01A
Export (goods or services) without payment of tax (Refund of accumulated ITC of IGST / CGST / SGST / UTGST / Cess)	✓ Copy of FORM RFD-01A filed on common portal ✓ Copy of Statement 3A of FORM RFD-01A generated on common portal ✓ Copy of Statement 3 of FORM RFD-01A ✓ Invoices w.r.t. input and input services ✓ BRC/FIRC for export of services ✓ Undertaking / Declaration in FORM RFD-01A

15. These instructions shall apply to exports made on or after 1st July, 2017. It is also advised that refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.

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

17. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

Circular No. 40/14/2018-GST

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
(GST Policy Wing)

New Delhi, April 6, 2018

To,

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

Madam/Sir,

**Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for
exports – Reg.**

Various communications have been received from the field formations and exporters that the LUTs being submitted online in **FORM GST RFD-11** on the common portal are not visible to the jurisdictional officers of Central Board of Indirect Taxes and Customs and of a few States. Therefore, a need was felt for a clarification regarding the acceptance of LUTs being submitted online in **FORM GST RFD-11**.

2. Accordingly, in partial modification of Circular No. 8/8/2017-GST dated 4th October, 2017, sub-paras (c), (d) and (e) of para 2 of the said Circular are hereby replaced by the following:

*“c) **Form for LUT:** The registered person (exporters) shall fill and submit **FORM GST RFD-11** on the common portal. An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.*

*d) **Documents for LUT:** No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.*

*e) **Acceptance of LUT/bond:** An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017-Central Tax, then the exporter’s LUT will be liable for*

rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio.”

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

(Upender Gupta)
Commissioner (GST)

**F. No. 349/48/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 13th April, 2018

To,

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

The Principal Director Generals/ Director Generals (All)

Madam / Sir,

Subject: Queries regarding processing of refund applications for UIN agencies

The Board vide Circular No. 36/10/2017 dated 13th March, 2018 clarified and specified the detailed procedure for UIN refunds. After issuance of the Circular, a number of queries and representations have been received regarding the processing of refund to agencies which have been allotted UINs. In order to clarify some of the issues and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) hereby clarifies the following issues:

2. Providing statement of invoices while submitting the refund application:

2.1. The procedure for filing a refund application has been outlined under rule 95 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as ‘the CGST Rules’) which provides for filing of refund on a quarterly basis in **FORM RFD-10** along with a statement of inward invoices in **FORM GSTR-11**. It has come to the notice of the Board that the print version of **FORM GSTR-11** generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated **FORM GSTR-11** does not have invoice-level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with refund application.

2.2. Further, the officers are advised not to request for original or hard copy of the invoices unless necessary.

3. No mention of UINs on Invoices:

3.1. It has been represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. It is hereby clarified that the 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.

3.2. Further, in cases where, UIN has not been recorded on the invoices pertaining to refund claim for the quarters of July – September 2017, October – December 2017 and January – March 2018, a one-time waiver is being given by the Government, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency. Field officers are advised that the terms of Notification No. 16/2017-Central Tax (Rate) dated 28th June 2017 and corresponding notifications under the Integrated Goods and Services Tax Act, 2017, Union Territory Goods and Services Tax Act, 2017 and respective State Goods and Services Tax Acts should be satisfied while processing such refund claims.

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 the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

**F. No. CBEC/20/16/4/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 30th May, 2018

To,

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

The Principal Directors General/ Directors General (All)

Madam / Sir,

Subject: Clarifications on refund related issues – reg.

The Board *vide* Circular No. 17/17/2017 – GST dated 15th November 2017, No. 24/24/2017 – GST dated 21st December 2017 and No. 37/11/2018 – GST dated 15th March, 2018 has laid down the procedure for manual filing and processing of different types of refund claims under GST and clarified the exports related refund issues.

2. Representations have been received seeking clarification on certain refund related issues. In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the 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 (CGST Act for short) hereby clarifies the issues raised as below:

3. Claim for refund filed by an Input Service Distributor, a person paying tax under section 10 or a non-resident taxable person:

3.1 Doubts have been raised in case of claims for refund filed by an Input Service Distributor (ISD for short), a person paying tax under section 10 of the CGST Act (composition taxpayer for short) or a non-resident taxable person in light of para 2.0 of Circular No. 24/24/2017-GST dated 21.12.2017 which mandates that the refund claim for a tax period may be filed only after filing the details in **FORM GSTR-1** for the said tax period

and that it is also to be ensured that a valid return in **FORM GSTR-3B** has been filed for the last tax period before the one in which the refund application is being filed.

3.2 In this regard, attention is invited to sub-section (1) of section 37 of the CGST Act read with rule 59 of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short) which mandates that every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish the details of outward supplies of goods or services or both effected during a tax period in **FORM GSTR-1**. Further, as per sub-section (2) of section 39 of the CGST Act read with rule 62 of the CGST Rules, a composition taxpayer is required to furnish the return in **FORM GSTR-4**; as per sub-section (4) of section 39 of the CGST Act read with rule 65 of the CGST Rules, an ISD is required to furnish the return in **FORM GSTR-6** and as per sub-section (5) of section 39 of the CGST Act read with rule 63 of the CGST Rules, a non-resident taxable person is required to furnish the return in **FORM GSTR-5**.

3.3 Thus, it is clarified that in case of a claim for refund of balance in the electronic cash ledger filed by an ISD or a composition taxpayer; and the claim for refund of balance in the electronic cash and/or credit ledger by a non-resident taxable person, the filing of the details in **FORM GSTR-1** and the return in **FORM GSTR-3B** is not mandatory. Instead, the return in **FORM GSTR-4** filed by a composition taxpayer, the details in **FORM GSTR-6** filed by an ISD and the return in **FORM GSTR-5** filed by a non-resident taxable person shall be sufficient for claiming the said refund.

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

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

mentioned under column 3.1(b) of **FORM GSTR-3B** (zero rated supplies) filed for the corresponding tax period.

4.2 In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01A** on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period.

5. Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess:

5.1 Doubts have been raised whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminum products, whereas cess is not levied on aluminum products.

5.2 In this regard, section 16(2) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, as per section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, (hereafter referred to as the Cess Act), all goods and services specified in the Schedule to the Cess Act are leviable to cess under the Cess Act; and vide section 11 (2) of the Cess Act, section 16 of the IGST Act is *mutatis mutandis* made applicable to inter-State supplies of all such goods and services. Thus, it implies that all supplies of such goods and services are zero rated under the Cess Act. Moreover, as section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal, it is clarified that a registered person making zero rated supply of aluminum products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal.

5.3 Such registered persons may also make zero-rated supply of aluminum products on payment of integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.

6. Whether bond or Letter of Undertaking (LUT) is required in the case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods?

6.1 As per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. Whereas, as per section 2 (47) of the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of integrated tax.

6.2 However, in case of zero rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any.

6.3 Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.

7. What is the scope of the restriction imposed by rule 96(10) of the CGST Rules, regarding non-availment of the benefit of notification Nos. 48/2017-Central Tax dated the 18.10.2017, 40/2017-Central Tax (Rate) dated 23.10.2017, 41/2017-Integrated Tax (Rate) dated 23.10.2017, 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017?

7.1 Sub-rule (10) of rule 96 of the CGST Rules seeks to prevent an exporter, who is receiving goods from suppliers availing the benefit of certain specified notifications under which they supply goods without payment of tax or at reduced rate of tax, from exporting goods under payment of integrated tax. This is to ensure that the exporter does not utilise the input tax credit availed on other domestic supplies received for making the payment of integrated tax on export of goods.

