

GOODS AND SERVICE TAX

Chapter 2

REFUNDS

When taxable person has paid extra GST, he becomes entitled for Refund. GST refund can be claimed in the following cases :

- ▶ GST paid on zero rated supplies (export and supplies made to SEZ)
- ▶ GST on inputs used for making zero rated outward supplies.
- ▶ GST on output is considerably low than GST on inputs (IP-18%, OP 5%)
- ▶ Excess Tax paid by mistake
- ▶ International Tourists

Section 54 :

- ▶ Claim refund within 2 years from the relevant date.
- ▶ However, if refund is of any balance lying in electronic cash ledger, may claim refund in the return.
- ▶ Claim refund within 6 months from the end of the quarter in which inward supply is acquired by followings :

Specialized agency of UNO.

Multilateral Financial Institutions.

Organizations notified under UNO Act.

Consulate or Embassy of foreign country.

Any other person or class of person as notified u/s. 55.

Registered person may claim refund of any unutilized ITC at the end of a tax period only for :

- ▶ Zero rated supplies made without payment of tax.
- ▶ ITC accumulated as a result of GST on output is considerably low than GST on inputs (IP-18%, OP 5%)
- ▶ GST on output is considerably low than GST on inputs (IP-18%, OP 5%)
- ▶ **No Refund** if goods are exported out of India which are subject to export duty.
- ▶ **No Refund** if supplier avails drawback of CGST or claims refund of IGST paid on such supplies.

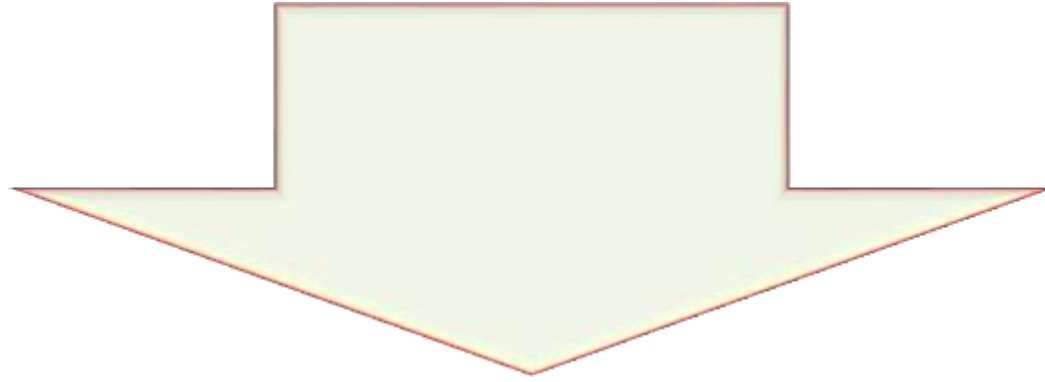
Refund application shall be accompanied by :

- ▶ Documentary evidence to establish that refund is due.
- ▶ Documentary evidence to establish that Tax and interest or any other amount paid was collected from, or paid by him and the incidence of such tax and interest had not been passed on to any other person.
- ▶ If refund is less than Two Lakhs, no documentary evidence is required to be submitted but he must have the documents mentioned above.

- ▶ On receipt of the refund application, officer, if satisfied may make an order of refund.
- ▶ Officer may grant 90% of claimed refund on provisional basis, if refund is on account of zero rated goods by registered person other than such categories as may be prescribed.
- ▶ Refund order to be passed within 60 days of application.
- ▶ Refund to be paid instead of crediting to the fund, if :
 - ▶ Refund is on account of tax paid on export of goods or ITC on inputs used for such exports.
 - ▶ Unutilized ITC.
 - ▶ Tax paid and Transactions cancelled subsequently.
 - ▶ Refund u/s. 77
 - ▶ Incidence of tax is not passed on.
 - ▶ Tax or interest paid by persons as may be specified by Govt

- ▶ No refund shall be granted except in accordance with sub section 8, even if there is order, judgement, decree, order or direction of the appellate tribunal or court or under any other law for the time being in force.
- ▶ If refund is due to the person who defaulted in return filing, or who is required to pay tax, interest, penalty and such payment is not stayed by the court, tribunal or appellate authority by the specified date, the proper officer may :
 - ▶ Withhold the refund until return is filed or tax paid.
 - ▶ Deduct from the refund due, any amount of tax payable but not paid.

