

F. No. 450/119/2017-CusIV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes and Customs)

Room No. 227-B, North Block,
New Delhi dated 29th May, 2018

To,

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

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

Sir/ Madam,

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

2. Representations received from trade / exporters coupled with the analysis of data received from GSTN indicates that the exporters have committed mistakes while filing GSTR-1 and GSTR-3B. It has been observed that the exporters have inadvertently mis-declared IGST paid on export supplies as IGST paid on interstate domestic outward supplies while filing GSTR-3B. The exporters have also in certain cases short paid IGST vis-à-vis their liability declared in GSTR1. As a result of these mismatches in the amount of IGST paid on export goods between GSTR-1 and GSTR-3B, the transmission of records from GSTN to Customs EDI system has not happened and consequently IGST refunds could not be processed. The problem is compounded by the fact that the facility to adjust GSTR-3B in subsequent months is not available in all cases.
3. In view of the above following procedure is being prescribed to overcome the problem of refund blockage. This would be an interim solution subject to undertakings/ submission of CA certificates by the exporters as given below and post refund audit scrutiny. The proposed procedure is as under:

A. Cases where there is no short payment:

- (i) The Customs policy wing would prepare a list of exporters whose cumulative IGST amount paid against exports and interstate domestic outward supplies, for the period July' 2017 to March' 2018 mentioned in GSTR-3B is greater than or equal to the cumulative IGST amount indicated in GSTR-1 for the same period. Customs policy wing shall send this list to GSTN.
- (ii) GSTN shall send a confirmatory e-mail to these exporters regarding the transmission of records to Customs EDI system.
- (iii) The exporters whose refunds are processed/ sanctioned would be required to submit a certificate from Chartered Accountant before 31st October, 2018 to the Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export for submission of the said certificate.
- (iv) A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/ State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15th November 2018.
- (v) Non submission of CA certificate shall affect the future IGST refunds of the exporter.
- (vi) The list of exporters whose refunds have been processed as above shall be sent to DG (Audit)/ DG (GST) by the Board.

B. Cases where there is short payment:

- (i) In cases where there is a short payment of IGST i.e. cumulative IGST amount paid against exports and interstate domestic outward supplies together, for the period of July' 2017 to March' 2018 mentioned in GSTR-3B is less than the cumulative IGST amount indicated in GSTR-1 for the same period, the Customs policy wing would send the list of such exporters to the GSTN and all the Chief Commissioner of Customs.
- (ii) e-mails shall be sent by GSTN to each exporter referred in para (i) above so as to inform the exporter that their records are held up due to short payment of IGST. The e--mail shall also advise the exporters to observe the procedure under this circular.
- (iii) The exporters would have to make the payment of IGST equal to the short payment in GSTR 3B of subsequent months so as to ensure that the total IGST refund being

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

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

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

- (v) The exporter would give an undertaking they would return the refund amount in case it is found to be not due to them at a later date.
- (vi) The Customs zones shall compile the list of exporters (GSTIN only), who have come forward to claim refund after making requisite payment of IGST towards short paid amount and complied with other prescribed requirements.
- (vii) The compiled list may be forwarded to Customs policy wing, DG (Audit) and DG (GST). Customs policy wing shall forward the said list of GSTINs to GSTN. On receipt of the list of exporters from Customs policy wing, GSTN shall transmit the records of those exporters to Customs EDI system.
- (viii) The exporters whose refunds are processed/ sanctioned as above would be required to submit another certificate from Chartered Accountant before 31st October, 2018 to the same Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018. A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/ State). The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15th November 2018.
- (ix) Non submission of CA certificate shall affect the future IGST refunds of the exporter.

Post refund audit

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

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

5. DG (GST) shall send the list of exporters to jurisdictional GST officers (both Centre / State) informing that these exporters have taken benefit of the procedure prescribed in this circular. The jurisdictional GST formations shall also verify the payment particulars at their end.
6. This Circular deals only with the cases where the records have not been transmitted by GSTN to Customs EDI system. Once the records are transmitted by GSTN to Customs System based upon the above mentioned procedure, the usual procedure adopted in case of sanction of IGST refunds would have to be followed. In cases where the errors like SB005, SB002, SB006 etc are encountered with the records so transmitted, the provisions of Circulars issued by Board earlier shall apply to them.
7. Field formations may, therefore, take necessary steps to bring these changes to the knowledge of exporters. Difficulties, if any, may be brought to the notice of the Board. Hindi version follows.

Yours faithfully,



(Zubair Riaz)
Director (Customs)

**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)