7.2 However, the said restriction is not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for making their outward supplies. Further, the said restriction is also not applicable to an exporter who has procured goods from suppliers who have, in turn, received goods from registered persons availing the benefits of these notifications since the exporter did not directly procure these goods without payment of tax or at reduced rate of tax.

7.3 Thus, the restriction under sub-rule (10) of rule 96 of the CGST Rules is only applicable to those exporters who are directly receiving goods from those suppliers who are availing the benefit under notification No. 48/2017-Central Tax dated the 18th October, 2017, notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017, or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 or notification No. 78/2017-Customs dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017.

7.4 Further, there might be a scenario where a manufacturer might have imported capital goods by availing the benefit of Notification No. 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017. Thereafter, goods manufactured from such capital goods may be supplied to an exporter. It is hereby clarified that this restriction does not apply to such inward supplies of an exporter.

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

9. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

Corrigendum to Circular No. 45/19/2018-GST

CBEC/20/06/03/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 18th July, 2019

To,

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

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Corrigendum to Circular No. 45/19/2018-GST dated 30th May, 2018 issued vide F. No. CBE/20/16/4/2018-GST - reg.

In para 4.2 of the Circular No. 45/19/2018-GST dated 30th May, 2018,

for

“4.2 In this regard, it is clarified that for the tax periods commencing from **01.07.2017 to 31.03.2018**, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01A** on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period.”

read,

“4.2 In this regard, it is clarified that for the tax periods commencing from **01.07.2017 to 30.06.2019**, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01A** on the common portal subject to the condition that the amount of refund of

Corrigendum to Circular No. 45/19/2018-GST

integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period.”

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

(Upender Gupta)
Pr. Commissioner (GST)

Circular No. 48/22/2018-GST

**F. No. CBEC/20/16/03/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 14th June, 2018

To,

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

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarifications of certain issues under GST– regarding

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1.	Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an inter-State supply (under section 7(5)(b) of the IGST Act, 2017) or an intra-State supply (under section 12(3)(c) of the IGST Act, 2017)?	1.1 As per section 7(5) (b) of the Integrated Goods and Services Tax Act, 2017 (IGST Act in short), the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be

		treated as an intra-State supply. 1.2 It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision. 1.3 In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies. 1.4 It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.
2.	Whether the benefit of zero rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event management services, hotel and accommodation services, consumables etc?	2.1 As per section 16(1) of the IGST Act, “zero rated supplies” means supplies of goods or services or both to a SEZ developer or a SEZ unit. Whereas, section 16(3) of the IGST Act provides for refund to a registered person making zero rated supplies under bond/LUT or on payment of integrated tax, subject to such conditions, safeguards and procedure as may be prescribed. Further, as per the second proviso to rule 89(1) of the Central Goods and Services Tax Rules, 2017 (CGST Rules in short), in respect of supplies to a SEZ developer or a SEZ unit, the application for refund shall be filed by the: (a) supplier of goods after such goods have been admitted in full in the SEZ for authorised operations, as endorsed by the specified officer of the Zone; (b) supplier of services along with such evidences regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone. 2.2 A conjoint reading of the above legal provisions reveals that the supplies to a SEZ developer or a SEZ unit shall be zero rated and the supplier shall be eligible for refund of unutilized input tax credit or integrated tax paid, as the case

		may be, only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations. An endorsement to this effect shall have to be issued by the specified officer of the Zone. 2.3 Therefore, subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.
3.	Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017, even if the goods (fabrics) supplied are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017?	3.1 Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics). 3.2 Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

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

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

(Upender Gupta)
Commissioner (GST)

**F. No. 349/21/2016-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 4th September, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)/The Principal Directors General/ Directors General
(All)/ The Principal Chief Controller of Accounts (CBIC)

Madam/Sir,

Subject: Clarification on refund related issues- regarding

Various representations have been received seeking clarification on 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 "CGST Act"), hereby clarifies the issues as detailed hereunder:

2. Submission of invoices for processing of claims of refund:

2.1 It was clarified vide Circular No. 37/11/2018-GST dated 15th March, 2018 that since the refund claims were being filed in a semi-electronic environment and the processing was completely based on the information provided by the claimants, it becomes necessary that invoices are scrutinized. Accordingly, it was clarified that the invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax; and invoices relating to inputs and input services were to be submitted for processing of claims for refund of input tax credit where goods or services are exported without payment of integrated tax.

2.2. In this regard, trade and industry have represented that such requirement is cumbersome and increases their compliance cost, especially where the number of invoices is large.

2.3. In view of the difficulties being faced by the claimants of refund, it has been decided that the refund claim shall be accompanied by a print-out of **FORM GSTR-2A** of the claimant for the relevant period for which the refund is claimed. The proper officer shall rely upon **FORM GSTR-2A** as an evidence of the account of the supply by the corresponding supplier in relation to which the input tax credit has been availed by the claimant. It may be noted that there may be situations in which **FORM GSTR-2A** may not contain the details of all the invoices relating to the input tax credit availed, possibly because the supplier's **FORM GSTR-1** was delayed or not filed. In such situations, the proper officer may call for the hard copies of such invoices if he deems it necessary for the examination of the claim for refund. **It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are present in FORM GSTR-2A of the relevant period submitted by the claimant.**

2.4. The claimant shall also submit the details of the invoices on the basis of which input tax credit had been availed during the relevant period for which the refund is being claimed, in the format enclosed as **Annexure-A** manually along with the application for refund claim in **FORM GST RFD-01A** and the Application Reference Number (ARN). The claimant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said Annexure for enabling the proper officer to determine the same.

3. System validations in calculating refund amount

3.1. Currently, in case of refund of unutilized input tax credit (ITC for short), 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 Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax + Cess(whenever applicable)];
- b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
- c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

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

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

3.3. The procedure described in para 3.2 above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications filed after the date of issue of this Circular. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities.

3.4. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in **FORM GST RFD-01A** is generated.

3.5. Further, it may be noted that the refund application can be filed only after the electronic credit ledger has been debited in the manner specified in para 3.2 (read with para 3.3) above, and the ARN is generated on the common portal.

4. Re-credit of electronic credit ledger in case of rejection of refund claim:

4.1. In case of rejection of claim for refund of unutilized input tax credit on account of ineligibility of the said credit under sub-sections (1),(2) or (5) of section 17 of the CGST Act, or under any other provision of the Act and rules made thereunder the proper officer shall

order for the rejected amount to be re-credited to the electronic credit ledger of the claimant using **FORM GST RFD-01B**. For recovery of this amount, a demand notice shall have to be simultaneously issued to the claimant under section 73 or 74 of the CGST Act, as the case may be. In case the demand is confirmed by an order issued under sub-section (9) of section 73, or sub-section (9) of section 74 of the CGST Act, as the case may be, the said amount shall be added to the electronic liability register of the claimant through **FORM GST DRC-07**. Alternatively, the claimant can voluntarily pay this amount, along with interest and penalty, if applicable, before service of the demand notice, and intimate the same to the proper officer in **FORM GST DRC-03** in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of the CGST Act, as the case may be, read with sub-rule (2) of rule 142 of the CGST Rules. In such cases, the need for serving a demand notice will be obviated.

4.2. In case of rejection of claim for refund of unutilized input tax credit, on account of any reason other than the eligibility of credit, the rejected amount shall be re-credited to the electronic credit ledger of the claimant using **FORM GST RFD-01B** only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection or in case he files an appeal, the same is finally decided against the claimant, as has been laid down in rule 93 of the CGST Rules.