Refund can be withheld after giving an opportunity of being heard



If order of refund is subject to appeal further

OR

Other proceedings are ending under this act



AND

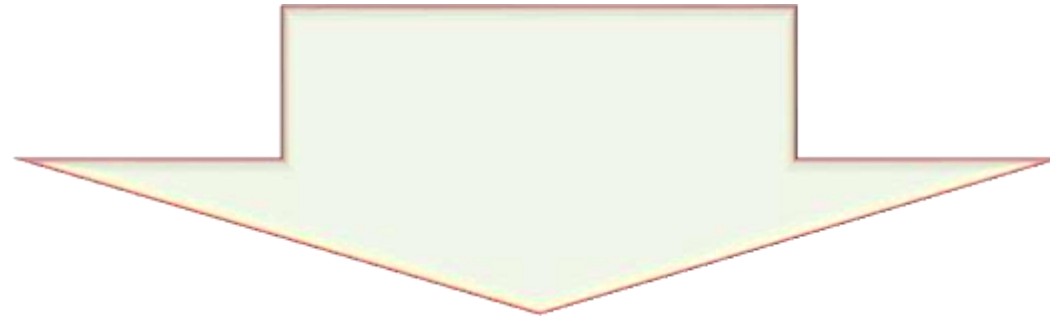
Commissioner is of the opinion that refund will adversely affect revenue in the said appeal or other proceedings on account of fraud committed

When refund is with held, interest should be paid to the assessee not exceeding 6% p.a.

Refund to Casual Taxable person or non resident taxable person



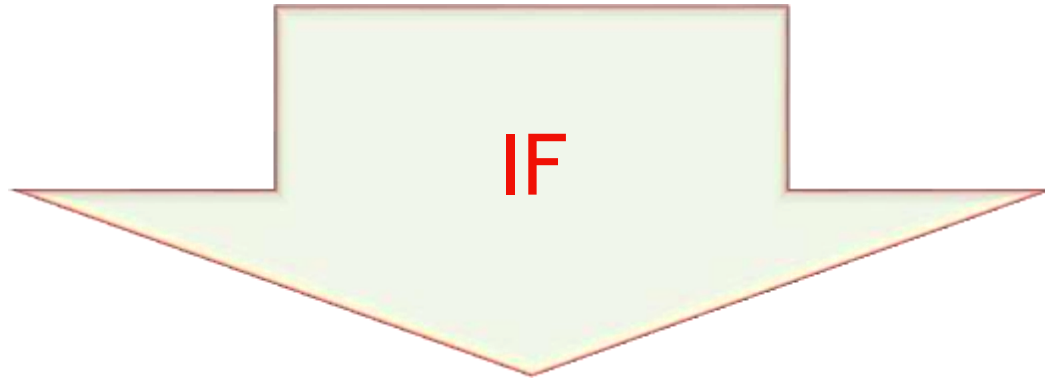
Such person had furnished all the required returns



For the period for which their registration remained in force.

Refund application by exporter shall be filed only after the export manifest or export report is delivered.

NO REFUND



Refund amount is less than ONE THOUSAND RUPEES.

Please refer page no 27 for explanations

Elppe Ltd. Exported goods in the month of October 2018, worth of 20 Lakhs. Export is zero rated. ITC of IGST is 2 Lakh, CGST is 1.6 Lakh, SGST 1.6 Lakh. Find the amount of refund.

| Particulars | IGST | CGST | SGST | Total |
|-------------|----------|----------|----------|----------|
| Output Tax | 0 | 0 | 0 | 0 |
| - Input Tax | 2,00,000 | 1,60,000 | 1,60,000 | 5,20,000 |
| Refund | 2,00,000 | 1,60,000 | 1,60,000 | 5,20,000 |

Application for Refund for supply of goods / service made to developer of SEZ or SEZ unit

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Goods
File after

Goods admitted in full in the SEZ and specified officer endorsed the admission of the goods on documents.

A large, light green downward-pointing arrow with a thin red border. Inside the arrow, the text "Services" and "File with" is written in red.

Services
File with

Evidence regarding receipt of the services for authorized operations are endorsed by the specified officer of the Zone. Unit or developer will have to give the list of services received.

TSC is located in SEZ in Mumbai. Supply of Services exported in the month of October 2018 is 30L. Rate of tax is 18%. ITC on services CGST 1.8L, SGST 1.1L. Find the refund amount.

| Particulars | IGST | CGST | SGST | Total |
|----------------------------------|----------|----------|----------|----------|
| Output Tax on Export of Services | 0 | 0 | 0 | 0 |
| - Input Tax | 1,10,000 | 1,80,000 | 1,80,000 | 4,70,000 |
| Refund | 1,10,000 | 1,80,000 | 1,80,000 | 4,70,000 |

The export from SEZ is zero rated and Rs. 4,70,000 is refundable.

Deemed Exports

Refund of GST paid on inputs used for making goods which are deemed to be export goods.

- ▶ Following are supplies notified as deemed export :
 - ▶ Supply by registered person against advance authorization
 - ▶ Supply by registered person to EOU.
 - ▶ Supply of CAPITAL goods by registered person against Export Promotion Capital Goods Authorization.
 - ▶ Supply of goods by banks or PSUs against advance authorization.

Inverted Duty Structure

- ▶ Where credit accumulated as a result of high rate of GST on inputs and low rate of GST on Output.

Eg.:

| Particulars | CGST | SGST | Total |
|-------------|----------|----------|----------|
| Output Tax | 1,20,000 | 1,20,000 | 2,40,000 |
| - Input Tax | 2,60,000 | 2,60,000 | 5,20,000 |
| Refund | 1,40,000 | 1,40,000 | 2,80,000 |

Refund is because of inverted duty structure and it can be claimed as a refund only.

