



PROVISIONS OF REFUND ON GOODS EXPORTED UNDER GST

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Introduction:

In the pre-GST regime, there used to be the complex system for refund of taxes paid on goods exported out of India. A delay in refund causes problem for the exporters/manufacturers in maintaining the working capital and cash flow and thus it was imperative to make the process of refund much smoother under GST. In lieu of this, two alternatives have been specified for exporters to claim Refund under GST regime¹. Under the 1st option, specified under Rule 96 of CGST Rule, 2017², export of goods is made after payment of IGST and thereafter the amount paid under IGST is automatically credited to the bank account with integration of customs server with GSTN on filing of Form GSTR-3. Under the 2nd alternative, specified under Rule 96A of CGST Rules, 2017³, export is made without payment of tax under bond or Letter of undertaking and thereafter refund is claimed for unutilized input tax credit.

Detailed procedures under the Refund Rules are covered in this article.

1st Alternative: Procedure to claim the Refund of IGST paid:

- For Refund of Tax paid **on services**, exporter needs to **file GST-RFD- 1**.
- For Refund of Tax paid **on Goods, Shipping bill filed by an exporter shall be deemed to be an application for refund** of IGST. In this regard, it needs to be ensured that
 - a) Export manifest should contain proper shipping number & date and
 - b) **Valid returns in FORM GSTR-1 and GSTR-3 or FORM GSTR-3B**, as the case may be, should be filed.
- The details of the relevant export invoices contained in FORM GSTR-1 shall be **transmitted electronically by the common portal to the system designated by the Customs**.
- System designated by the Customs shall electronically transmit to the common portal, a **confirmation that the goods covered by the said invoices have been exported out of India**.
- The Department then electronically credit the IGST paid in respect of each shipping bill **to the bank account of the applicant** mentioned in his registration particulars and as intimated to the Customs authorities.
- **The claim for refund shall be withheld** where,-
 - a) There is **default in furnishing of any Return** or any amount is payable for which stay has not been obtained under the Act.
 - b) There is **default in payment of any amount** which is payable under the Act and for which stay has not been obtained under the Act.
 - c) Where an order giving rise to a refund is the **subject matter of an appeal** or further proceeding and **such refund is likely to adversely affect the revenue** in the said appeal or other proceeding on account of malfeasance or fraud committed
 - d) Goods were **exported in violation** of the provisions of the Customs Act, 1962.
- The Proper Officer shall pass an order in **Part B of FORM GST RFD 07** rejecting the refund application after intimating the applicant and appropriate Jurisdiction. Where the applicant becomes entitled to refund of the

¹Section 16 of Integrated GST Act, 2017

²Notification No.-10/2017-Central Tax dated 28th June, 2017

³Notification No.-15/2017-Central Tax dated 1st July, 2017

amount withheld, the proper officer shall proceed to refund the amount after passing an order in **FORM GST RFD 06**.

- If export is made to Bhutan, Central Government will pay refund of IGST to Bhutan Government and not to the exporter for the notified goods. Till now no such notification has yet been issued for any goods.

2nd Alternative: Procedure for the export without payment of tax under Bond/LUT:

- Prior to export, a **Bond or a Letter of Undertaking in FORM GST RFD-11 has to be furnished** online to the jurisdictional Commissioner, binding himself to pay the IGST along with the interest @ 18% within a period of —
 - (a) 15 days after the expiry of 3 months from the date of issue of the invoice for export, **if the goods are not exported out of India**; or
 - (b) 15 days after the expiry of 1 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.**
- Following persons are eligible to file LUT in place of Bond⁴:
 - Status Holder as per Foreign trade policy 2015-2020 or
 - Persons who has received the due foreign inward remittances amounting to a minimum of 10% of export turnover in the preceding financial year. Such remittance should not be less than rupees one crore. Moreover, he should not be prosecuted for any offence under Central GST Act or under any of the existing laws in case where the where the amount of tax evaded exceeds Rs. 2.5 crores.
- The Bond furnished shall be running Bond with debit/credit facility amounting to not less than the outstanding tax liability on exports. Fresh Bond shall be required to be furnished in case the Bond amount falls below the tax liability. The amount of bank guarantee as a security for the Bond shall not exceed 15% of the Bond amount. Bank guarantee will not be required if the jurisdictional Commissioner is satisfied with the track record of exporter. It has been clarified that LUT furnished by eligible persons shall be valid for 12 months.⁵
- Application for refund shall be filed by the exporter in **Form RFD-01** electronically through the common portal after filing of export manifest or export report, accompanied by following documents.
 - (a) For goods: Export invoice and Shipping Bill / Bill of Export
 - (b) For services: Export invoice and BRC/ FIRC
- **Conditions for claiming refund:**
 - (a) Exported goods are not subject to export duty.
 - (b) No drawback of central tax on goods or services is claimed.
 - (c) No refund of IGST paid on outward supply is claimed.
 - (d) GSTR for the relevant tax period is filed.