4.3. Consider an example where against a refund claim of Rs.100, only Rs.80 is sanctioned (Rs.15 is rejected on account of ineligible ITC and Rs.5 is rejected on account of any other reason). As described above, Rs.15 would be re-credited with simultaneous issue of notice under section 73 or 74 of the CGST Act for recovery of ineligible ITC. Rs.5 would be re-credited (through **FORM GST RFD-01B**) only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the claimant.

5. Scope of rule 96(10) of the CGST Rules:

5.1 Rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018 provides that registered persons, including importers, who are **directly purchasing/importing supplies** on which the benefit of reduced tax incidence or no tax incidence under certain specified notifications has been availed, shall not be eligible for refund of integrated tax paid on export of goods or services. For example, an importer (X) who is importing goods under the benefit of Advance Authorization/EPCG, is **directly purchasing/importing supplies** on which the benefit of reduced/Nil incidence of tax under the specified notifications has been availed. In this case, the restriction under rule 96(10) of the CGST Rules is applicable to X. However, if X supplies the said goods, after importation, to a domestic buyer (Y), **on payment of full tax**, then Y can rightfully export these goods under payment of integrated tax and claim refund of the integrated tax so paid. However, in the said example if Y purchases these goods from X after availing the benefit of specified notifications, then Y also will not be eligible to claim refund of integrated tax paid on export of goods or services.

5.2 Overall, it is clarified that the restriction under rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018, applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed.

6 Disbursal of refund amount after sanctioning by the proper officer:

6.1 A few cases have come to notice where a tax authority, after receiving a sanction order from the counterpart tax authority (Centre or State), has refused to disburse the relevant sanctioned amount calling into question the validity of the sanction order on certain grounds. E.g. a tax officer of one administration has sanctioned, on a provisional basis, 90 per cent. of the amount claimed in a refund application for unutilized ITC on account of exports. On receipt of the provisional sanction order, the tax officer of the counterpart administration has observed that the provisional refund of input tax credit has been incorrectly sanctioned for ineligible input tax credit and has therefore, refused to disburse the tax amount pertaining to the same.

6.2 It is clarified that the remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order and not in withholding of the disbursement of the sanctioned amount. If any discrepancy is noticed by the disbursing authority, the same should be brought to the notice of the counterpart refund sanctioning authority, the concerned counterpart reviewing authority and the nodal officer, but the disbursal of the refund should not be withheld. It is hereby clarified that neither the State nor the Central tax authorities shall refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except under sub-section (11) of section 54 of the CGST Act. It is further clarified that any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.

7 Status of refund claim after issuance of deficiency memo:

7.1 Rule 90(3) of the CGST Rules provides that where any deficiencies in the application for refund are noticed, the proper officer shall communicate the deficiencies to the claimant in **FORM GST RFD-03**, requiring him to file a fresh refund application after rectification of such deficiencies. Further, rule 93(1) of the CGST Rules provides that where any deficiencies have been communicated under rule 90(3), the amount debited under rule 89 (3) shall be re-credited to the electronic credit ledger. Therefore, the intent of the law is very clear that in case a deficiency memo in **FORM GST RFD-03** has been issued, the refund claim will have to be filed afresh.

7.2 It has been learnt that certain field formations are issuing show cause notices to the claimants in cases where the refund application is not re-submitted after the issuance of a deficiency memo. These show-cause-notices are being subsequently adjudicated and orders are being passed in **FORM GST RFD-04/06**. It is clarified that show-cause-notices are not required to be issued where deficiency memos have been issued. A refund application which is re-submitted after the issuance of a deficiency memo shall have to be treated as a fresh application. No order in **FORM GST RFD-04/06** can be issued in respect of an application against which a deficiency memo has been issued and which has not been resubmitted subsequently.

8 Treatment of refund applications where the amount claimed is less than rupees one thousand:

8.1 Sub-section (14) of section 54 of the CGST Act provides that no refund under sub-section (5) or sub-section (6) of section 54 shall be paid to an applicant, if the amount is less than one thousand rupees.

8.2 In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. All field formations are requested to reject claims of refund from the electronic credit ledger for less than one thousand rupees and re-credit such amount by issuing an order in **FORM GST RFD-01B**.

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

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

[Encl: Annexure-A]

(Upender Gupta)
Commissioner (GST)

Annexure-AFormat for Statement of Invoices to be submitted with application for refund in **FORM GST RFD-01A**

S. No.	GSTIN of the supplier	Name of the Supplier	Invoice Details			Type	Central tax	State tax/Union Territory tax	Integrated tax	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	Date	Value	Inputs/ input services/ capital goods					Yes/No /Partially	
1	2	3	4	5	6	7	8	9	10	11	12	13

CBEC-20/16/10/2018-GST (CBEC)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 4th September, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Directors General/ Directors General (All)
The Principal Chief Controller of Accounts, CBIC

Madam / Sir,

**Subject: Processing of refund applications filed by Canteen Stores Department (CSD)-
regarding**

Vide notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) and No. 6/2017-Union territory Tax (Rate), all dated 28th June 2017, the Central Government has specified the Canteen Stores Department (CSD for short), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax, integrated tax and Union territory tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD. Identical notifications have been issued by the State Governments allowing refund of fifty per cent of the State tax paid by the CSD on the inward supply of goods received by it and supplied subsequently as stated above.

2. With a view to ensuring expeditious processing of refund claims, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereafter referred to as the 'CGST Act'), hereby specifies the manner and procedure for filing and processing of such refund claims as below:-

3. Filing Application for Refund:

3.1 **Invoice-based refund:** It is clarified that the instant refund to be granted to the CSD is not for the accumulated input tax credit but refund based on the invoices of the inward supplies of goods received by them.

3.2 **Manual filing of claims on a quarterly basis:** In terms of rule 95 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the 'CGST Rules'), the CSD are required to apply for refund on a quarterly basis. Till the time the online utility for filing the refund claim is made available on the common portal, the CSD shall apply for refund by filing an application in **FORM GST RFD-10A (Annexure-A** to this Circular) manually to the jurisdictional tax office. The said form shall be accompanied with the following documents:

- (i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD;
- (ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed;

- (iii) Copies of the valid return filed in **FORM GSTR-3B** by the CSD for the period covered in the refund claim;
- (iv) Copies of **FORM GSTR-2A** of the CSD for the period **covered in the refund claim** along with the attested hard copies of the invoices on which refund is claimed but which are not reflected in **FORM GSTR-2A**;
- (v) Details of the bank account in which the refund amount is to be credited.

4. Processing and sanction of the refund claim

4.1 Upon receipt of the complete application in **FORM GST RFD-10A**, an acknowledgement shall be issued manually within 15 days of the receipt of the application in **FORM GST RFD-02** by the proper officer. In case of any deficiencies in the requisite documentary evidences to be submitted as detailed in para 3.2 above, the same shall be communicated to the CSD by issuing a deficiency memo manually in **FORM GST RFD-03** by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued which should be complete in all respects.

4.2 The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in **FORM GSTR- 3B** has been filed by the CSD. The proper officer may scrutinize the details contained in **FORM RFD-10A**, **FORM GSTR-3B** and **FORM GSTR-2A**. The proper officer may rely upon **FORM GSTR-2A** as an evidence of the accountal of the supply made by the corresponding suppliers to the CSD in relation to which the refund has been claimed by the CSD.

4.3 The proper officer should ensure that the amount of refund sanctioned is 50 % of the Central tax, State tax, Union territory tax and integrated tax paid on the supplies received by CSD. The proper officer shall issue the refund sanction/rejection order manually in **FORM GST RFD-06** along with the payment advice manually in **FORM GST RFD-05** for each tax head separately. The amount of sanctioned refund in respect of central tax/integrated tax along with the bank account details of the CSD shall be manually submitted in the PFMS system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to the PAO for release of the said amount.