Refund of ITC is **NOT** Allowed

- ▶ Where goods are exported out of India are subject to Export duty.
- ▶ If supplier avails draw back in respect of CGST or claims refund of IGST paid on such supplies.

Refund of ITC is ALLOWED for following cases

- ▶ Taxes paid by UN bodies or Multilateral Financial Institutions or Embassies.
- ▶ Wrong collection of Tax, (collection under wrong major head)
- ▶ On direction of Appellate Tribunal or court.
- ▶ Tax paid on provisional assessment and becomes refundable as a consequent of final assessment.
- ▶ Tax paid but Supplied didn't took place and bill cancelled subsequently.

APPLICATION FOR CLAIMING REFUND SHALL BE MADE **WITHIN 2 YEARS** FROM THE RELEVANT DATE.

- ▶ Please refer table on Page No. 32 for definition of relevant dates.
- ▶ Refund application of other than IGST to be filed in GSTRFD-01 through GST portal
- ▶ Electronic cash ledger balance may be claimed as a refund through return filed.

Documents required

- ▶ Documentary evidence that refund is due to the applicant.
- ▶ Documents showing that there is no unjust enrichment (CA Certificate).
- ▶ If refund is less than 2L, no documents are required.
- ▶ In case of export of services, realization of Forex is must.
- ▶ Refer to the table on page no. 35 for more information.

Acknowledgement for refund shall be provided where the application of refund relates to :

- ▶ Balance in cash ledger, ack must be made available through GST portal, indicating the date of filing the claim.
- ▶ Other refund claims, the refund application shall be forwarded to the proper officer, who shall, within 15 days scrutinize the application and if found complete, provide acknowledgement to the applicant.
- ▶ If any deficiency found in the claim, the same shall be communicated to the applicant by the proper officer and the applicant shall file fresh rectified application.

Order of Refund

- ▶ Within 60 days of refund application
- ▶ If proper officer finds that part or full refund is due
- ▶ Pass an order for the relevant amount
- ▶ To be credited to the consumer welfare fund
- ▶ However, if officer finds that refund is payable to the applicant
- ▶ Make an order of amount of refund on provisional basis
- ▶ And amount adjusted against any demand out of refund, if any
- ▶ The balance is refundable

Refund to be paid to the applicant instead of credit to the fund in the following cases :

- ▶ Tax paid on inputs used for making goods which are zero rated (mostly supplied to export, SEZ).
- ▶ Tax paid on sales on account of exports or SEZ sales.
- ▶ Accumulated ITC on account of Inverted Duty Structure.
- ▶ Tax paid but Supplied didn't took place and bill cancelled subsequently.
- ▶ Wrong collection of Tax, (collection under wrong major head)
- ▶ Tax, Interest or any other amount paid, if incidence of tax is not passed on.
- ▶ If Govt notifies any person on recommendation of the council.
- ▶ Refund will not be issued on basis of any order of court or tribunal. Refund will be issued only in accordance with the provisions of the act.

Rejection of Refund Claim

- ▶ If proper officer is satisfied for rejection.
- ▶ Reason of rejection to be recorded in writing.
- ▶ That whole or any part of the refund is not admissible or is not payable.
- ▶ Issue notice to the applicant.
- ▶ Requiring him to furnish a reply within 15 days from serving of the notice.
- ▶ After considering reply, officer may approve or reject the application.
- ▶ Order shall give reason for rejection.
- ▶ Application shall not be rejected without giving an opportunity of being heard to the applicant.

Withholding of Refund Claim

- ▶ Where commissioner is of the opinion that refund is liable to be withheld.
- ▶ Pass an order informing the applicant the reasons for withholding.
- ▶ Refund may be withheld :
 - ▶ Where there is any refund of unutilized ITC is due.
 - ▶ In case of zero rated supplies made without payment of tax Or Inverted duty structure.
 - ▶ If default is there in furnishing the return or require to pay tax, interest etc.
 - ▶ No stay order for such tax, interest etc. from court.
 - ▶ Deduct outstanding tax, interest, fee, penalty etc. from the refund.

Applicant eligible for the interest @ 6% p.a. on the refund with held and subsequently becomes payable to the applicant.

Conditions to be satisfied for sanction of refund

- ▶ Valid Tax invoice must be there.
- ▶ Tax invoice must show tax paid separately.
- ▶ Tax invoice must contain GSTIN
- ▶ Such other restriction and conditions as may be prescribed.

Interest on delayed refund

- ▶ If order is passed for refund.
- ▶ AND If refund is not paid within 60 days from date of application.
- ▶ Interest at such rate not exceeding 6% as may be prescribed.
- ▶ Interest start from the date immediately after expiry of 60 days.
- ▶ If refund is paid as a result of any order, 60 days from date of application to the court. **Rate of Interest not exceeding 9%.**

Refund to the international tourists :

- ▶ IGST paid by tourist leaving India on goods they are taking out of India.
- ▶ Refunded in such manner and subject to such conditions and safeguards, as may be prescribed.