⁴ Notification No. 16/2017-Central Tax dated 7th July, 2017

⁵ Circular No. 4/4/2017-GST dated 7th July, 2017

- The details of the relevant export invoices contained in FORM GSTR-1 shall be **transmitted electronically by the common portal to the system designated by the Customs.**
- System designated by the Customs shall electronically transmit back to the common portal, a **confirmation that the goods covered by the said invoices have been exported out of India.**
- Where the **goods are not exported within 3 Months from date of export invoice and the registered person fails to pay the amount mentioned**, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the recovery provisions of the Act⁶.
- The export shall be **restored immediately as and when the registered person pays the amount due.**
- Provisional refund of **90% of the refund** claimed shall be **granted within 7 days** from the date of acknowledgement.
- Final refund to be granted within **60 days of application for refund.**
- The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond. Till now, no such conditions/safeguards have been notified.
- The provisions mentioned above shall also be applicable (as far as possible) for zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.

Relaxation in export procedure for the transitional period:

The aforesaid export procedures have become operational with the inception of GST from 01.07.2017. However, to allow smooth transition to new regime, Government has allowed a grace period to the registrants to file returns under the new GST Law and also the existing Shipping Bill formats have been modified to make them compliant with the IGST law. Thus, refund procedure can be initiated only after the returns have been filed. Problems are also being faced to export under Bond/LUT since the Form RFD-11 to be furnished to Jurisdictional Commissioner is not available on the common portal.

The plight of exporters has been resolved by the Government by allowing **the manual filing of Bond/LUT in duplicate in the annexure to Form RFD-11 to the jurisdictional Deputy/Assistant Commissioner** till the availability of module for furnishing of Form RFD-11 is available on the common portal⁷. Moreover, exports may be allowed under **existing LUTs/Bond till 31st July, 2017** and LUTs/Bond in the revised format has to be furnished by 31st July, 2017.⁸

⁶Section 79 of Central GST Act, 2017

⁷Circular No. 2/2/2017-GST dated 4th July, 2017

⁸ Circular No. 4/4/2017-GST dated 7th July, 2017

Sealing of Containers⁹:

For the ease of business, the provision of sealing of containers under the supervision of central excise officer has been done away with by the Board. Thus, the exporters registered under GST law and filing Returns can follow the procedure of self sealing of containers. To avail the simplified procedure exporter should observe certain conditions as enumerated.

❖ Self Sealing:

- Exporter should be registered under GST and file returns.
- He should intimate to the Jurisdictional Customs Officer, the details of the premises where container stuffing will be carried out.
- Any exporter desirous of availing this procedure shall inform the Superintendent or Appraiser of Customs, at least 15 days before the first planned movement of a consignment from his/her factory/ premises, about the intention to follow self- sealing procedure.
- The jurisdictional Superintendent or Inspector of Customs shall inspect the premises (where the export goods will be stuffed & sealed for export) with regard to viability of stuffing of container in the premises and submit a report to the appropriate Jurisdiction within 48 hours. The appropriate Jurisdiction will then forward the proposal to the Principal Commissioner/Commissioner of Customs who would then grant permission for self-sealing at the approved premises. Once the permission is granted, the exporter shall furnish only intimation, mentioning place and address of the approved premises, description of export goods and whether or not any incentive is being claimed, to the jurisdictional Superintendent or Customs each time self-sealing is carried out at approved premises.
- Once, Principal Commissioner/Commissioner of Customs permits for Self-Sealing, it shall be valid for export at all the customs stations.
- Transport document prescribed under the GST Laws shall be applicable for the movement of self-sealed container from factory or warehouse. For a Non-GST registrant exporter, way bill or transport challan or lorry receipt shall be the transport document.
- The exporter shall seal the container with the tamper proof electronic-seal of standard specification covering the name of the exporter, IEC code, GSTIN number, description of the goods, tax invoice number, name of the authorized signatory (for affixing the e-seal) and Shipping Bill number. It should also contain a unique number which should be declared in the Shipping Bill.
- If the exporter doesn't want to employ a custom broker, he may clear the goods by filing Shipping Bill under Digital Signature.
- The customs officer would verify the integrity of the electronic seals to check for tampering at the port/ICD as the case may be. However, random or intelligence based selection of such containers for examination / scanning would continue.

⁹Circular No. 26/2017-Customs dated 1st July, 2017

❖ **Sealing at Container Freight Station / ICD: It is applicable for -**

- (a) The exporter not registered under GST, except in case of Status Holders.
- (b) Status Holders recognized by DGFT under a valid status holder certificate issued in this regard.
- (c) The case where permission for self-stuffing is denied.

The above revised procedure regarding sealing of containers shall be effective from 01.09.2017. Till 31.08.2017, the existing practice of sealing the container with a bottle seal under Central Excise supervision or otherwise would continue.

Conclusion:

Processing of the refund applications under GST is expected to be a faster and smoother process. Since all the data is going to be uploaded electronically, the verification and scrutinization of refund applications would be faster. The refund of tax and ITC under GST would be a simpler process as compared to the pre-GST scenario. Trust based environment has also been established by encouraging self sealing of containers by exporters and ensuring a strong Risk Management System and Intelligence setup of the department.



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