5. It is clarified that the CSD will apply for refund with the jurisdictional Central tax/State tax authority to whom the CSD has been assigned. However, the payment of the sanctioned refund amount in relation to central tax / integrated tax shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority. It therefore, becomes necessary that the refund order issued by the proper officer of any tax authority is duly communicated to the concerned counter-part tax authority within seven days for the purpose of payment of the remaining sanctioned refund amount. The procedure outlined in para 6.0 of Circular No.24/24/2017-GST dated 21st December 2017 should be followed in this regard.

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

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

[Encl: Annexure-A]

(Upender Gupta)
Commissioner (GST)

Annexure A
FORM GST RFD-10A
(See Rule 95)

Application for refund by Canteen Stores Department (CSD)

1. GSTIN :
2. Name :
3. Address :
4. Tax Period (Quarter) : From <DD/MM/YY> To <DD/MM/YY>
5. Amount of Refund Claim : <INR><In Words>
6. Details of inward supplies of goods received:

GSTIN of supplier	Invoice/Debit Note/Credit Note details			Rate	Taxable value	Amount of tax		
	No.	Date	Value			Integrated tax	Central Tax	State/ Union territory Tax
1	2	3	4	5	6	7	8	9
6A. Invoices received								
7. To								
6B. Debit/Credit Note received								
at								

refund applied for:

Central Tax	State /Union territory Tax	Integrated Tax	Total
<Total>	<Total>	<Total>	<Total>

8. Details of Bank Account:
 - a. Bank Account Number
 - b. Bank Account Type
 - c. Name of the Bank
 - d. Name of the Account Holder
 - e. Address of Bank Branch
 - f. IFSC

g. MICR

9. Attachment of the following documents with the refund application :

- a. Copy of **FORM GSTR-3B** for the period for which application has been filed
- b. Copy of **FORM GSTR-2A** for the period for which application has been filed

10. Verification

I _____ as an authorised representative of << Name of Canteen Store Department>> hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom. I further declare that all the goods, in respect of which the refund is being claimed, have been received by us and that no refund has been claimed earlier against any of the invoices against which refund has been claimed in this application.

Date:
Signatory:

Place:

Signature of Authorised

Name:

Designation / Status

Instructions:

1. Application for refund shall be filed on quarterly basis.
2. Applicant should ensure that all the invoices declared by them have the GSTIN of the supplier and the GSTIN of the respective CSD clearly marked on them.

F. No. 349/48/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 14th September, 2018

To

The Principal Chief Commissioners/ Chief Commissioners/
Principal Commissioners/Commissioner of Central Tax (All) /
The Principal Directors General/ Directors General (All) /
Pr. Chief Controller of Accounts (CBIC)

Madam/ Sir,

Subject: Clarification regarding processing of refund claims filed by UIN entities – regarding

The Board vide Circulars No. 36/10/2018-GST dated 13th March, 2018 and No. 43/17/2018-GST dated 13th April, 2018 has specified the detailed procedure for filing and processing of refund applications by UIN entities (Embassy/Mission/Consulate / United Nations Organizations/Specified International Organizations). Various representations have been received on certain issues pertaining to the processing of such refund claims. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) hereby clarifies the said issues as below:

2. **Non-compliance with letter of reciprocity:** Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts provide for examination of the refund claims in accordance with the letter of reciprocity issued by the Ministry of External Affairs (hereinafter referred to as MEA). Generally, these letters of reciprocity have certain conditions specified on the basis of which refunds have to be processed and sanctioned. For example, letters may specify the minimum value of goods or services or the end use of such goods or services (official or personal purposes).

2.1 It has been observed that many UIN entities are claiming the refund on all invoices irrespective of whether or not they are eligible for the same as per the reciprocity letter issued by MEA. It is observed that such claims are attested/signed by Diplomats/Consulars and authorized signatories of the Consulates or Embassies of the foreign countries.

3. UIN entities have been advised to submit a statement of invoices and hard copies of only those invoices wherein the UIN is not mentioned vide Circular No. 43/17/2018-GST dated 13th April, 2018. Further, refund processing officers have been advised not to request for original or hard copy of the invoices unless necessary. However, it is observed that the delay in processing of the UIN refunds is primarily due to the non-furnishing of the hard copy of the invoices by the UIN entities and the statement of invoices as specified in paragraph 2.1 of Circular No. 43/17/2018-GST dated 13.04.2018. It may be noted that the same are needed in order to determine the eligibility for grant of refund in accordance with the reciprocity letter issued by MEA. Further, it has been observed that in some cases, the Certificate and Undertaking submitted by the UIN entities is not in accordance with Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts.

4. In order to expedite the processing of the refund applications filed by the UIN entities, the following formats/documents are hereby specified:

- 4.1 Refund Checklist:** In order to bring in uniformity in the processing of the refund claims, a checklist has been specified in **Annexure A**. All UIN entities may refer to this checklist while filing the refund claims.
- 4.2 Certificate:** A sample certificate to be submitted by Embassy/Mission/Consulate is enclosed as **Annexure-B** and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as **Annexure-B-1**.
- 4.3 Undertaking:** A sample undertaking to be submitted by Embassy/Mission/Consulate is enclosed as **Annexure-C** and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as **Annexure-C-1**.
- 4.4 Statement of Invoices:** The detailed statement of invoices shall be submitted in the format specified in **Annexure D**.

5. **Prior Permission letter for GST refund for purchase of vehicles:** MEA vide letter F. No. D_II/451/12(5)/2017 dated 21.06.2018 has informed that it is mandatory to enclose the copy of 'Prior Permission Letter' issued by the Protocol Special Section of MEA at the time of submission of GST refund for purchase of vehicle by the foreign representatives. Accordingly, it is advised that UIN entities must submit the copy of the 'Prior Permission letter' and mention the same in the covering letter while applying for GST refund on purchase of vehicles to avoid delay in processing of refunds.

6. **Non-availability of refunds to personnel and officials of United Nations and other International organizations:** It is hereby clarified that the personnel and officials of United Nations and other International organizations are not eligible to claim refund under Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts. However, the eligibility of refund for the personnel and officials posted in the Embassy/Mission/Consulate shall be determined based on the principle of reciprocity.

7. **Waiver from recording UIN in the invoices for the months of April, 2018 to March, 2019:** A one-time waiver is hereby given from recording the UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April, 2018 to March, 2019, subject to the

condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer.

8. **Format of Monthly report:** Circular No. 36/10/2018-GST dated 13th March, 2018 provides for a monthly report to be furnished to the Principal Director General of Goods and Services Tax by the 30th of the succeeding month. The report shall now be furnished in a new format as specified in **Annexure E**.

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

10. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

Annexure A: Checklist for processing UIN refunds

- (a) Covering letter for each quarterly refund
- (b) Final copy of **FORM GST RFD- 10** with Application Reference Number (ARN)
- (c) Final copy of **FORM GSTR – 11**
- (d) Statement of invoices as per Annexure D
- (e) Certificate in case of goods that the goods have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts
- (f) Undertaking in case of services that the services have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts
- (g) Copy of letter issued by the Protocol Division of the Ministry of External Affairs based on the principle of reciprocity
- (h) Photocopies of only those invoices where UIN has not been recorded on the invoices by the supplier.
- (i) A cancelled cheque of the bank account as mentioned in **FORM GST RFD-10** (to be submitted with only the first refund claim filed)

Annexure B: Certificate to be submitted by Mission/Embassy/Consulate

Date:

CERTIFICATE

(as per CBIC's (a) notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The Mission/Embassy/Consulate of the _____, <Name of the State> hereby confirms that:

- I. The goods mentioned in the invoices for the period _____ to _____ have been put to official use/ are in the official use of the Embassy/ Consulate or for personal use of the members of his/her family.
- II. The goods will not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods and
- III. In the event of non-compliance of clause (I) and (II), the Mission/ Embassy /Consulate will pay back the refund amount paid to the Mission/Embassy/Consulate.
- IV. The refund claimed by us is as per the terms and conditions stipulated in the Certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity.

I, _____, declare that I have read and understood all the conditions mentioned above and hereby agree to abide by them.

(Signature)

Name

Head of the Mission/Consulate/ Embassy / Any other

Authorized Signatory

Note: Please take print on letterhead of the Embassy & sign with stamp

Delete / strike which are not applicable.

Annexure B-I: Format for certificate for United Nations Organizations/Specified International Organizations)

Date:

CERTIFICATE

(as per CBIC's notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The < Name of the Organization>, <Name of the State> hereby confirms that:

The goods mentioned in the invoices for the period _____ to _____ have been used or are intended to be used for official purpose of the < Name of the Organization>, New Delhi.

I, _____, declare that I have read and understood all the conditions mentioned above and hereby agree to abide by them.

(Signature)

Name

Head of the Organisation/Authorized Signatory

Note: Please take print on letterhead of the organization and sign with stamp.

Annexure C: Format for undertaking for Mission/Embassy/Consulate

Date:

UNDERTAKING

(as per CBIC's notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The Embassy/Mission/Consulate of the _____, <Name of the State> hereby state that the services received as mentioned in the invoices for the period _____ to _____ are for official purposes of the Embassy/Mission/Consulate of the _____ in <Name of the State> or for personal use of the said diplomatic agent or career consular officer or members of his/her family.

The refund claimed by us on the above mentioned services is as per the terms and conditions stipulated in the Certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity.

(Signature)

Name

Head of the Mission/Consulate/ Embassy/
Authorized Signatory

Note: Please take print on letterhead of the Embassy & sign with stamp

Delete / strike which are not applicable.

Annexure C-I: Format for undertaking for United Nation Organizations/Specified International Organizations)

Date:

UNDERTAKING

(as per CBIC's notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The <Name of the Organisation> , <Name of the State> hereby state that the services received as mentioned in the invoices for the period _____ to _____ are for official purpose of the <Name of the Organisation>, <Name of the State>.

I, _____, declare that I have read and understood all the conditions mentioned above and hereby agree to abide by them.

(_____)
Name
Authorized Signatory

Note: Please take print on letter head of the organization and signed with stamp.

Annexure D: Format for statement of invoices

Sl. No.	GSTIN of supplier	Invoice No.	Invoice Date	Invoice Value	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Place of Supply	Goods / Services	Description of goods/ services	For Official use / Personal use	Whether the said invoice is covered under the principle of reciprocity? (Y / N)

Verification

I/We <Name of the Authorized representative / Diplomat / Consular >> hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

I also affirm that the invoices declared in the table above are eligible for refund under Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and the corresponding notifications issued under the respective State Goods and Services Tax Act, 2017.

I/We declare that no refund on this account has been received by me/us earlier.

Place

Date

Signature of Authorized Signatory

Designation/ Status

Annexure E: Format for monthly report**Office of the Commissioner****Report for the month of**

Name of the State	Details of the UIN entity		Time Period		Status of Refund application (Sanctioned / Deficiency Memo issued / under process / Rejected)	Name of the State for which refund has been sanctioned	Central Tax	State Tax / Union Territory Tax	Integrated Tax	Cess
	Name	UIN	From	To						
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

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

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. Status 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.

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.

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)

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 31st December, 2018

To,

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

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification on export of services under GST – Reg.

Representations have been received seeking clarification on certain issues relating to export of services under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1.	In case an exporter of services outsources a portion of the services contract to another person located outside India, what would be the tax treatment of the said portion of the contract at the hands of the exporter? There may be instances where the full consideration for the outsourced services is not received by the exporter in India.	1. Where an exporter of services located in India is supplying certain services to a recipient located outside India, either wholly or partly through any other supplier of services located outside India, the following two supplies are taking place:- (i) Supply of services from the exporter of services located in India to the recipient of services located outside India for the full contract value; (ii) Import of services by the exporter of services located in India from the supplier of services located outside India with respect to the outsourced

		portion of the contract. Thus, the total value of services as agreed to in the contract between the exporter of services located in India and the recipient of services located outside India will be considered as export of services if all the conditions laid down in section 2(6) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) read with section 13(2) of the IGST Act are satisfied. 2. It is clarified that the supplier of services located in India would be liable to pay integrated tax on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India. Furthermore, the said supplier of services located in India would be eligible for taking input tax credit of the integrated tax so paid. 3. Thus, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services), that portion of the consideration shall also be treated as receipt of consideration for export of services in terms of section 2(6)(iv) of the IGST Act, provided the: (i) integrated tax has been paid by the
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		supplier located in India for import of services on that portion of the services which has been directly provided by the supplier located outside India to the recipient of services located outside India; and (ii) RBI by general instruction or by specific approval has allowed that a part of the consideration for such exports can be retained outside India. <i>Illustration:</i> ABC Ltd. India has received an order for supply of services amounting to \$ 5,00,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in Section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay integrated tax on the same under reverse charge and also be eligible to take input tax credit of the integrated tax so paid. Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the
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		consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided integrated tax on import of services has been paid on the part of the services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.
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2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
3. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

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 31st December, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All) / The Principal Directors General/ Directors General
(All) / The Principal Chief Controller of Accounts (CBIC)

Madam/Sir,

Subject: Clarification on refund related issues – Reg.

Various representations have been received seeking clarification on various issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues detailed hereunder:

Physical submission of refund claims with jurisdictional proper officer:

2. Due to the non-availability of the complete electronic refund module, a work around was prescribed vide Circular No. 17/17/2017-GST dated 15.11.2017 and Circular No. 24/24/2017-GST dated 21.12.2017, wherein a taxpayer was required to file **FORM GST RFD-01A** on the common portal, generate the Application Reference Number (ARN), take print-outs of the same, and submit it physically in the office of the jurisdictional proper officer, along with all the supporting documents. It has been learnt that this requirement of physical submission of documents in the jurisdictional tax office is causing undue hardship to the taxpayers. Therefore, in order to further simplify the refund process, the following instructions, in partial modification of the aforesaid circulars, are issued:

- a) All documents/undertaking/statements to be submitted along with the claim for refund in **FORM GST RFD-01A** shall be uploaded on the common portal at the time of filing of the refund application. Circular No. 59/33/2018-GST dated 04.09.2018 specified that instead of providing copies of all invoices, a statement of invoices needs to be submitted in a prescribed format and copies of only those invoices need to

be submitted the details of which are not found in **FORM GSTR-2A** for the relevant period. It is now clarified that the said statement and these invoices, instead of being submitted physically, shall be electronically uploaded on the common portal at the time of filing the claim of refund in **FORM GST RFD-01A**. Neither the application in **FORM GST RFD-01A**, nor any of the supporting documents, shall be required to be submitted physically in the office of the jurisdictional proper officer.

- b) However, the taxpayer will still have the option to physically submit the refund application to the jurisdictional proper officer in **FORM GST RFD-01A**, along with supporting documents, if he so chooses. A taxpayer who still remains unallocated to the Central or State Tax Authority will necessarily have to submit the refund application physically. They can choose to do so before the jurisdictional proper officer of either the State or the Central tax authority, as was earlier clarified vide Circular No. 17/17/2017 - GST dated 15.11.2017.
- c) The ARN will be generated only after the claimant has completed the process of filing the refund application in **FORM GST RFD-01A**, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.
- d) As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under rule 90(2) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement shall be counted from that date. This will obviate the need for a claimant to visit the jurisdictional tax office for the submission of the refund application. Accordingly, the acknowledgement for the complete application or deficiency memo, as the case may be, would be issued by the jurisdictional tax officer based on the documents so received electronically from the common portal. However, the said acknowledgement or deficiency memo shall continue to be issued manually for the time being.
- e) If a refund application is electronically transferred to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically within a period of three days. In such cases, the application shall be deemed to have been filed under rule 90(2) of the CGST Rules only after it has been so reassigned. Deficiency

memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction. Where the facility of electronic re-assignment is not available, the present arrangement shall continue.

- f) It has already been clarified vide Circular No. 70/44/2018-GST dated 26.10.2018 that after the issuance of a deficiency memo, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. It is further clarified that the rectified application, which is to be treated as a fresh refund application, will be submitted manually in the office of the jurisdictional proper officer.

3. It may be noted that the documents/statements/undertakings/invoices to be submitted along with the refund application in **FORM GST RFD-01A** are the same as have been prescribed under the CGST Rules and various Circulars issued on the subject from time to time. Only the method of submission of these documents/statements/undertakings/invoices is being changed from the physical mode to the electronic mode. It may also be noted that the other stages of processing of a refund claim submitted in **FORM GST RFD-01A** by the jurisdictional tax officer shall continue to be carried out manually for the time being, as is being presently done.

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

4. 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 ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

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

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with 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 per cent GST) to manufacture output Y (attracting 12 per cent GST).
- ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.
- iii. Further assume that the 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. 385/-.
- vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

Disbursal of refund amounts after sanction:

5. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the claimant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the claimant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of

the application till the date on which the amount is credited to the bank account of the claimant. Accordingly, all tax authorities are advised to issue the final sanction orders in **FORM GST RFD-06** within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days by both Central and State Tax Authorities for CGST / IGST / UTGST / Compensation Cess and SGST respectively.

Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices:

6. There are a large number of applications for refund in **FORM GST RFD-01A** which have been generated on the common portal but have not yet been physically received in the jurisdictional tax offices. With the implementation of electronic submission of refund application, as detailed in para 2 above, this problem is expected to reduce. However, for the applications (except those relating to refund of excess balance in the electronic cash ledger) which have been generated on the common portal before the issuance of this Circular and which have not yet been physically received in the jurisdictional offices (list of all applications pertaining to a particular jurisdictional office which have been generated on the common portal, if not already available, may be obtained from DG-Systems), the following guidelines are laid down:

- a) All refund applications in which the amount claimed is less than the statutory limit of Rs. 1,000/- should be rejected and the amount re-credited to the electronic credit ledger of the applicant through the issuance of **FORM GST RFD-01B**.
- b) For all applications wherein an amount greater than Rs. 1000/- has been claimed, a list of applications which have not been received in the jurisdictional tax office within a period of 60 days starting from the date of generation of ARN may be compiled. A communication may be sent to all such claimants on their registered email ids, informing that the application needs to be physical submitted to the jurisdictional tax office within 15 days of the date of the email. The contact details and the address of the jurisdictional officer may also be provided in the said communication. The claimant may be further informed that if he/she fails to physically submit the application within 15 days of the date of the email, the application shall be summarily rejected and the debited amount, if any, shall be re-credited to the electronic credit ledger.

7. For the applications generated on the common portal before the issuance of this Circular in relation to refund of excess balance from the electronic cash ledger which have not yet been received in the jurisdictional office, the amount debited in the electronic cash

ledger in such applications may be re-credited through **FORM GST RFD-01B** provided that there are no liabilities in the electronic liability register. The said amount shall be re-credited even though the return in **FORM GSTR-3B**, as the case may be for the relevant period has not been filed.

8. For the refund applications generated on the common portal after the issuance of this Circular, and for the refund applications generated on the common portal before the issuance of this Circular and which have been physically received in the jurisdictional tax offices before the issuance of this Circular, the existing guidelines, as modified by this Circular may be followed.

Issues related to refund of accumulated Input Tax Credit of Compensation Cess:

9. Several representations have been received requesting clarifications on certain issues related to refund of accumulated input tax credit of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking. These issues have been examined and are clarified as below:

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

Clarification: In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of CGST/SGST/UTGST/IGST was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of

compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. Further, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of IGST. This process would be applicable for application for refund of compensation cess (not claimed earlier) in respect of the past period.

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

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

- c) **Issue:** A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e. Rs. 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the **FORM GSTR-3B** filed for the month as a result of which an amount of Rs. 50/- only is credited in the electronic credit ledger. The reversed amount (Rs. 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares Rs. 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be Rs. 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the

balance in the electronic credit ledger at the time of filing the refund claim is Rs. 50/- (assuming that no other debits/credits have happened), the system will proceed to debit Rs. 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction Rs. 50/- as the refund amount or Rs. 25/- (i.e. half of the ITC availed after adjusting for reversals)?

Clarification: ITC which is reversed cannot be held to have been 'availed' in the relevant period. Therefore, the same cannot be part of refund of unutilized ITC on account of zero-rated supplies. Moreover, the reversed ITC has been accounted as a cost which would have reduced the income tax liability of the claimant. Therefore, the same amount cannot, at the same time, be refunded to him/her in the ratio of export turnover to total turnover. However, if the said reversed amount is again availed in a later tax period, subject to the restriction under section 16(4) of the CGST Act, it can be refunded in the ratio of export turnover to total turnover in that tax period in the same manner as detailed in para 9(a) above. This is subject to the restriction that the accounting entry showing the said ITC as cost is also reversed.

Non-consideration of ITC of GST paid on invoices of earlier tax period availed in subsequent tax period:

10. Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self declaration basis in **FORM GSTR-3B** for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2017, may be declared in the **FORM GSTR-3B** filed for a subsequent month, say September 2017. This is inevitable in cases where the supplier raises an invoice, say in August, 2017, and the goods reach the recipient's premises in September, 2017. Since GST law mandates that ITC can be availed only after the goods are received, the recipient can only avail the ITC on such goods in the **FORM GSTR-3B** filed for the month of September, 2017. However, it has been observed that field officers are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September, 2017.

11. In this regard, it is clarified that 'Net ITC' as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been 'availed' when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in **FORM GSTR-3B**. Further, section 16(4) of the CGST Act

stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2017, 'availed' in September, 2017 cannot be excluded from the calculation of the refund amount for the month of September, 2017.

Misinterpretation of the meaning of the term “inputs”:

12. 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.

13. 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 GST 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.

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

14. 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, notification No.

Circular No. 79/53/2018-GST

26/2018-Central Tax 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 the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted duty structure.

15. All previous Circulars/Instructions issued on the subject stand modified accordingly. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

16. 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)

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 28th March, 2019

To,

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarifications on refund related issues under GST– Reg.

Various representations have been received seeking clarifications 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 “CGST Act”), hereby clarifies the issues as detailed hereunder:

Sl. No.	Issue	Clarification
1.	Certain registered persons have reversed, through return in FORM GSTR-3B filed for the month of August, 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 read with circular No. 56/30/2018-GST dated 24.08.2018 (hereinafter referred to as the “said notification”). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification	a) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required to be lapsed in terms of the said notification, is to be claimed under the category “any other” instead of under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure” in FORM GST RFD-01A . It is emphasized that this application for refund should relate to the same tax period in which such reversal has

	has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of FORM GST RFD-01A from being higher than the amount of ITC availed in FORM GSTR-3B of the relevant period minus the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?	been made. b) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a “refund claim of unutilized ITC on account of accumulation due to inverted tax structure”. On receiving the said application, the proper officer shall himself calculate the refund amount admissible as per rule 89(5) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”), in the manner detailed in para 3 of Circular No. 59/33/2018-GST dated 04.09.2018. After calculating the admissible refund amount, as described above, and scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05. c) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in FORM GST RFD-01A under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure”.
2.	The clarification at Sl. No. 1 above applies to registered persons who have already	It is hereby clarified that all those registered persons required to make the

	reversed the ITC required to be lapsed in terms of the said notification through return in FORM GSTR-3B . What about those registered persons who are yet to perform this reversal?	reversal in terms of the said notification and who have not yet done so, may reverse the said amount through FORM GST DRC-03 instead of through FORM GSTR-3B .
3.	What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, through the return in FORM GSTR-3B for any month subsequent to August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018?	a) As the registered person has reversed the amount of credit to be lapsed in the return in FORM GSTR-3B for a month subsequent to the month of August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018, he shall be liable to pay interest under sub-section (1) of section 50 of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in FORM GSTR-3B for the month of August, 2018 till the date of reversal of said amount through FORM GSTR-3B or through FORM GST DRC-03, as the case may be. b) The registered person who has reversed the amount of credit to be lapsed in the return in FORM GSTR-3B for any month subsequent to August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f. 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed, either through FORM GSTR-3B or FORM GST DRC-03, along with payment of interest, as applicable.

4.	How should a merchant exporter claim refund of input tax credit availed on supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017 (hereinafter referred to as the “said notifications”)?	a) Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted. b) This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category “any other” instead of under the category “refund of unutilized ITC on account of exports without payment of tax” in FORM GST RFD-01A and shall be accompanied by all supporting documents required for substantiating the refund claim under the category “refund of unutilized ITC on account of exports without payment of tax”. After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.
5.	Vide Circular No. 59/33/2018-GST dated 04.09.2018, it was clarified that after issuance of a deficiency memo, the input tax credit is required to be re-credited	In such cases, the claimant may re-submit the refund application manually in FORM GST RFD-01A after correction of deficiencies pointed out in

through FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund. Accordingly, in several cases, the ITC amounts were re-credited after issuance of deficiency memo. However, it was later represented that the common portal does not allow a taxpayer to file a fresh application for the same period after issuance of a deficiency memo. Therefore, the matter was re-examined and it was subsequently clarified, vide Circular No. 70/44/2018-GST dated 26.10.2018 that no re-credit should be carried out in such cases and taxpayers should file the rectified application, after issuance of the deficiency memo, under the earlier ARN only. It was also further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out. However, no such clarification has yet been issued and several refund claims are pending on this account.	the deficiency memo, using the same ARN. The proper officer shall then proceed to process the refund application as per the existing guidelines. After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.
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2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

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

(Upender Gupta)
Principal Commissioner (GST)

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 28th June, 2019

To,

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

The Principal Director Generals / Director Generals (All)

The Principal CCA, CBIC

Madam/Sir,

**Subject: Processing of refund applications in FORM GST RFD-01A submitted by taxpayers
wrongly mapped on the common portal – reg.**

Doubts have been raised in respect of processing of a refund application by a jurisdictional tax authority (either Centre or State) to whom the application has been electronically transferred by the common portal in cases where the said tax authority is not the one to which the taxpayer has been administratively assigned. The matter has been examined. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues in succeeding paras.

2. It has been reported by the field formations that administrative assignment of some of the tax payers to the Central or the State tax authority has not been updated on the common portal in accordance with the decision taken by the respective tax authorities, in pursuance of the guidelines issued by the GST Council Secretariat, vide Circular No. 01/2017 dated 20.09.2017, regarding division of taxpayer base between the Centre and States to ensure Single Interface under GST. For

example, a tax payer M/s XYZ Ltd. was administratively assigned to the Central tax authority but was mapped to the State tax authority on the common portal.

3. Prior to 31.12.2018, refund applications were being processed only after submission of printed copies of **FORM GST RFD 01A** in the respective jurisdictional tax offices. Subsequent to the issuance of Circular No.79/53/2018-GST dated 31.12.2018, copies of refund applications are no longer required to be submitted physically in the jurisdictional tax office. Now, the common portal forwards the refund applications submitted on the said portal to the jurisdictional proper officer of the tax authority to whom the taxpayer has been administratively assigned. In case of the example cited in para 2 above, as the applicant was wrongly mapped with the State tax authority on the common portal, the application was transferred by the common portal to the proper officer of the State tax authority despite M/s XYZ Ltd. being administratively assigned to the Central tax authority. As per para 2(e) of Circular No. 79/53/2018-GST dated 31.12.2018, the proper officer of the State tax authority should electronically re-assign the said application to the designated jurisdictional proper officer. It has, however, been reported that the said re-assignment facility is not yet available on the common portal.

4. Doubts have been raised as to whether, in such cases, application for refund can at all be processed by the proper officer of the State tax authority or the Central tax authority to whom the refund application has been wrongly transferred by the common portal.

5. The matter has been examined and it is clarified that in such cases, where reassignment of refund applications to the correct jurisdictional tax authority is not possible on the common portal, the processing of the refund claim should not be held up and it should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal. After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably on the common portal so that all subsequent refund applications are transferred to the correct jurisdictional tax authority.

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

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

(Upender Gupta)
Principal Commissioner (GST)

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 29th June, 2019

To,

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

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Customs (All)

The Principal Director Generals / Director Generals (All)

The Principal CCA, CBIC

Madam / Sir,

Subject: - Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange -reg.

The Government vide notification no. 11/2019-Central Tax (Rate), 10/2019-Integrated Tax (Rate) and 11/2019-Union territory Tax (Rate) all dated 29.06.2019 issued in exercise of powers under section 55 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act') has notified that the retail outlets established at departure area of the international airport beyond immigration counters shall be entitled to claim refund of all applicable Central tax, Integrated tax, Union territory tax and Compensation cess paid by them on inward supplies of indigenous goods received by them for the purposes of subsequent supply of goods to outgoing international tourists i.e. to a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes against foreign exchange (hereinafter referred to as the "eligible passengers"). Identical notifications have been issued by the State or Union territory Governments under the respective State Goods and Services Tax Acts (hereinafter referred to as the "SGST Act") or Union Territory Goods and

Services Tax Acts (hereinafter referred to as the “UTGST Act”) also to provide for refund of applicable State or Union territory tax.

2. With a view to ensuring expeditious processing of refund claims, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby specifies the conditions, manner and procedure for filing and processing of such refund claims in succeeding paras.

3. **Duty Free Shops and Duty Paid Shops:** -It has been recognized that international airports, house retail shops of two types - ‘Duty Free Shops’ (hereinafter referred to as “DFS”) which are point of sale for goods sourced from a warehoused licensed under Section 58A of the Customs Act, 1962 (hereinafter referred to as the “Customs Act”) and duty paid indigenous goods and ‘Duty Paid Shops’ (hereinafter referred to as “DPS”) retailing duty paid indigenous goods.

4. **Procurement and supply of imported / warehoused goods:** - The procedure for procurement of imported / warehoused goods is governed by the provisions contained in Customs Act. The procedure and applicable rules as specified under the Customs Act are required to be followed for procurement and supply of such goods.

5. **Procurement of indigenous goods:** - Under GST regime there is no special procedure for procurement of indigenous goods for sale by DFS or DPS. Therefore, all indigenous goods would have to be procured by DFS or DPS on payment of applicable tax when procured from the domestic market.

6. **Supply of indigenous goods by DFS or DPS established at departure area of the international airport beyond immigration counters (hereinafter referred to as “the retail outlets”) to eligible passengers:** The sale of indigenous goods procured from domestic market by retail outlets to an eligible passenger is a “supply” under GST law and is subject to levy of Integrated tax but the same has been exempted vide notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29.06.2019. Therefore, retail outlets will supply such indigenous goods without collecting any taxes from the eligible passenger and may apply for refund as per procedure explained in succeeding paragraphs.

7. **Who is eligible for refund:**

7.1 **Registration under CGST Act:** The retail outlets applying for refund shall be registered under the provisions of section 22 of the CGST Act read with the rules made thereunder and shall have a valid GSTIN.

7.2 Location of retail outlets: Such retail outlets shall be established at departure area of the international airport beyond immigration counters and shall be entitled to claim a refund of all applicable Central tax, State tax, Integrated tax, Union territory tax and Compensation cess paid by them on all inward supplies of indigenous goods received for the purposes of subsequent supply of such goods to the eligible passengers.

8. Procedure for applying for refunds:

8.1. Maintenance of Records: The records with respect to duty paid indigenous goods being brought to the retail outlets and their supplies to eligible passengers shall be maintained as per **Annexure A** in electronic form. The data shall be kept updated, accurate and complete at all times by such retail outlets and shall be available for inspection/verification of the proper officer of central tax at any time. The electronic records must incorporate the feature of an audit trail, which means a secure, computer generated, time stamped record that allows for reconstruction of the course of events relating to the creation, modification or deletion of an electronic record and includes actions at the record or system level, such as, attempts to access the system or delete or modify a record.

8.2. Invoice-based refund: It is clarified that the refund to be granted to retail outlets is not on account of the accumulated input tax credit but is refund based on the invoices of the inward supplies of indigenous goods received by them. As stated in para 6 above, the supply made by such retail outlets to eligible passengers has been exempted *vide* notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29.06.2019 and therefore such retail outlets will not be eligible for input tax credit of taxes paid on such inward supplies and the same will have to be reversed in accordance the provisions of the CGST Act read with the rules made thereunder. It is also clarified that no refund of tax paid on input services, if any, will be granted to the retail outlets.

8.3. Any supply made to an eligible passenger by the retail outlets without payment of taxes by such retail outlets shall require the following documents / declarations:

- (a) Details of the Passport (via Passport Reading Machine);
- (b) Details of the Boarding Pass (via a barcode scanning reading device);
- (c) A passenger declaration as per **Annexure B**;
- (d) A copy of the invoice clearly evidencing that no tax was charged from the eligible passenger by the retail outlet.

8.4. The retail outlets will be required to prominently display a notice that international tourists are eligible for purchase of goods without payment of domestic taxes.

8.5. **Manual filing of refund claims:** In terms of rule 95A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the 'CGST Rules') as inserted vide notification No. 31/2019-Central Tax dated 28.06.2019, the retail outlets are required to apply for refund on a monthly or quarterly basis depending upon the frequency of furnishing of return in **FORM GSTR-3B**. Till the time the online utility for filing the refund claim is made available on the common portal, these retail outlets shall apply for refund by filing an application in **FORM GST RFD-10B**, as inserted vide notification No. 31/2019-Central Tax dated 28.06.2019 manually to the jurisdictional proper officer. The said refund application shall be accompanied with the following documents:

- (i) An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been received by such retail outlets;
- (ii) An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been sold to eligible passengers;
- (iii) Copies of the valid return furnished in **FORM GSTR – 3B** by the retail outlets for the period covered in the refund claim;
- (iv) Copies of **FORM GSTR-2A** for the period covered in the refund claim; and
- (v) Copies of the attested hard copies of the invoices on which refund is claimed but which are not reflected in **FORM GSTR-2A**.

9. Processing and sanction of the refund claim :

9.1. Upon receipt of the complete application in **FORM GST RFD-10B**, an acknowledgement shall be issued manually by the proper officer within 15 days of the receipt of application in **FORM GST RFD-02**. In case of any deficiencies or any additional information is required, the same shall be communicated to the retail outlets by issuing a deficiency memo manually in **FORM GST RFD-03** by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued against one refund application which is complete in all respects.

9.2. The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in **FORM GSTR- 3B** has been filed by the retail outlets. The proper officer may scrutinize the details contained in **FORM RFD-10B**, **FORM GSTR-3B** and **FORM**

GSTR-2A. The proper officer may rely upon **FORM GSTR-2A** as an evidence of the accountal of the supply received by them in relation to which the refund has been claimed by the retail outlets. Normally, officers are advised not to call for hard copies of invoices or details contained in **Annexure A**. As clarified in clause (v) of Para 8.5 above, it is reiterated that the retail outlets would be required to submit hard copies of only those invoices of inward supplies that have not been reflected in **FORM GSTR-2A**.

9.3. The proper officer shall issue the refund order manually in **FORM GST RFD-06** along with the manual payment advice in **FORM GST RFD-05** for each head i.e., Central tax/State tax/Union territory tax/Integrated tax/Compensation Cess. The amount of sanctioned refund along with the bank account details of the retail outlets shall be manually submitted in the PFMS system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to the PAO for disbursal of the said amount.

9.4. Where any refund has been made in respect of an invoice without the tax having been paid to the Government or where the supply of such goods was not made to an eligible passenger, such amount refunded shall be recovered along with interest as per the provisions contained in the section 73 or section 74 of the CGST Act, as the case may be.

9.5. It is clarified that the retail outlets will apply for refund with the jurisdictional Central tax/State tax authority only, however, the payment of the sanctioned refund amount in relation to Central tax / Integrated tax / Compensation Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority. It therefore becomes necessary that the refund order issued by the proper officer of Central Tax is duly communicated to the concerned counter-part tax authority within seven days for the purpose of disbursal of the remaining sanctioned refund amount. The procedure outlined in para 6.0 of Circular No.24/24/2017-GST dated 21stDecember 2017 should be followed in this regard.

10. The scheme shall be effective from 01.07.2019 and would be applicable in respect of all supplies made to eligible passengers after the said date. In other words, retail outlets would be eligible to claim refund of taxes paid on inward supplies of indigenous goods received by them even prior to 01.07.2019 as long as all the conditions laid down in Rule 95A of the CGST Rules and this circular are fulfilled.

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

12. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Principal Commissioner (GST)

Annexure-A**Form to be maintained by a Retail Outlet**

(as per Circular No. 106/25/2019- GST dated 29.06.2019)

Airport:

GSTIN Number:

Inward Supplies										Corresponding Outward Supplies (Not charged to tax)													
Na me of the Sup plier	GS TIN of sup plier	Inv oic e No.	D at e	H S N C od e	Qua ntity	Tax able valu e	Integ rated Tax	Ce ntra l Tax	St at e / U T Ta x	C es	Nam e of Pass enge r	Fli ght No . /da te	Pass port No.	D at e of Iss ue	Arr ival flig ht/ dat e	Tax inv oic e No. /dat e	H S N co de	Qua ntity	Tax able valu e	Integ rated Tax	Ce ntra l Tax	St at e / U T Ta x	C es

Annexure-B

Declaration for purchase of Tax free Goods by a eligible passenger

I (Name _____), holder of the passport No: _____ issued in (country name) declare that I am presently resident of _____, _____ (City / Country) and arrived in India on Flight _____ on _____ (date). I further declare that I have purchased tax free goods from M/s _____ (Name of Retail outlet) vide Invoice No. _____ dated _____.

(Signature)

(Name)

Email

Date:

Place: