CHAPTER 15

REFUNDS

The section numbers referred to in the Chapter pertain to CGST Act and rule numbers referred to in the Chapter pertain to CGST Rules, unless otherwise specified. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2026.

LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- identify the situations leading to refund claim
- explain the time limit for claiming refund and concept of 'relevant date' to calculate such time limit
- identify the conditions to be satisfied and documents to be filed to claim the refund in different circumstances
- illustrate the circumstances under which refund claim may be withheld by the Department
- explain the 'principle of unjust enrichment'
- describe the provisions relating to 'Consumer Welfare Fund'.
- explain provisions relating to refund to UN Bodies, Embassies, etc.
- explain the provisions relating to refund of tax wrongfully collected and paid to Central Government or State Government
- compute the interest payable to the applicant on delayed refunds

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1. INTRODUCTION



Timely refund mechanism is essential in tax administration, as it facilitates trade through the release of blocked funds for working capital, expansion and modernisation of existing business.

The provisions pertaining to refund contained in the GST law aim to streamline and standardise the refund procedures under GST regime. Under the GST regime, there is a standardised form for making any claim for refunds. The claim and sanctioning procedure is primarily online and time bound, which is a marked departure from the earlier time consuming and cumbersome procedure. Further, provisions relating to refund are more transparent as compared to provisions contained in the earlier indirect tax regime.



Chapter XI - Refunds [Sections 54 to 58] of the CGST Act, 2017 and Chapter X – Refund [Rule 89 to 97A] of the CGST Rules, 2017 stipulates the provisions relating to refunds. State GST laws also prescribe identical provisions in relation to refunds. Further, section 15 of the IGST Act, 2017 prescribes for the refund of integrated tax paid on supply of goods to tourist leaving India.



Provisions of Refunds under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

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Following provisions have been discussed in this Chapter:

Chapter XI of CGST Act: Refunds	
Section	**Section**
54	Refund of tax
55	Refund in certain cases
56	Interest on delayed refunds
57	Consumer Welfare Fund
58	Utilisation of fund
Chapter VI of IGST Act: Refund of integrated tax to international tourist	
Section	**Particulars**
15	Refund of integrated tax paid on supply of goods to tourist leaving India.
Chapter X of CGST Rules: Refund	
Rule	**Particulars**
89	Application for refund of tax, interest, penalty, fees or any other amount
90	Acknowledgement
91	Grant of provisional refund
92	Order sanctioning refund
93	Credit of the amount of rejected refund claim
94	Order sanctioning interest on delayed refunds
95	Refund of tax to certain persons
95B	Refund of tax paid on inward supplies of goods received by Canteen Stores Department

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96	Refund of integrated tax paid on goods or services exported out of India
96A	Export of goods or services under bond or Letter of Undertaking
96B	Recovery of refund of unutilized input tax credit or integrated tax paid on export of goods where export proceeds are not realized within stipulated time
97	Consumer Welfare Fund
97A	Manual filing and processing

Before proceeding into detailed provisions of the chapter, let us first go through the relevant definitions.

2. RELEVANT DEFINITIONS

- **Drawback:** in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods; [Section 2(42)]
- **Refund:** Refund includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under section 54(3) [Explanation 1 to section 54].
- **Tourist**: "Tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes [Explanation to section 15 of the IGST Act, 2017].
- **Zero rated supply:** Zero-rated supply shall have the meaning assigned to it in section 16 [Section 2(23) of the IGST Act]. As per section 16(1) of IGST Act, "zero rated supply" means any of the following supplies of goods or services or both, namely:–

  (a) export of goods or services or both; or

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(b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit.

❖ **Recipient of goods or services:** "Recipient" of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

3. REFUND OF TAX [SECTION 54 OF THE CGST ACT]

A. Situations leading to refund claims

A claim for refund may arise in the following situations:

(i) Export/supply to SEZ developer/unit on payment of IGST



In case where notified class of goods and/or services are exported or, notified class of persons export goods and/or services or supply goods and/or services to an SEZ developer/unit, **on payment of IGST**, subject to such conditions, safeguards and procedure as may be prescribed, refund of such IGST paid on goods and/or services supplied is available [Section 16(4) of IGST Act].

(ii) Refund of unutilized ITC – In case of export/supply to SEZ developer/unit **without payment of IGST** or in case of inverted duty structure, refund of unutilized ITC is available.

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(iii) Refund of tax paid on the supply of goods regarded as deemed exports may be claimed.



(iv) Refund of any balance in the electronic cash ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made there under may be claimed [Section 49(6)].

(v) Refund on account of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued (tax paid on advance payment).

(vi) Refund of tax wrongly collected and paid to the Government (i.e. CGST & SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice versa) [Section 77 of the CGST Act and section 19 of the IGST Act].

(vii) Refund of the IGST paid by tourist leaving India on any supply of goods taken out of India by him [Section 15 of IGST Act].

(viii) Tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any Court.

(ix) On finalization of provisional assessment, if any tax becomes refundable to taxpayer (on account of assessed tax on final assessment being less than the tax deposited by the taxpayer) [Section 60].

(x) Refund of taxes on purchases made by UN bodies or embassies etc. [Section 54(2)].

(xi) Refund of advance tax deposited by a casual taxable person/ Non-resident taxable person [Section 54(13)].

(xii) Refund of additional IGST paid on account of upward revision in price of the goods subsequent to exports, and on which the refund of IGST paid at the time of export of such goods has already been sanctioned [Section 54(1)].

(xiii) Refund of excess payment of tax.

The list is only indicative and not exhaustive. Detailed provisions relating to some of the sections referred above have been discussed in the other chapters at respective places.

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B. Application for refund claim [Rule 89]

1. Application Form for claiming refund [Section 54(1) and 49(6) read with rule 89]

❑ Any person[1] claiming refund of any tax, interest, penalty, fees or any other amount paid by him may file an application in **Form GST RFD-01** electronically through GST common portal [Section 54(1) read with rule 89(1)].

Refund in general cases

❑ Any person, claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to exports, and on which the refund of IGST paid at the time of export of such goods has already been sanctioned as per rule 96, may file an application for such refund of additional IGST paid, electronically in **Form GST RFD-01** through the common portal. [Section 54(1) read with rule 89(1B)].

Refund of additional IGST paid on account of upward revision in price of goods subsequent to exports

❑ A registered person claiming **refund of any balance in the electronic cash ledger** in accordance with the provisions of section 49(6), may claim such refund in **Form GST RFD-01** electronically through GST common portal [Section 49(6) and proviso to section 54(1) read with rule 89(1)].

Refund in excess balance of electronic cash ledger.

[1] *except the persons covered by notification issued under section 55 like UN Bodies, Embassies etc.*

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Refund of TDS/TCS deposited in electronic cash ledger as excess balance in cash ledger: The amount deducted/collected as TDS/TCS by TDS/ TCS deductors/collectors under the provisions of section 51 /52 and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose of discharging tax liability.

TDS/TCS credited to electronic cash ledger can also be claimed as refund.

The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers.

Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under the CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger as above[2].

- Further, a registered person, who has been issued a certificate of registration under GST, shall undergo Aadhaar authentication for filing of refund application in Form GST RFD-01.

- However, in case of **refund of IGST paid on goods exported out of India**[3], there is no need for filing a separate refund application in Form GST RFD-01 since the **shipping bill filed by the exporter is itself treated as a refund claim**.

Refund of tax paid on export of goods

Shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India [Rule 96]. *The provisions relating to refund of IGST on export of goods outside India have been discussed in detail subsequently in this chapter.*

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[2] *Circular No. 166/22/2021 GST dated 17/12/2021*

[3] *Refund of IGST paid on goods exported out of India is available either where class of goods exported are notified or class of persons making zero-rated supply of goods are notified u/s 16(4).*

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Filing of refund claim:

❑ **Supplies regarded as deemed exports**:



In respect of supplies regarded as deemed exports, either recipient or supplier are allowed to file the refund application. The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the supplier can seek refund only in case where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Second proviso to rule 89(1)].

Either supplier or recipient allowed to file refund application in case of deemed exports.

In a case when the refund is claimed by the recipients, the GST portal requires them to first debit the amount equivalent to the refund claimed from their electronic credit ledger. They have to furnish an undertaking stating that refund has been claimed only for those invoices which have been detailed in Form GST RFD-01 for the tax period for which refund is being claimed and the amount does not exceed the amount of ITC availed in the valid return filed for the said tax period[4].

[4] *Circular No. 147/03/2021 GST dated 12.03.2021*

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Entire amount paid by the recipient available as ITC even if blocked in terms of section 17(5): Further, it is important to note that the ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of section 17. This implies that entire amount paid by the recipient will be available as ITC irrespective of the fact whether it is blocked in terms of section 17(5)[5][6].

Further, there arose a question as to whether the ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is to be included in the "Net ITC" for computation of refund of unutilised ITC under rule 89(4) & rule 89(5) *(discussed subsequently in this chapter)*. It is clarified that as seen above, since the ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the

[5] *Circular No. 172/04/2022 GST dated 06.07.2022*

[6] *Provisions of Blocked Credit are discussed in detail in Chapter 7 – Input Tax Credit in Module 2 of this Study Material.*

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provisions of Chapter V of the CGST Act, **such ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is NOT TO BE INCLUDED IN THE "NET ITC" FOR COMPUTATION OF REFUND OF UNUTILISED ITC on account of zero-rated supplies under rule 89(4) or on account of inverted rated structure under rule 89(5)**[7].

- **Supplies to a Special Economic Zone unit or a Special Economic Zone developer:** In respect of supplies to a SEZ unit/developer, 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 evidence regarding receipt of services for authorised operations as endorsed by the specified officer of SEZ [First proviso to rule 89(1)].

  Explanation - For the purposes of this sub-rule, **"specified officer"** means a "specified officer" (Joint/ Deputy/ Assistant Commissioner of Customs for the time being posted in SEZ) or an "authorised officer" (Inspector/ Preventive Officer/ Superintendent of Customs posted in SEZ and authorised by specified officer to discharge any of his functions) under SEZ Rules.

- **Supplies by Casual taxable person (CTP) /Non-resident taxable person (NRTP)**[8]: The amount of advance tax deposited by a casual taxable person or a non-resident taxable person under section 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39 [Section 54(13)].

Refund to be claimed only after the last return required to be furnished has been so furnished by CTP/NRTP.

[7] *Circular No. 172/04/2022 GST dated 06.07.2022*

[8] *The concept of casual taxable person and non-resident taxable person has been explained in detail in Chapter 8 – Registration in Module 2 of this Study Material.*

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Further, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed only after the last return required to be furnished by him has been so furnished [Third proviso to rule 89(1)].

2. Time limit within which refund claim can be filed



Any person claiming refund of any tax, interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of **2 years from the 'Relevant Date'** in prescribed form and manner [Section 54(1)].



✪ ***It has been clarified that time limit of 2 years is not applicable in case of refund of excess balance in the electronic cash ledger***[9]

✪ ***In case where proper officer has issued a Deficiency Memo to the applicant requiring him to file a fresh refund claim, the time period from the date of filing of the refund claim till the date of communication of the deficiencies in the prescribed form by the proper officer, shall be excluded from the above period of '2 years' [Proviso to rule 90(3)].***

Meaning of 'Relevant Date' [Explanation 2 to section 54]



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

[9] *Circular No. 166/22/2021 GST dated 17/12/2021*

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<table>
<tr><th>S.No.</th><th>Cases</th><th>Relevant Date</th></tr>
<tr><td rowspan="4">1</td><td colspan="2">In case of goods exported out of India[10] where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs/input services used in such goods and</td></tr>
<tr><td>(i) goods are exported by sea or air</td><td>date on which the ship or the aircraft in which such goods are loaded, leaves India</td></tr>
<tr><td>(ii) goods are exported by land</td><td>date on which such goods pass the frontier</td></tr>
<tr><td>(iii) goods are exported by post</td><td>date of dispatch of goods by the Post Office concerned to a place outside India</td></tr>
<tr><td colspan="3">
</td></tr>
<tr><td>2</td><td>In case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods</td><td>Date on which the return relating to such deemed exports is furnished, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient. As the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the</td></tr>
</table>

[10] *In case of upward revision of the price of the goods subsequent to exports, refund of additional IGST paid on the same can be claimed within 2 years from the relevant date mentioned here.*

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		relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier[11].



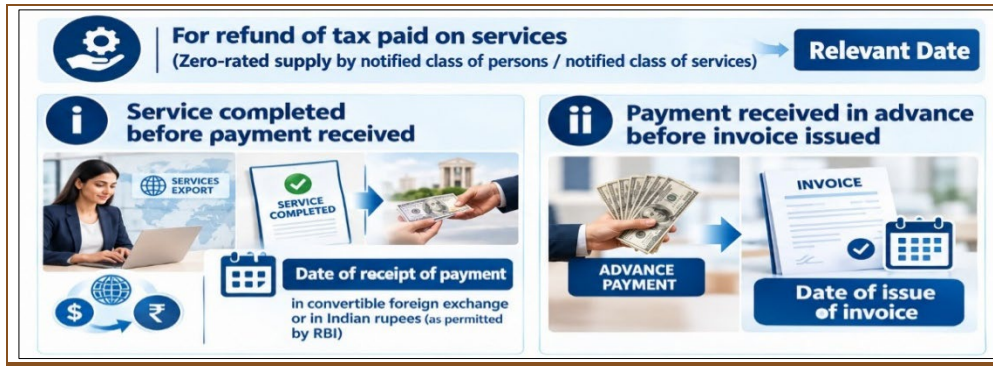
3	In case of **zero-rated supply of goods or services or both to a SEZ developer or a SEZ unit** where a refund of tax paid is available in respect of such supplies themselves (in case of zero-rated supply by notified class of persons), or as the case may be, the inputs or input services used in such supplies	Due date for furnishing of return under section 39 in respect of such supplies



[11] *Circular No. 166/22/2021 GST dated 17/12/2021*

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4	**In case of services exported out of India** where a refund of tax paid is available in respect of services themselves (in case of zero-rated supply by notified class of persons or supply of notified class of services), as the case may be, the inputs or input services used in such services, and	
	(i) the supply of services had been completed prior to the receipt of such payment	Date of receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India
	(ii) payment for the services had been received in advance prior to the date of issue of the invoice	Date of issue of invoice

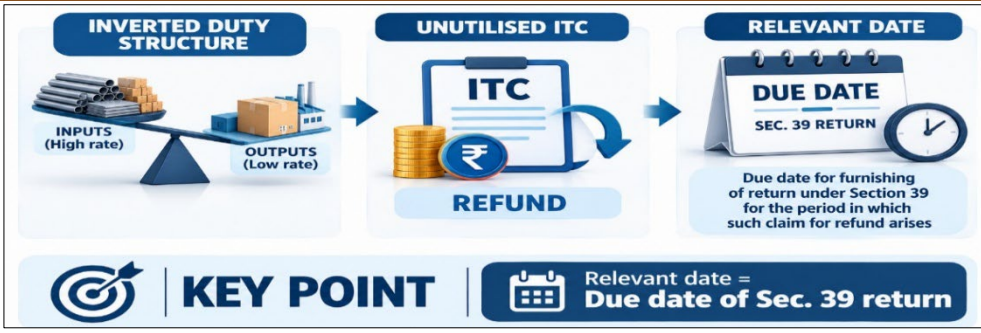


5	Where tax becomes refundable as a consequence of **judgment, decree, order or direction** of the Appellate Authority, Appellate Tribunal/any court	Date of communication of such judgment, decree, order or direction



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6	In case of refund of **unutilised ITC** on account of inverted duty structure	Due date for furnishing of return under section 39 for the period in which such claim for refund arises



7	In the case where tax is paid provisionally under this Act/rules made thereunder	Date of adjustment of tax after the final assessment thereof



8	In the case of a person, other than the supplier	Date of receipt of goods or services or both by such person



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9	Any other case	Date of payment of tax



Bunching of refund claims across financial years

While filing the refund claim, an applicant may, at his option, file a refund claim for a tax period or by clubbing successive tax periods. Earlier, there was a restriction on bunching of refund claims across financial years; subsequently, said restriction was also relaxed.

For instance, a registered person opting to file Form GSTR-1 on quarterly basis can apply for refund on a quarterly basis or clubbing successive quarters and these quarters may spread across different financial years. Thus, he can file refund claim for quarters: Jan-Mar, Apr-Jun and July-Sep, while filing the refund claim[12].



[12] *Circular No.135/05/2020 GST dated 31.03.2020*

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3. Documentary evidences for filing refund claim



The applicant need not file elaborate documents along with the refund claim. Standardised and easy to understand documents have been prescribed. Thus, for every claim the main document prescribed is a statement of relevant invoices/shipping bills (NOT THE INVOICES THEMSELVES) pertaining to the claim.

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

Section 54(4)

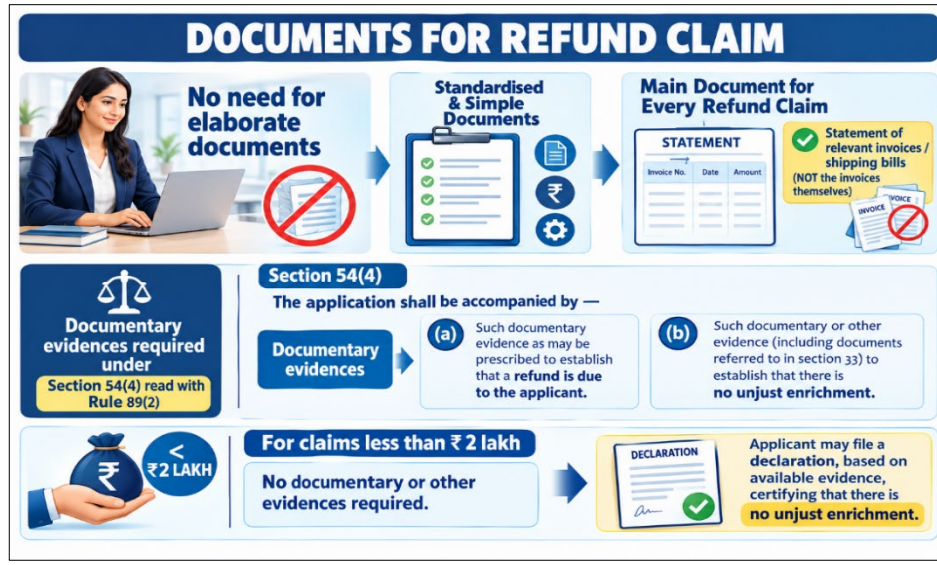
Section 54(4) stipulates that the **application shall be accompanied by** —

(a) such documentary evidence as may be prescribed **to establish that a refund is due to the applicant;** and

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

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

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Rule 89(2)

In pursuance of said provisions, rule 89(2) has provided that the application for filing of refund claim shall be accompanied by any of the following documentary evidences as applicable, in Annexure 1 of Form GST RFD-01 for refund claim, to establish that a refund is due to the applicant:

In case where refund is on account of	***Documentary evidence to be submitted***[13]
A judgment, decree, order/direction of Appellate Authority, Appellate Tribunal/any Court	*The reference number of the order and copy of the order passed by the proper officer or an Appellate Authority or Appellate Tribunal or Court resulting in such refund or reference number of the payment of the amount specified in section 107(6) and section 112(8) claimed as refund (i.e. amount to be deposited at the time of filing of appeal before Appellate Authority or Appellate Tribunal).*
export of services	*statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates (BRC/FIRC), as the case may be*

[13] *The documentary evidences as prescribed under rule 89(2) given in this table are given here only for the reference of the students. They are not relevant for the examination purpose.*

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export of goods, other than electricity	*a statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices.* *It is important to note that realization of convertible foreign exchange or Indian Rupees wherever permitted by RBI is one of the conditions for export of services whereas in case of export of goods, realization of consideration is not a pre-condition. Consequently, documentary evidence in the form of a statement containing no. and date of relevant BRCs/FIRCs are not required here[14].* *However, in case of non-realization of consideration in terms of FEMA, the exporter shall deposit the amount so refunded to the extent of non-realization of sale proceed along with interest within 30 days [Rule 96B] [discussed in detail subsequently in this chapter].*
export of electricity	*(i) a statement containing:* ❑ *number and date of the export invoices,* ❑ *details of energy exported,* ❑ *tariff per unit for export of electricity as per agreement,* *(ii) copy of Statement of Scheduled Energy for exported electricity by Generation Plants[15] and* *(iii) the copy of agreement detailing the tariff per unit*
upward revision in price of the goods subsequent to exports	*A statement containing:* ❑ *number and date of export invoices along with copy of such invoices,* ❑ *the number and date of shipping bills or bills of export along with copy of such shipping bills or bills of export,* ❑ *the number and date of Bank Realisation Certificate (BRC) or Foreign Inward Remittance Certificate (FIRC) in respect of such shipping bills or bills of export along with copy of such BRC/FIRC.[16]*

[14] *Circular No. 37/11/2018-GST dated 15.03.2018*

[15] *This Statement is issued by the Regional Power Committee Secretariat as a part of the Regional Energy Account (REA) under clause (nnn) of sub-regulation 1 of Regulation 2 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010.*

[16] *foreign inward remittance certificate issued by Authorised Dealer-I Bank in respect of additional foreign exchange remittance received in respect of upward revision in price of exports.*

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	❑ *the details of:* ✓ *refund already sanctioned,* ✓ *the number and date of relevant supplementary invoices or debit notes issued subsequent to the upward revision in prices along with copy of such supplementary invoices/debit notes.* ❑ *the details of:* ✓ *payment of additional amount of IGST,* ✓ *proof of payment of such additional amount of integrated tax and interest paid thereon,* ✓ *number and date of FIRC in respect of additional FOREX received in respect of upward revision in price of exports alongwith copy of such FIRC.* *Certificate issued by a practicing-chartered accountant or a cost accountant to the effect that the said additional FOREX remittance is on account of such upward revision in price of the goods subsequent to exports* *Copy of contract or other documents, as applicable.* *A reconciliation statement reconciling the value of supplies declared in supplementary invoices, debit notes or credit notes issued along with relevant details of BRC or FIRC.*	
supply of goods is made to a SEZ unit or a SEZ developer	*statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding goods admitted in full for authorized operations as endorsed by the specified officer of SEZ.*	*In addition, a declaration to the effect that tax has not been collected from the SEZ unit/ SEZ developer is also required to be furnished.*
supply of services made to a SEZ unit or a SEZ developer	*statement containing the number and date of invoices, the evidence regarding receipt of services for authorized operations as endorsed by the specified officer of SEZ, and the details of payment, along with proof thereof, made by the recipient to the supplier for authorized operations as defined under the SEZ Act, 2005.*	

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deemed exports	*Statement containing the number and date of invoices along with an:* *(i) acknowledgment by the jurisdictional Tax officer of the Advance Authorisation (AA) holder or Export Promotion Capital Goods (EPCG) Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said AA/EPCG Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient EOU that said deemed export supplies have been received by it.* *(ii) undertaking by the recipient of deemed export supplies that no ITC on such supplies has been availed of by him.* *(iii) undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund*[17]*.*
refund of any unutilised ITC accumulated on account of inverted duty structure	*a statement containing the number and the date of the invoices received and issued during a tax period*
finalisation of provisional assessment	*reference number of the final assessment order and a copy of the said order*
tax wrongly collected and paid to the Government	*Statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply*
excess payment of tax	*Statement showing the details of the amount of claim on account of excess payment of tax*
agreement or contract for supply of service has been cancelled or terminated and the	*Statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier,*

[17] *Notification No. 49/2017 CT dated 18.10.2017*

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*refund is claimed by an unregistered person (Please refer the detailed discussion given after the Table**)*	*the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof*
	A certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices.

Note - Documentary evidence pertaining to passing of incidence of tax

Declaration *where refund claim ≤ ₹2 lakh*

Further, a declaration needs to be furnished to establish that there is no unjust enrichment in the case of the applicant[18], in a case **where the amount of refund claimed does not exceed ₹ 2 lakh**.

Certificate *where refund claim > ₹2 lakh*

However, **where the amount of refund claimed exceeds ₹ 2 lakh**, a Certificate in Annexure 2 of Form GST RFD-01 needs to be furnished by a Chartered Accountant or a Cost Accountant to the effect that there is no unjust enrichment in the case of the applicant. However, said certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax.

No Certificate No declaration required

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

[18] *Establishing that there is no unjust enrichment means establishing that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person. This concept has been discussed in detail later in this chapter.*

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(a) refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports;

(b) refund of unutilised ITC in case of zero rated supplies made without payment of tax or on account of inverted duty structure;

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which *invoice* has not been issued, or where a refund voucher has been issued. *The expression **"invoice"** referred here means invoice conforming to the provisions contained in section 31*[19].



(d) refund of tax in pursuance of section 77, i.e. tax paid on a transaction treating it as an intra-State supply, but which is subsequently held to be an inter-State supply or *vice-versa*.

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

Further, neither a declaration by the applicant nor a certificate by a Chartered Accountant/Cost Accountant is required to be furnished in case of refund of excess balance in electronic cash ledger[20]

Annexure-2

Certificate [rule 89(2)(m)]

This is to certify that in respect of the refund amounting to Rs.<<>> ---------- (in words) claimed by M/s---------- (Applicant's Name) GSTIN/ Temporary ID------- for the tax period < ---->, the incidence of tax and interest, has not been passed on to any other person. This certificate is based on the examination of the books of account and other relevant records and returns particulars maintained/ furnished by the applicant.

Signature of the Chartered Accountant/ Cost Accountant:

Name:

Membership Number:

Place:

Date:

Note - This Certificate is not required to be furnished by the applicant, claiming refund under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54 of the Act.

[19] *Provisions relating to 'invoice' have been discussed in detail in Chapter 9 – Tax Invoice; Credit and Debit Notes in Module 2 of this Study Material.*

[20] *Circular No. 166/22/2021 GST dated 17/12/2021*

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**** Prescribing manner of filing an application for refund by unregistered persons**

There are cases where the unregistered buyers, who had entered into an agreement/ contract with a builder for supply of services of construction of flats/ building, etc. and had paid the amount towards consideration for such service, either fully or partially, along with applicable tax, had to get the said contract/ agreement cancelled subsequently due to non-completion or delay in construction activity in time or any other reasons. In a number of such cases, the period for issuance of credit note on account of such cancellation of service under the provisions of section 34 may already have got expired by that time. In such cases, the supplier may refund the amount to the buyer, after deducting the amount of tax collected by him from the buyer.

Similar situation may arise in cases of long-term insurance policies where premium for the entire period of term of policy is paid upfront along with applicable GST and the policy is subsequently required to be terminated prematurely due to some reasons. In some cases, the time period for issuing

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credit note under the provisions of section 34 may have already expired and therefore, the insurance companies may refund only the proportionate premium net off GST[21].

Section 54(1) provides that **ANY PERSON** can claim refund, by making an application upto 2 years from the relevant date. Further, in terms of section 54(8)(e), in cases where the unregistered person has borne the incidence of tax and has not passed on the same to any other person, the said refund shall be paid to him instead of being credited to Consumer Welfare Fund (CWF).

Thus, in order to enable such unregistered person to file application for refund under section 54(1) in the situations discussed above, a functionality is available on the common portal which allows unregistered persons to take a temporary registration and apply for refund under the category **'Refund for Unregistered person'** in Form GST RFD -01. Further, rule 89(2) provides for the documents required to be furnished along with the application of refund by the unregistered persons and the statement to be uploaded along with the said refund application, as mentioned in Table given earlier.

Moreover, it has been provided that a certificate by a Chartered Accountant or a Cost Accountant to the effect that there is no unjust enrichment in the case of the applicant is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax even if the amount of refund claimed exceeds ₹ 2 lakh.

Relevant date for filing of refund

As seen earlier, the relevant date in respect of cases of refund by a person other than supplier is the date of receipt of goods or services or both by such person. In the given cases of refund, the date of issuance of letter of

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[21] *Where the time period for issuance of credit note under section 34 has not expired at the time of cancellation/termination of agreement/contract for supply of services,the concerned suppliers can issue credit note to the unregistered person. In such cases, the supplier would be in a position to also pay back the amount of tax collected by him from the unregistered person and therefore, there will be no need for filing refund claim by the unregistered persons in these cases. Accordingly, the refund claim can be filed by the unregistered persons only in those cases where at the time of cancellation/termination of agreement/contract for supply of services, the time period for issuance of credit note under section 34 has already expired. Provisions relating to credit note have been discussed in detail in Chapter 9 – Tax Invoice, Credit and Debit Notes in Module 2 of this Study Material.*

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cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant.

In cases where the amount paid back by the supplier to the unregistered person on cancellation/termination of agreement/contract for supply of services is less than amount paid by such unregistered person to the supplier, only the proportionate amount of tax involved in such amount paid back shall be refunded to the unregistered person[22].



C. Procedure on receipt of refund claim

1. Acknowledgment of refund claim [Rule 90]

I. Where the application relates to:

(a) Claim for refund from the electronic cash ledger:

Acknowledgement of refund

An acknowledgment in prescribed form shall be made available to the applicant[23], clearly indicating the date of filing of the claim for refund [Rule 90(1)].

[22] *Circular No. 188/20/2022 GST dated 27.12.2022*

[23] *through the Common Portal electronically*

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(b) Other refund claims:

- The application shall be forwarded to the proper officer.
- The proper officer shall, **within a period of 15 days of filing of the said application**, scrutinize the application for its completeness.
- Where the **application is found to be complete** in terms of rule 89, an **acknowledgement** in prescribed form shall be made available to the applicant through the common portal electronically [Rule 90(2)]. Refund acknowledgment clearly indicates the date of filing of the claim for refund.

II. Deficiencies in refund claim – Issuance of Deficiency Memo:

- Where **any deficiencies are noticed**, the proper officer shall communicate the deficiencies to the applicant in **Deficiency memo**[24], requiring him **to file a fresh refund application after rectification of such deficiencies** [Rule 90(3)].

  Deficiency Memo

  The time period from the date of filing of the refund claim till the date of communication of the deficiencies in the prescribed form by the proper officer, shall be excluded from the period of '2 years' as specified under section 54(1), in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

- Where deficiencies have been communicated to applicant under the SGST Rules, 2017, the same shall also deemed to have been communicated under this rule along with the deficiencies communicated under CGST Rules, 2017 [Rule 90(4)].

III. Withdrawal of refund claim

- The applicant may, at any time before issuance of provisional refund sanction order or final refund sanction order or payment order or refund withhold order or show-cause notice, in respect

[24] *through the Common Portal electronically*

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of any refund application filed, withdraw the said application for refund by filing an application in the prescribed form [Rule 90(5)].

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

2. Grant of provisional refund [Section 54(6) read with rule 91]

GST law provides for grant of provisional refund of 90% of the total refund claim, in case the claim relates for refund **arising on account of zero-rated supplies**. The provisional refund would be paid **within 7 days** after giving the acknowledgement. The remaining 10% can be refunded later after due verification of documents furnished by the applicant. The provisional refund would not be granted to such supplier who was, during any period of 5 years immediately preceding the tax period to which the claim for refund relates, was prosecuted for any offence where the amount of tax evaded exceeds ₹ 2.5 crores.



90% of the total refund claim is paid within 7 days where refund arises on account of zero-rated supplies

Detailed provisions have been outlined hereunder:

Section 54(6) stipulates that:

- The proper officer may, in the case of any claim for **refund on account of zero-rated supply of goods or services or both** made by registered persons,
- **other than** such category of registered persons as may be **notified** by the Government on the recommendations of the Council *(said notified category of persons are discussed in subsequent paras)*,
- **refund on a provisional basis, 90% of the total amount so claimed**,
- in such manner and subject to such conditions, limitations and safeguards as may be prescribed** and

thereafter make an order under section 54(5) for final settlement of the

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refund claim after due verification of documents furnished by the applicant.

Conditions, limitations and safeguards have been prescribed under rule 91. It stipulates as following:

- The provisional refund shall be granted subject to the condition that the person claiming refund has, during any period of 5 years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law **where the amount of tax evaded exceeds ₹ 2.5 crores**.
- ***The proper officer, on the basis of identification and evaluation of risk by the system, shall make an order in the prescribed form, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding 7 days from the date of the acknowledgement under rule 90(1)/90(2).***

  The proper officer, for reasons to be recorded in writing, may not grant refund on provisional basis and proceed with the order under rule 92.

  However, said order shall not be required to be revalidated by the proper officer.
- The proper officer shall issue a payment order for the amount sanctioned. The same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund on the basis of a consolidated payment advice.

  However, the payment order shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment order was issued.
- The Central Government shall disburse the refund based on the consolidated payment advice.

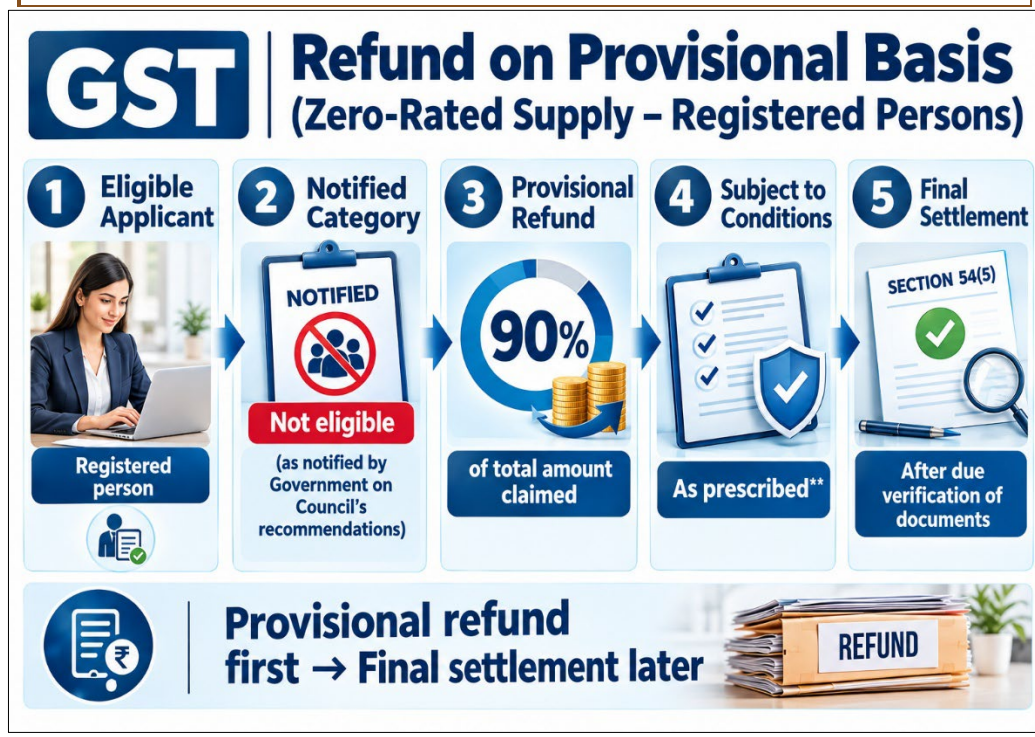
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Category of registered persons not be allowed refund on provisional basis

(a) Any person, who has not undergone Aadhaar authentication under rule 10B.

(b) Any person, who is engaged in the supply of the following goods:-

S. No.	*Chapter/ Heading/ Sub-heading/ Tariff item of the First Schedule to the Customs Tariff Act, 1975*	*Description of Goods*
1.	*0802 80*	*Areca nuts*
2.	*2106 90 20*	*Pan masala*
3.	*24*	*Tobacco and manufactured tobacco substitutes*
4.	*3301*	*Essential oils*



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3. Order of refund [Section 54(5), (7) read with rule 92]

- Section 54(5) stipulates that if, on receipt of any such application, the proper officer is satisfied that the whole/part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Consumer Welfare Fund *[discussed in detail subsequently]*.

- However, in certain specified circumstances, the refundable amount is to be paid to the applicant instead of being credited to the Consumer Welfare Fund [Section 54(8)] – *Discussed in detail subsequently]*.

- **Refund order:** Rule 92(1) provides that

  - ✓ where, upon examination of the application, the proper officer is satisfied that **a refund** under section 54(5) **is due and payable to the applicant**,



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- ✓ he shall **make an order sanctioning the amount of refund** to which the applicant is entitled,
- ✓ **mentioning therein** the (i) amount, if any, refunded to him on a provisional basis, (ii) amount adjusted against any outstanding demand[25] and (iii) the balance **amount refundable**.

❑ **Refund to be granted both in cash and credit, based on original mode of payment:** The refund of tax shall be made proportionately, in cash and by recrediting the credit, based on original mode of payment. The amount refundable in cash shall be paid by issuance of order in prescribed from and the amount attributable to credit as ITC shall be recredited in the electronic credit ledger by issuing prescribed form.

Where, upon examination of a refund application, the proper officer is satisfied that a refund under section 54(5) is due and payable to the applicant:

(i) the proper officer shall make a refund order in prescribed form sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and

(ii) for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue prescribed form re-crediting the said amount as ITC in electronic credit ledger.

The above provision shall not apply to the refund of tax paid on zero-rated supplies or deemed export [Rule 92(1A)].

❑ **Where the proper officer is satisfied that the amount refundable under rule 92(1)/(1A)/(2)[26] is payable to the applicant[27]** instead of being credited to Consumer Welfare Fund, he shall make an refund

[25] *under the CGST Act or under any existing law*
[26] *Rule 92(2)- withholding of refund - has been discussed subsequently*
[27] *under section 54(8)*

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order in prescribed form and issue a payment order for the amount of refund.

Amount of refund shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund on the basis of a consolidated payment advice.

Refund credited to applicant's bank account

The refund order issued in prescribed form shall not be required to be revalidated by the proper officer.

However, the payment order shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment order was issued [Rule 92(4)].

The Central Government shall disburse the refund based on the consolidated payment advice [Rule 92(4A)].

- **Where the proper officer is satisfied that the amount refundable under rule 92(1)/(1A)/(2) is not payable to the applicant[28],** he shall make a refund order and issue an payment order for the amount of refund to be credited to the Consumer Welfare Fund [Rule 92(5)].

Refund credited to Consumer Welfare Fund

- **Time-limit for issuance of refund order:** Refund order shall be issued by the proper officer within **60 days from the date of receipt of application** complete in all respects [Section 54(7)].

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



[28] *under section 54(8)*

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4. Issue of SCN and rejection of refund claim [Rule 92(3)]

In case the claim is sought to be rejected by the proper officer, a notice has to be given online to the applicant stating the ground on which the refund is sought to be rejected. The applicant needs to respond online within 15 days from the receipt of such notice. Thus, no claim can be rejected without putting the applicant to notice. The detailed provisions have been discussed hereunder:

- Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice to the applicant in prescribed form.



- Applicant will be required to furnish a reply within **15 days** of the receipt of such notice in prescribed form.
- The proper officer shall, after considering the reply furnished by applicant and after giving him an opportunity of being heard, make an order, sanctioning the amount of refund in whole or part, or rejecting the said refund claim.
- The said order shall be made available to the applicant electronically and the provisions of rule 92(1) relating to order sanctioning refund shall, *mutatis mutandis*, apply to the extent refund is allowed.
- No application for refund shall be rejected without giving the applicant an opportunity of being heard.

5. Withholding of refund claim [Section 54(10), (11) & (12)]



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

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The detailed provisions are as under:

Rule 92(2) stipulates that where the proper officer/Commissioner is of the opinion that the amount of refund is liable to be withheld under the provisions of section 54(10)/(11), he shall pass an order informing the applicant the reasons for withholding of such refund.

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

- **Section 54(10)** stipulates that where any refund is due to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any Court, Tribunal or Appellate Authority by the **specified date****, the proper officer may:

  (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

  (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

  ****Specified date** shall mean the last date for filing an appeal under this Act.

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

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

as notified vide **Notification No. 13/2017 CT dated 28.06.2017*

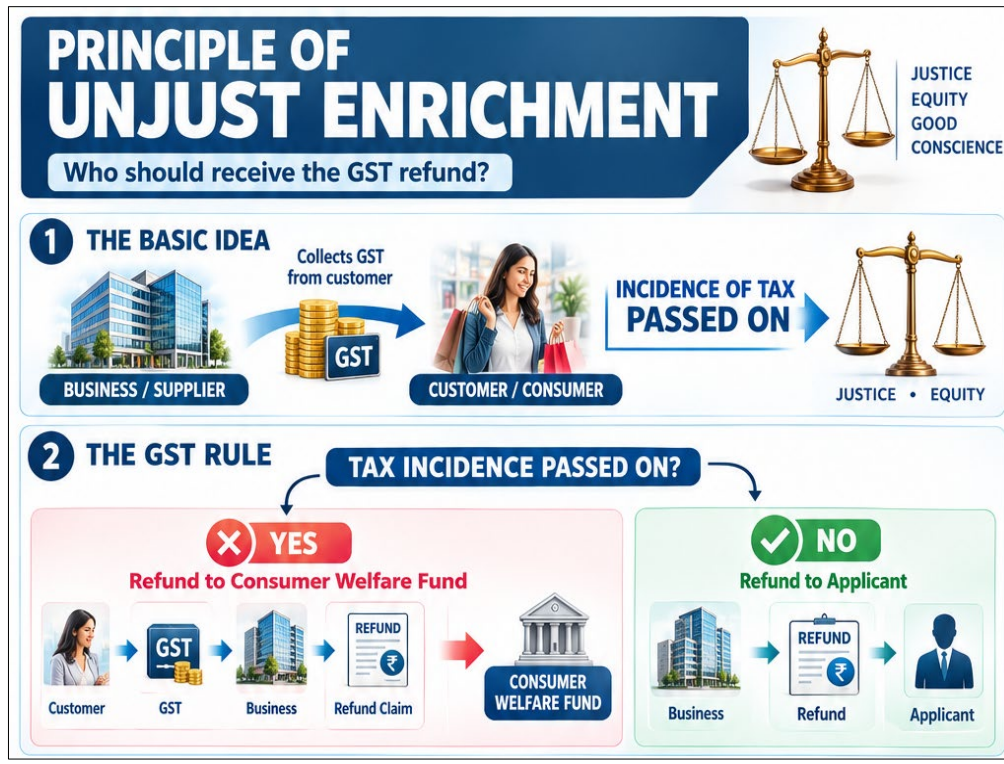
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6. Credit of the amount of rejected refund claim [Rule 93]

- Where any deficiencies in refund claim have been communicated under rule 90(3) *[Rule 90(3) is discussed earlier],* the amount earlier debited under rule 89(3) shall be re-credited to the electronic credit ledger [Rule 93(1)].
- Where any amount claimed as refund is rejected under rule 92, 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 prescribed form [Rule 93(2)].
- For the purposes of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal [Explanation to rule 93].

D. Principle of Unjust Enrichment [Section 54(8), (8A) & (9)]

1. Theory of unjust enrichment



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- **'Unjust enrichment'** means retention of a benefit by a person that is unjust or inequitable. 'Unjust enrichment' occurs when a person retains money or benefits which in justice, equity and good conscience, belong to someone else.

Theory of unjust enrichment

  This principle stipulates that no person can be allowed to enrich inequitably at the expense of another. A right of recovery under the doctrine of 'unjust enrichment' arises where retention of a benefit is considered contrary to justice or against equity[29].

- Theory of unjust enrichment, under GST, postulates that only the person who has **NOT** passed the incidence of tax will be eligible to claim the refund.

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

- Under unjust enrichment, a presumption is always drawn that the businessman will shift the incidence of tax to the final consumer. This is because GST is an indirect tax whose incidence is to be borne by the consumer. It is for this reason that every refund claim if sanctioned is first transferred to the Consumer Welfare Fund.

- If the claim of refund (barring specified exceptions) passes the test of unjust enrichment, it is paid to the applicant. The GST law makes this test inapplicable in case of refund of unutilized ITC, refund on account of exports, refund of payment of wrong tax (IGST instead of CGST + SGST and vice versa), refund of tax paid on a supply, which is not provided or when refund voucher is issued or if the applicant shows that he has not passed on the incidence of tax to any other person *[These cases have been given in detail in next point]*. In all other cases, the test of unjust enrichment needs to be satisfied for the claim to be paid to applicant.



[29] *Sahakari Khand Udyog Mandal Ltd. v. Commissioner of Central Excise & Customs 2005 (181) ELT 328 S.C*

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- As discussed earlier, for crossing the bar of unjust enrichment, if the refund claim is upto ₹ 2 lakh, then a self-declaration of the applicant to the effect that the incidence of tax has not been passed to any other person will suffice to process the refund claim. For refund claims exceeding ₹ 2 lakh, a certificate from a Chartered Accountant/Cost Accountant will have to be given.

2. Cases where theory of unjust enrichment is not applicable

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



(a) refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports;

(b) refund of unutilized ITC in case of zero-rated supplies made without payment of tax or accumulated ITC on account of inverted duty structure;

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77, i.e. tax paid on a transaction treated to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

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

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3. Disbursement of refund of State Tax

The Government may disburse the refund of the State tax in such manner as may be prescribed [Section 54(8A)].

4. Refundable amount to be credited to Consumer Welfare Fund in all other cases

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

E. Refund of unutilized ITC

The provisions relating to refund of unutilized ITC have been compiled and discussed as under:

1. Accumulation of Input Tax Credit (ITC)

Accumulation of Input Tax Credit (ITC) happens when the tax paid on inward supply is more than the tax liability on outward supply. Such accumulation can be utilized by the registered person for payment of output tax liability.



However, the GST Law permits refund of unutilised ITC at the end of a tax period in two scenarios, namely if such credit accumulation is on account of zero rated supplies or on account of inverted duty structure, subject to certain exceptions. In such cases, the Electronic Credit Ledger is to be debited by the applicant by an amount equal to the refund so claimed [Rule 89(3)].

2. Cases where refund of unutilized ITC is available

As per section 54(3), a registered person may claim refund, of any **unutilised ITC at the end of any tax period**[30], in the following cases:

(a) Zero rated supplies without payment of tax [Section 54(3)(i)]: Zero Rated supply means supply of goods and/ or services for authorised

[30] *A tax period is the period for which return is required to be furnished [Section 2(106)].*

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operations to an SEZ developer/unit or export of goods and/or services. A registered person making zero rated supply may supply goods and/or services under bond or Letter of Undertaking (LUT) without payment of IGST and claim refund of unutilized ITC[31].

(b) Inverted duty structure [Section 54(3)(ii)]: The term **'inverted duty structure'** has not been defined in the GST, however it refers to a situation where the rate of tax on inputs is higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except supply of goods or services as may be notified by the government.

Suppliers who supply goods to merchant exporters at the concessional rate of 0.1% [0.05% CGST and 0.05% SGST/UTGST or 0.1% IGST, as the case may be], under *Notification No. 40/2017 CT (R) dated 23.10.2017/ Notification No. 41/2017 IT (R) dated 23.10.2017*, subject to certain conditions specified in said notifications *[Discussed in detail in Chapter 14 – Import and Export under GST in this Module of the Study Material],* are also eligible for refund on account of inverted tax structure.

Supply of specified goods/services where refund of unutilized ITC on account of inverted duty structure is NOT allowed: Government may, on the recommendations of the Council, notify supplies of certain goods or services or both where no refund of unutilized ITC on account of inverted duty structure is allowed.

For instance, supply of construction of complex services specified in para 5(b) of Schedule II of the CGST Act, rail locomotives powered from an external source of electricity or by electric accumulators, soya bean oil, olive oil, palm oil, coal, lignite, peat etc [32].

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[31] *It is important to note that notified class of persons may make zero-rated supply or notified class of goods or services may be exported, on payment of IGST and refund of such tax paid on goods and/or services supplied may be claimed.*

[32] *Notification No. 15/2017 CT (R) dated 28.06.2017 and Notification No. 5/2017 CT (R) dated 28.06.2017. Examples given herein are only for information purpose.*

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However, it is clarified that this restriction on refund of unutilized ITC of GST paid on inputs is not applicable in case of zero-rated supply of specified goods or services, i.e. (a) exports of said goods or services or both; or (b) supply of said goods or services or both to a SEZ developer/unit *[Circular No. 18/18/2017 GST dated 16.11.2017]*.

3. Application Form for claiming refund

The application for refund in such cases shall be filed in Form RFD-01.

4. Time-limit for claiming refund

Refund claim on account of inverted duty structure or on account of accumulated ITC in case of exports of goods/ services made against LUT/ bond without payment of IGST, the refund claim can be filed within 2 years from the relevant date; *relevant date is discussed earlier in heading B in this chapter*.

5. Doctrine of unjust enrichment not applicable

In such cases, the refundable amount shall, instead of being credited to the **Consumer Welfare Fund**, be paid to the applicant. In other words, doctrine of unjust enrichment is not applicable in these cases.

6. Amount to be claimed as refund

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



$$\text{Refund Amount} = \frac{\text{(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services)}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

where,-

A. **"Refund amount"** means the maximum refund that is admissible;

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B. **"Net ITC"** means ITC availed on inputs  *(see "Clarification on the term input" given subsequently)* and input services during the relevant period.

C. **"Turnover of zero-rated supply of goods"** means

(i) the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/letter of undertaking

or

(ii) value which is **1.5 times the value of like goods domestically supplied** by the same or, similarly placed, supplier, as declared by the supplier,

whichever is less. 

D. **"Turnover of zero-rated supply of services"** means the value of zero-rated supply of services made without payment of tax under bond or LUT, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

E. **"Adjusted Total Turnover"** means the sum total of the value of:

(a) the turnover in a State or a Union territory, as defined under section 2(112), excluding turnover of services; &

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

excluding **the value of exempt supplies other than zero-rated supplies during the relevant period**.

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F. "Relevant period" means the period for which the claim has been filed.

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

(i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or

(ii) the value declared in tax invoice or bill of supply,

whichever is less.

Clarifications regarding manner of calculation of 'ADJUSTED TOTAL TURNOVER' under rule 89(4)

(1) Value of goods exported out of India

The **value of goods exported out of India** to be included while calculating **"Adjusted Total Turnover" WILL BE SAME** as being determined as per the above Explanation inserted in the said sub-rule[33].

(2) Restriction of 'Turnover of zero-rated supply of goods' to 1.5 times the value of like goods domestically supplied

As seen above, **"Adjusted Total Turnover"** includes "Turnover in a State/UT". As per section 2(112), "Turnover in a State/UT" includes turnover/ value of export/ zero-rated supplies of goods.

Now the definition of the term **'Turnover of zero-rated supply of goods'** used in the above formula restricts the same to 1.5 times the value of like goods domestically supplied by the same/similarly placed supplier/as declared by the supplier.

It is clarified that the same value of zero-rated/ export supply of goods, as calculated as per the definition of **"turnover of zero-rated supply of goods"**, needs to be taken into consideration

[33] *Circular No. 197/09/2023 GST dated 17.07.2023*

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while calculating "turnover in a State or a Union Territory", and accordingly, in "adjusted total turnover" for the purpose of this sub-rule.

Thus, the restriction of 1.5 times of the value of like goods domestically supplied, as applied in "turnover of zero-rated supply of goods", would also apply to the value of "adjusted total turnover" here.

In short, for the purpose of rule 89(4), the value of export/ zero-rated supply of goods to be included while calculating "adjusted total turnover" **WILL BE SAME** as being determined as per the amended definition of "Turnover of zero-rated supply of goods" in this sub-rule.

The same can explained by the following example where actual value per unit of goods exported is more than 1.5 times the value of same/ similar goods in domestic market, as declared by the supplier:



Suppose a supplier is manufacturing only one type of goods and is supplying the same goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table below:

Net admissible ITC = ₹ 270

Outward Supply	Value per unit (₹)	No of units supplied	Turnover (₹)	Turnover as per amended definition (₹)
Local (Quantity 5)	200	5	1,000	1,000
Export (Quantity 5)	350	5	1,750	1,500 [1.5×(5×200)]
Total			2,750	2,500

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

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

Turnover of zero-rated supply of goods (as per amended definition) = ₹ 1,500

Adjusted Total Turnover= ₹ 1,000 + ₹ 1,500 = ₹ 2,500 [and not ₹ 1,000 + ₹ 1,750]

Net ITC = ₹ 270

Refund Amount = ₹ (1,500 × 270)/2,500 = ₹ 162

Thus, the admissible refund amount in the instant case is ₹ 162[34].

(iv) **Rule 89(5)** stipulates that in the case of refund on account of **inverted duty structure**, maximum refund of ITC shall be granted as per the following formula –



$$= \frac{\text{Turnover of inverted rated supply of goods \& services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \left[\text{Tax payable on such inverted rated supply of goods \& services} \times \frac{\text{Net ITC}}{\text{ITC availed on inputs \& input services}}\right]$$

where,-

A. **"Net ITC"** means ITC availed on **inputs** during the relevant period *(See Notes – 1 & 2 and "Clarification on the term input" given below)*; and

[34] *Circular No. 147/03/2021 GST dated 12.03.2021*

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B. **"Adjusted Total turnover and Relevant period"** have the same meaning as assigned in sub-rule (4) above.



Note - 1: It may be noted that in rule 89(5), in 'Net ITC', ITC availed on only inputs is covered. Since the definition of inputs[35] doesn't include services or capital goods, it is apparent here 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 ITC accumulated on account of inverted duty structure[36].



Note: If there are multiple inputs attracting different rates of tax, 'Net ITC' in rule 89(5) covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax. 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% GST) and input B (attracting 18% GST) to manufacture output Y (attracting 12% GST). No input services are being availed.

(ii) The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) read with rule 89(5), 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 ₹ 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 ₹ 3,000/-. Since the claimant has no other outward supplies, his adjusted total turnover will also be ₹ 3,000/-.

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[35] *under section 2(59)*

[36] *Circular No. 125/44/2019 GST dated 18.11.2019*

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(iv) If we assume that Input A, having value of ₹ 500/- and Input B, having value of ₹ 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to ₹ 385/- (₹ 25/- and ₹ 360/- on Input A and Input B respectively).

(v) Therefore, maximum refund amount, as per rule 89(5) is as follows:

= [(₹ 3,000 × ₹ 385)/ ₹ 3,000] – (₹ 3,000 x 12% x 385/385)[37]

(vi) Thus, maximum refund amount is ₹ 25/-[38].

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

It has been clarified that, in such cases, the input and output being the same, though attracting different tax rates at **different points in time**, do not get covered under section 54(3)(ii).

There may, however, be cases where though inputs and output goods are same, but the output supplies are made under a concessional notification due to which the rate of tax on output supplies is less than the rate of tax on inputs.

In such cases, as the rate of tax of output supply is less than the rate of tax on inputs **at the same point of time** due to supply of goods by the supplier under such concessional notification, the **credit accumulated on account of the same is admissible for refund** under the provisions of clause (ii) of the first proviso to section 54(3), other than the cases where output supply is either Nil rated or fully exempted, and also provided that supply of such goods or services are not notified by the

[37] *Modified as per revised formula for determining refund under inverted duty structure.*
[38] *Circular No. 125/44/2019 GST dated 18.11.2019*

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Government for their exclusion from refund of accumulated ITC under the said clause[39].

Suppliers who supply goods to merchant exporters at the concessional rate of 0.1% [0.05% CGST and 0.05% SGST/UTGST or 0.1% IGST, as the case may be], under ***Notification No. 40/2017 CT (R) dated 23.10.2017/ Notification No. 41/2017 IT (R) dated 23.10.2017***, subject to certain conditions specified in said notifications [Discussed in detail in Chapter 14 – Import and Export under GST in this Module of the Study Material], are also eligible for refund on account of inverted tax structure as per above clarification.

Clarification on the term "input"

On certain occasions, ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, is not considered 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, although charged to revenue, are considered as capital goods. Consequently, the ITC availed on them is not included in 'Net ITC', even though the value of these goods has not been capitalized in his books of account by the claimant.

In this regard, it is clarified that **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).** Further, capital goods have been clearly defined in section 2(19) 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. **Hence, 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**[40].

[39] *Circular No. 135/05/2020-GST dated 31.03.2020 as amended by Circular No. 173/05/2022 GST dated 06.07.2022*

[40] *Circular No. 125/44/2019 GST dated 18.11.2019*

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7. Refund of ITC under section 54(3) restricted to the extent of invoice details are reflected in Form GSTR-2B

In terms of sub-rule (4) to rule 36 *[discussed in detail in Chapter 7 – Input Tax Credit in Module 2 of this Study Material]*, the refund of accumulated ITC is also restricted to ITC as per those invoices, the details of which are uploaded by supplier in Form GSTR-1 and are reflected in Form GSTR-2B of the applicant for the said tax period or for any of the previous tax periods and on which the ITC is available to the applicant.

However, this does not in any way impact the refund of ITC availed on the invoices / documents relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) etc. ITC availed on imports, ISD invoices, RCM etc. are not reflected in Form GSTR-2B of the applicant. Therefore, it is clarified that refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will not be barred by not being reflected in Form GSTR 2B.

8. Determination of refundable amount in case of refund of unutilised ITC on account of (i) exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure

In case of refund of unutilized input tax credit (ITC) on account of (i) exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure, the common portal calculates the refundable amount as the least of the following amounts:

a) The maximum refund amount as per the above formula specified in rule 89(4) or rule 89(5) [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];

b) The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in Form GSTR-3B for the said period has been filed; and

c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

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After calculating the **least of the above 3 amounts**, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

a) Integrated tax, to the extent of balance available;

b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case)[41].

9. Cases where refund of ITC is NOT allowed

(i) Refund of unutilized ITC shall not be allowed if the **goods exported** out of India are **subjected to export duty** [Second proviso to section 54(3)]. The term **'subjected to export duty'** means where the goods are actually leviable to export duty and suffering export duty at the time of export.

Therefore, goods in respect of which either **Nil rate is specified** in Second Schedule to the Customs Tariff Act, 1975 or which are **fully exempted** from payment of export duty by virtue of any customs notification or which are **not covered under Second Schedule** to the Customs Tariff Act, 1975, **cannot be subjected to any export duty** under Customs Tariff Act, 1975.

Such goods would not be covered by the restriction imposed under the second proviso to section 54(3) for the purpose of availment of refund of accumulated ITC.

Accordingly, it is clarified that **only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under said restriction.**

(ii) Refund of ITC shall not be allowed if the **supplier** of goods or services or both **avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.**

[41] *Master Circular on Refunds – Circular No. 125/44/2019 GST dated 18.11.2019*

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Thus, 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. It is clarified that if a supplier avails of drawback in respect of duties rebated under the Customs and Central Excise Duties Drawback Rules, 2017, he shall be eligible for refund of unutilized input tax credit of Central tax/ State tax/ Union Territory tax / Integrated tax/ Compensation cess. It is also clarified that refund of eligible credit on account of State tax shall be available if the supplier of goods or services or both has availed of drawback in respect of Central tax[42].

F. Minimum refund claim [Section 54(14)]

No refund shall be paid to an applicant, if the amount is less than ₹ 1,000. The limit of ₹ 1,000 shall apply for each tax head separately and not cumulatively. Further, the limit would not apply in cases of refund of excess balance in the electronic cash ledger[43].

G. Refund in case of goods or services exported out of India

As discussed in *Chapter 14 – Import and Export under GST,* exports of goods and services are zero rated. A registered person making zero rated supply may supply the goods and/or services under bond or Letter of Undertaking (LUT) without payment of IGST and claim refund of unutilized ITC.

Further, notified class of persons may make zero-rated supply or notified class of goods or services may be exported, on payment of IGST and refund of such tax paid on goods and/or services supplied may be claimed. In the ensuing paras, refund under each of these two cases has been discussed in detail:

(I) Refund on account of export of goods or services [with payment of tax] [Rule 96]

In case where notified class of persons export goods and/or services or notified class of **goods or services are exported, on payment of IGST** and **refund of such tax paid on goods and/or services supplied is claimed**, provisions relating to refund of IGST are as follows:

[42] *Master Circular on Refunds – Circular No. 125/44/2019 GST dated 18.11.2019*
[43] *Circular No. 59/ 33/ 2018 GST dated 04.09.2018*

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Export of goods



(1) Application for refund claim: The shipping bill/ bill of export filed by the exporter of goods shall be deemed to be an application for refund and the taxpayer is not required to file separate refund application in this case.

Further, such application shall be **deemed to have been filed** only when:

(a) the **person in charge** of the conveyance carrying the export goods duly **files a departure manifest**[44]; **or an export manifest or an export report** covering the number and the date of shipping bills/bills of export; and

(b) the applicant has **furnished a valid return** in Form GSTR-3B.

If there is any mismatch between the data furnished by the exporter of goods in Shipping Bill and those furnished in Form GSTR-1, as amended in Form GSTR-1A if any, such application for refund shall be deemed to have been filed on such date when such mismatch in respect of the said shipping bill is rectified by the exporter.

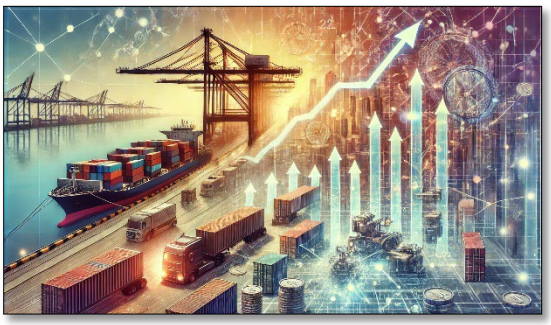


(c) the applicant has undergone Aadhaar authentication in the manner provided in rule 10B.

[44] *Governed by Sea Cargo Manifest and Transhipment Regulations 2018 which has come into force on 01.08.2019 vide Notification No. 38/2018 Cus (NT) dated 11.05.2018 as amended by Notification No. 17/2019 Cus (NT) dated 27.02.2019.*

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The exporter of goods may file an application electronically in Form GST RFD-01 through the common portal for refund of additional IGST paid on account of upward revision in price of goods subsequent to export of such goods and on which the amount of IGST paid at the time of export of such goods has already been refunded and such application shall be dealt with in accordance with the provisions of rule 89.



GST portal shares the details of the relevant export invoices in respect of export of goods contained in Form GSTR-1, as amended in Form GSTR-1A, if any, with the system designated by the Customs viz. ICEGATE. The said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

(2) **Processing of refund claim:** Upon receipt of the information regarding the furnishing of a valid return in Form GSTR 3B from common portal, ICEGATE system / proper officer of Customs, shall process the claim of refund in respect of export of goods.

An amount equal to the IGST paid in respect of each shipping bill/ bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.



(3) **Withholding of refund of IGST:** The claim for refund shall be withheld where [Rule 96(4)]:

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(a) a request has been received from the jurisdictional Commissioner of Central Tax, State Tax or Union Territory Tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of section 54(10)/(11); or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.

(c) the Commissioner in the Board or an officer authorised by the Board, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue.

Where refund is withheld in accordance with the provisions of clause (a) or clause (c) above, such claim shall be transmitted to the proper officer of Central tax, State tax or Union territory tax, as the case may be, electronically through the common portal in a system generated Form GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission [Rule 96(5A)].

Where refund is withheld in accordance with the provisions of clause (b) above and the proper officer of the Customs passes an order that the goods have been exported in violation of the provisions of the Customs Act, 1962, then, such claim shall be transmitted to the proper officer of Central tax, State tax or Union territory tax, as the case may be, electronically through the common portal in a system generated Form GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the

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application for refund in such cases and shall be deemed to have been filed on the date of such transmission [Rule 96(5B)].

The application for refund in Form GST RFD-01 transmitted electronically through the common portal in terms of sub-rules (5A) and (5B) shall be dealt in accordance with the provisions of rule 89. [Rule 96(5C)]

(4) Refund to the Government of Bhutan on the exports to Bhutan: The Central Government may pay refund of the IGST to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf. Where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.



Clarification on whether the refund claims can be preferred in respect of specified goods sent / taken out of India but not brought back

The activity of sending / taking specified goods out of India is not a zero-rated supply. That being the case, the sender of goods cannot prefer any refund claim when the specified goods are sent / taken out of India[45].

Further, the supply would be deemed to have taken place:

(i) on the date of expiry of 6 months from the date of removal, if the specified goods are neither sold nor brought back within the said period; or



[45] *Discussed in detail in Chapter 14 – Import and Export under GST in this Module of the Study Material.*

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(ii) on the date of sale, in respect of such quantity of specified goods which have been sold abroad within the specified period of 6 months[46].

It is clarified accordingly that the sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond or LUT, if he is otherwise eligible for refund as per the provisions contained in section 54(3) read with rule 89(4), in respect of zero-rated supply of goods after he has issued the tax invoice on the dates. It is further clarified that refund claim cannot be preferred under rule 96 as supply is taking place at a time after the goods have already been sent/taken out of India earlier[47].

The above position has been explained by way of example below:



M/s. ABC sends 100 units of specified goods out of India. The activity of sending/ taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55.

If 10 units of specified goods are sold abroad say after one month of sending/ taking out and another 50 units are sold say after two months of sending/ taking out, a tax invoice would be required to be issued for 10 units and 50 units, as the case may be, at the time of each of such sale in accordance with the provisions contained in section 12 and section 31 read with rule 46.

If the remaining 40 units are not brought back within the stipulated period of six months from the date of removal, a tax invoice would be required to be issued for 40 units in accordance with the provisions contained in section 12 and section 31 read with rule 46.

Further, M/s ABC may claim refund of accumulated input tax credit in accordance with the provisions contained in subsection (3) of section 54 read with sub-rule (4) of rule 89 in respect of zero-rated supply of 60 units.

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[46] *Discussed in detail in Chapter 9 – Tax Invoice, Credit and Debit Notes in Module 2 of this Study Material.*

[47] *Circular No. 108/27/2019 GST dated 18.07.2019*

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Export of services

Refund application: Rule 96(9) provides that the application for refund of IGST paid on the services exported out of India shall be filed in **Form GST RFD-01** and shall be dealt with in accordance with the provisions of rule 89 *[as discussed earlier]*.

(II) Refund of ITC paid on export of goods or services under bond or Letter of Undertaking (LUT) [Rule 96A]

In case where goods/services are exported by a class of persons other than notified class of persons or where goods/services other than notified class of goods or services are exported, only option available with the exporter of goods or services or both is **to export under bond/LUT without payment of IGST and claim refund of ITC**. *The provisions relating to export of goods/services without payment of IGST under bond/LUT [Rule 96A] have already been discussed in detail in Chapter 14 – Import and Export under GST*. Further, as already discussed, in such cases, refund of unutilised ITC at the end of any tax period, of amount determined under rule 89(4), shall be granted to the applicant and the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed *[discussed earlier in detail]*.

Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A

As per rule 96A(1) *[as discussed in detail in Chapter 14 – Import and Export under GST]*, a registered person availing of the option to export without payment of IGST is required to furnish a bond/LUT, prior to export, binding himself to pay the tax due along with applicable interest within a period of —

Where the goods are not exported out of India

(a) 15 days after the expiry of 3 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**; or

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(b) 15 days after the expiry of 1 year, or the period as allowed under FEMA[48] including any extension of such period as permitted by the RBI, whichever is later, from the date of issue of the invoice for export or such further period as may be allowed by the Commissioner,

Where payment for services is not received in convertible FOREX

if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the RBI.

There are instances where exporters have voluntarily made payment of due IGST, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frames specified above.

A doubt arose as to whether subsequent to export of the said goods or realization of payment in case of export of services, the said exporters are entitled to claim not only refund of unutilized ITC on account of export but also refund of the IGST and interest so paid in compliance of the provisions of rule 96A(1).

As long as goods are actually exported or payment is realized in case of export of services, even if it is beyond the time frames as prescribed in rule 96A(1), the benefit of zero-rated supplies cannot be denied to the concerned exporters. Accordingly, it is clarified that in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized ITC in terms of section 54(3), if otherwise admissible.

It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, the **said exporters would be entitled to claim refund of the IGST so paid earlier on account of goods not being exported, or the payment not being realized for export**

[48] *Foreign Exchange Management Act, 1999*

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of services, within the time frame specified above. However, **no refund of the interest paid** in compliance of rule 96A(1) shall be admissible[49].

(III) Recovery of refund of unutilized input tax credit or integrated tax paid on export of GOODS where export proceeds are not realized within stipulated time [Proviso to section 16(3) read with rule 96B]

As per proviso to section 16(3), the registered person making zero rated supply of goods, without payment of tax shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under section 16(3) along with the applicable interest under section 50 within 30 days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) for receipt of foreign exchange remittances, in such manner as may be prescribed.

Rule 96B prescribes the manner in relation to this. It provides that proceeds of export of goods must be realised within the period allowed under FEMA. In case of non-realisation/ partial realisation of such proceeds, any refund paid would be subject to be recovered from the taxpayer with interest, except in those cases wherein RBI writes off the requirement of such realization on merits.

In case any refund is recovered on account of non-realisation of proceeds and the realization was made later on within the extended period permitted by the RBI, the proper officer (PO) shall refund the amount so recovered to the taxpayer.

The detailed provisions of said rule are elaborated as follows:

Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the FEMA, including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds.

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[49] *Circular No. 197/09/2023 GST dated 17.07.2023*

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The amount so refunded, to the extent of non-realisation of sale proceeds have to be deposited along with applicable interest within 30 days of the expiry of the said period or, as the case may be, the extended period. In case of failure to do so, the amount refunded shall be recovered in accordance with the provisions of sections 73 [upto FY 2023-2024] or 74 [upto FY 2023-2024] or section 74A, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50.

However, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the FEMA, but the RBI writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

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

4. REFUND OF TAX WRONGLY COLLECTED AND PAID [SECTION 77 READ WITH RULE 89(1A)]

Section 77 of the CGST Act, 2017 contains the provisions regarding tax wrongfully collected and paid to Central Government or State Government. It provides that a registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid **in such manner and subject to such conditions as may be prescribed**.

A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable.

Similar provisions are contained in **section 19 of the IGST Act, 2017**. It provides that a registered person who has paid integrated tax on a supply considered by

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him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid **in such manner and subject to such conditions as may be prescribed**.

A registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable. *The provisions of section 77 of the CGST Act and section 19 of the IGST Act have also been discussed in Chapter 19 – Demands and Recovery in this Module of the Study Material.*

Time Limit for filing refund claim

As per rule 89(1A), any person claiming refund of any tax paid under aforesaid provisions may file an application in prescribed form, before the expiry of a period of **2 years** from the date of payment of tax under correct head on said supply.

Thus, said refund can be claimed before the expiry of 2 years from the date of payment of tax under the correct head, i.e. IGST paid afterwards in respect of subsequently held inter-State supply, or CGST and SGST paid afterwards in respect of subsequently held intra-State supply, as the case may be. Refund would not be available where the taxpayer has made tax adjustment through issuance of credit note under section 34 in respect of the said transaction[50].

5. REFUND TO UN BODIES, EMBASSIES, ETC. [SECTION 55 READ WITH SECTION 54(2) OF CGST ACT]

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

However, the UN bodies and other entities notified under section 55 can claim refund of the taxes paid by them on their inward supplies. The claim has to be made

[50] *Circular No. 162/18/2021 GST dated 25.09.2021*

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before the expiry of **2 years** from the last day of the quarter in which such supply was received. Detailed provisions have been discussed hereunder:

A. Who is entitled to refund under section 55?



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

(i) any specialised agency of the United Nations Organisation; or

(ii) any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947; or

(iii) Consulate or Embassy of foreign countries; and

(iv) any other person or class of persons as may be specified in this behalf,

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

In exercise of above power, following persons have been notified, subject to fulfilment of specified conditions:



(i) United Nations or a specified international organization**; and

(ii) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein[51].

**Specified international organisation means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947, to which the provisions of the Schedule to the said Act apply.



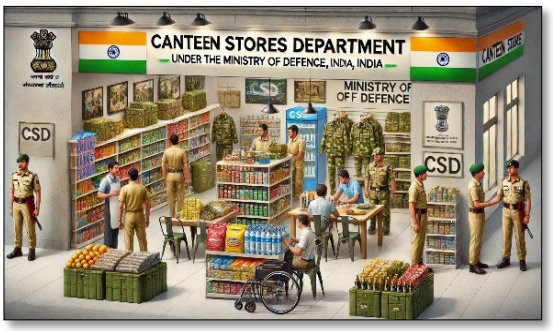


[51] *Notification No. 16/2017 CT (R) dated 28.06.2017/ Notification No. 13/2017 IT (R) dated 28.06.2017*

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Further, in exercise of said power, Canteen Stores Department (CSD), under the Ministry of Defence, has been notified as a person who shall be entitled to claim a refund of 50% of the applicable CGST/IGST paid by it on all inward supplies of goods received by it 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[52].

For the purpose of claiming the said refund, Canteen Stores Department:



- shall apply for refund in different prescribed form once in every quarter, electronically on the common portal.
- Such application shall be dealt in a same manner as application for refund filed in Form GST RFD-01 in accordance with the provisions of rule 89.
- The refund of tax paid by the applicant shall be available, if-

  (i) the inward supplies of goods were received from a registered person against a tax invoice and details of such supplies have been furnished by the said registered person in his details of outward supply in Form GSTR-1

  AND

  supplier has furnished his return in Form GSTR-3B for the concerned tax period;

  (ii) name and GSTIN of the applicant is mentioned in the tax invoice; and

[52] *Notification No. 6/2017 CT (R) dated 28.06.2017/ Notification No. 6/2017 IT (R) dated 28.06.2017*

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(iii) goods have been received by CSD for the purpose of subsequent supply to the Unit Run Canteens of the CSD or to the authorised customers of the CSD [Rule 95B]

B. Time Limit for filing refund claim [Section 54(2) read with rule 95(1)]

Persons eligible to claim refund under section 55 *[as mentioned in point A. above]*, entitled to refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, once in every quarter, but before the expiry of **2 years** from the last day of the quarter in which such supply was received.

C. Form and documents for filing the refund claim [Rule 95(1)]

Persons eligible to claim refund under section 55 shall submit the application for refund:

- ❑ in a
- ❑ **prescribed form**[53], once in every quarter
- ❑ along with a **Statement of the Inward Supplies of goods or services or both** in **Form GSTR-11** *[discussed in detail in Chapter 13- Returns in Module 2 of this Study Material]*.

D. Acknowledgment for refund claim [Rule 95(2)]

An acknowledgement for receipt of the application for refund shall be issued in a prescribed form.

E. Conditions to be satisfied for sanction of refund [Rule 95(3) & (4)]

Refund of tax paid by the applicant shall be available if all the following conditions are satisfied-

(a) the inward supplies of goods or services or both were received from a registered person against a tax invoice.

(b) name and GSTIN/UIN of the applicant is mentioned in the tax invoice**.

(c) such other restrictions or conditions as may be specified in the notification are satisfied.

---

[53] *electronically or otherwise on the common portal*

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**However, where UIN of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall still be available if the copy of the invoice, duly attested by the authorised representative of the applicant, is submitted along with the refund application in prescribed form. In other words, if UIN is not mentioned in the tax invoice, then refund shall be available to the applicant on submission of the attested copy of such invoice in the prescribed form.

The provisions of rule 92, as discussed earlier in this chapter shall, *mutatis mutandis*, apply for the sanction and payment of refund under this rule.

F. Supremacy provision in case of inconsistency [Rule 95(5)]

Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of these rules, such treaty or international agreement shall prevail.

G. Specialized agencies notified under section 55 entitled to refund of IGST paid on import of goods

As seen above, section 55 provides refund of taxes paid on the notified supplies of goods and/or services by notified specialized agencies like United Nations or a specified international organisation. Section 3(7) of the Customs Tariff Act, 1975 provides for a parity between the integrated tax rate attracted on imported goods and the integrated tax applicable on the domestic supplies of goods. Therefore, on this principle of parity, specialised agencies ought to get the refund of the IGST paid on imported goods.

6. INTEREST ON DELAYED REFUNDS [SECTION 56 OF THE CGST ACT]

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

- Where any tax ordered to be refunded under section 54(5) to any applicant is **not refunded within 60 days** from the date of receipt of application under section 54(1), interest shall be payable to the applicant.



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- Interest is **payable on such refund @ 6% p.a.***.
- Interest is payable to the applicant for the period of delay beyond 60 days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed [Section 56].

as notified vide **Notification No. 13/2017 CT dated 28.06.2017*

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

- Where any claim of refund arises from an order passed by an Adjudicating Authority or Appellate Authority or Appellate Tribunal or Court which has attained finality and the same is **not refunded within 60 days from the date of receipt of application** filed consequent to such order (applicant needs to file a second application after the order), interest shall be payable on such refund.
- Interest is **payable on such refund @ 9% p.a.***.
- Interest is payable from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund. [Proviso to Section 56].

as notified vide **Notification No. 13/2017 CT dated 28.06.2017*

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

Delhi High Court in case of *Bansal International v. Commissioner of DGST 2024 (83) G.S.T.L. 190 (Del.)* interpreted provisions of section 56 as follows:

The applicant claiming a refund is entitled to interest at the rate of 6% p.a. from a date immediately after the expiry of 60 days from making the first application [i.e. application filed under section 54(1)]. However, if a person's claim is denied (or if granted, same is not accepted by the Revenue) and the order of the Adjudicating Authority is carried in appeal to the Appellate Authority or to the Appellate Tribunal/High Court, which finally upholds the claim, the applicant may have to file a second application to secure the refund.

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If such application for refund filed by the person consequent to succeeding before the Appellate Authority, Appellate Tribunal or Court, is not processed within a period of 60 days of filing the application, the applicant would be entitled to a higher rate of 9% p.a. commencing from the date immediately after the expiry of 60 days of his second application.

However, this does not mean that the rate of 6% p.a. is not payable for the period commencing from the date immediately after expiry of 60 days from his first application till 60 days after filing of his second application pursuant to the appellate orders. In another words, the proviso merely enhances the interest payable to a person for the period commencing from the date immediately after 60 days from the date of his application filed pursuant to its entitlement to refund claim attaining finality[54].

Thus, section 56 may be interpreted as follows:

- If an applicant's refund claim is initially denied by the Adjudicating Authority and the Appellate Authority upholds the claim on appeal made to it, the applicant needs to file a second refund application consequent to said order.
- If refund is not issued within 60 days of filing the second application, interest @ 9% p.a. is payable from the date immediately after the expiry of 60 days (i.e. from 61st day) from the date of receipt of said application till the date of refund.
- Additionally, interest @ 6% p.a. is payable for the period commencing from the date immediately after expiry of 60 days from his first application [filed under section 54(1)] till the expiry of 60 days after filing of his second application pursuant to the appellate orders or date of actual refund, whichever is earlier.

[54] *The applications for refund filed pursuant to orders passed by the Appellate Authority, do not invite any fresh adjudication. The said applications are merely to implement the orders already passed.*

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

- Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a payment order in prescribed form.



- Such order shall specify therein:
  - the **amount of refund** which is delayed,
  - the **period of delay**** for which interest is payable and
  - the **amount of interest** payable.
- Such interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

****Following periods shall not be included in said period of delay:-

(a) any period of time beyond 15 days of receipt of notice in prescribed form under rule 92(3), that the applicant takes to-

(i) furnish a reply in prescribed form, or

(ii) submit additional documents or reply; and

(b) any period of time taken either by the applicant for furnishing the correct details of the bank account to which the refund is to be credited or for validating the details of the bank account so furnished, where the amount of refund sanctioned could not be credited to the bank account furnished by the applicant.

7. CONSUMER WELFARE FUND [SECTIONS 57 & 58 OF THE CGST ACT]

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

As already discussed in this chapter, amount of refund is paid to the applicant in case where there is no unjust enrichment; i.e. the incidence of tax has not been

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passed by the supplier to the recipient as also in the circumstances where the principle of unjust enrichment is not applicable [specified in section 54(8)]. Otherwise, the said amount is credited to the Consumer Welfare Fund.

A. Amount to be credited to Consumer Welfare Fund



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

(a) Amount of refund determined by an order passed under section 54(5),

(b) any income from investment of the amount credited to the Fund; and

(c) such other monies received by it,

in such manner as may be prescribed. Such manner has been prescribed under rule 97.

B. Amounts to be credited to/paid from Consumer Welfare Fund [Rule 97]

- All amounts of duty/ CGST/ SGST/ IGST/ UTGST/ cess and income from investment along with other monies specified in section 12C(2) of the erstwhile Central Excise Act, 1944, section 57 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017, section 21 of the UTGST Act, 2017 and section 12 of the GST (Compensation to States) Act, 2017 shall be credited to the Fund *[discussed earlier in this chapter]*.
- An amount equivalent to 50% of the amount of IGST determined under section 54(5) of the CGST Act, read with section 20 of the IGST Act, shall be deposited in the Fund.
- An amount equivalent to 50% of the amount of compensation cess determined under section 54(5) of the CGST Act, read with section 11 of the GST (Compensation to States) Act, shall be deposited in the Fund.
- Any amount, having been credited to the Consumer Welfare Fund, ordered or directed as payable to any claimant by orders of the proper officer, Appellate Authority or Appellate Tribunal or Court, shall be paid from the Fund.

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C. Utilisation of Consumer Welfare Fund [Section 58(1) read with rule 97(4)]



- All sums credited to the Consumer Welfare Fund shall be utilized by the Government for the welfare of the consumers in such manner as may be prescribed.
- The Government shall, by an order, constitute a Standing Committee who shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers.

8. REFUND OF INTEGRATED TAX PAID ON SUPPLY OF GOODS TO TOURIST LEAVING INDIA [SECTION 15 OF THE IGST ACT]

- The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.
- The term **"tourist"** means a person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.
- As of now the manner, procedure and form has not been prescribed for the refund made to the international tourist.

Manual filing and processing

Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules [Rule 97A].

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Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST laws

S. No.	Issue	Clarification
1.	An advance is received by a supplier for a service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "credit note" in terms of section 34. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34. There is no need to file a separate refund claim. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through **Form GST RFD-01**.
2.	An advance is received by a supplier for a service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31(2), he is required to issue a "refund voucher" in terms of section 31(3)(e) read with rule 51. The taxpayer can apply for refund of GST paid on such advances by filing **Form GST RFD-01** under the category "Refund of excess payment of tax".

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3.	Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a "credit note" in terms of section 34. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34. There is no need to file a separate refund claim in such a case. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through **Form GST RFD-01**.

[Circular No. 137/07/2020 GST dated 13.04.2020]

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TEST YOUR KNOWLEDGE

1. *Is there any time limit for sanctioning of refund under section 54?*
2. *Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2).*
3. *In case of refund under exports of goods, whether BRC/FIRC is necessary for granting refund?*
4. *When is a deficiency memo issued in respect of a refund claim made under section 54?*
5. *State the exceptions to the principle of unjust enrichment as applicable to refund claims.*
6. *Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.*

   The company has made the following supplies during a tax period:

S. No.	Particulars	(₹)
(i)	Export of product 'A' to UK for $ 10,000 (Assessable value under customs in Indian rupees.) [Export duty is payable on product 'A' at the time of exports. Further, value of like goods domestically supplied by the similarly placed supplier is ₹ 6,00,000]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @18%] *not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii)	10,00,000

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(iii)	*Supply of goods to Export Oriented Unit [excluding tax @ 18%]* *[ITC has been claimed by the recipient]*	*5,00,000*
(iv)	*Export of exempt supplies of goods (Value of like goods domestically supplied by the similarly placed supplier is ₹ 5,00,000)*	*6,00,000*

The ITC available for the above tax period is as follows:

S.No.	Particulars	(₹)
(i)	*On inputs*	*3,50,000*
(ii)	*On input service*	*1,50,000*
(iii)	*On capital goods*	*1,20,000*

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period.

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

Products	Turnover* (₹)	Output GST Rates	ITC availed (₹)	Input GST Rates
A	*500,000*	*5%*	*54,000 (Goods)*	*18%*
B	*350,000*	*5%*	*54,000 (Goods)*	*18%*
C	*100,000*	*18%*	*10,000 (Service)*	*18%*

**excluding GST*

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii)

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provided that Product B is notified as a product, in respect of which no refund of unutilised input tax credit shall be allowed under said section.

8. *With reference to section 54(3), mention the cases where refund of unutilised input tax credit is allowed.*

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

10. *Suraj Pvt Ltd registered in Delhi filed a refund application under section 54 for the refund of unutilised ITC amounting to ₹ 20,00,000 on 1st May. On scrutiny of documents, the proper officer found deficiency in documents submitted and issued a deficiency memo on 10th May. The assessee re-filed fresh refund application on 15th May. The proper officer rejected the refund claim on 10th July.*

The assessee filed an appeal on 1st September. The Appellate Authority allowed refund and the refund was released on 20th September.

Suraj Pvt Ltd is of view that it is entitled to interest on refund whereas the proper officer's contention is that the refund was granted within specified time from date of application, so the assessee is not entitled to any interest. Is contention of the Suraj Pvt. Ltd. correct? If yes, compute the amount of interest payable to Suraj Pvt Ltd. Reasons should form part of answer.



ANSWERS

1. Yes, refund has to be sanctioned within 60 days from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest @ 6% p.a. will have to be paid in accordance with section 56.

However, in case where provisional refund to the extent of 90% of the amount claimed is refundable in respect of zero-rated supplies made by certain categories of registered persons in terms of sub-section (6) of section 54, the provisional refund has to be given within 7 days from the date of acknowledgement of the claim of refund.

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2. The amount of advance tax deposited by a casual taxable under section 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39 [Section 54(13)]. Further, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed only after the last return required to be furnished by him has been so furnished [Third proviso to rule 89(1)].

3. In case of refund on account of export of goods, the refund rules do not prescribe BRC/FIRC as a necessary document for filing of refund claim. However, for export of services details of BRC/FIRC is required to be submitted along with the application for refund.

However, in case of non-realization of consideration in terms of FEMA, the exporter shall deposit the amount so refunded to the extent of non realization of sale proceed along with interest within 30 days [Rule 96B].

4. Rule 90(3) provides for communication in prescribed form (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.

Further the time period, from the date of filing of the refund claim in Form GST RFD-01 till the date of communication of the deficiencies by the proper officer, shall be excluded from the period of two years as specified under Section 54(1), in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

5. The principle of unjust enrichment is applicable in all cases of refund except in the following cases:-

(a) Refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports.

(b) Unutilized input tax credit in respect of (i) zero rated supplies made without payment of tax or, (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.

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(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued.

(d) refund of tax in pursuance of section 77 of CGST/SGST Act i.e. tax wrongfully collected and paid to Central Government or State Government.

(e) if the incidence of tax or interest paid has not been passed on to any other person.

(f) such other class of persons who has borne the incidence of tax as the Government may notify.

6. Computation of maximum amount of refund admissible to Kailash Global (P) Ltd.

Particulars	(₹)
Exports of product 'A' to UK [Note (i)]	Nil
Domestic supplies of taxable product 'B' during the period [Note (ii)]	90,000
Supply of goods to Export Oriented Unit [Note (iii)]	Nil
Export of exempt supplies [Note (iv)]	1,07,143
Total refund claim admissible	**1,97,143**

Notes:

(i) Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Further, Kailash Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.

Therefore, as per clause (i) of first proviso to section 54(3), a registered person may claim refund, of any unutilised ITC in the case of zero rated supply made without payment of tax at the end of any tax period. However, second proviso to section 54(3) lays down that refund of unutilized ITC is not allowed if the goods exported out of India are subjected to export duty.

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(ii) Refund of unutilised ITC is allowed in case of inverted duty structure, i.e. 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 GST Council [Clause (ii) of the first proviso to section 54(3)].

Rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula –

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods \& services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \left\{ \text{Tax payable on such inverted rated supply of goods \& services} \times \frac{\text{Net ITC}}{\text{ITC availed on inputs and input services}} \right\}$$

where-

"Net ITC" means ITC availed on inputs during the relevant period

"Adjusted total turnover" means the sum total of the value of:

(a) the turnover in a State/ Union territory, as defined under section 2(112), excluding turnover of services; &

(b) the turnover of zero-rated supply of services determined in terms of specified manner and non-zero-rated supply of services,

excluding:

(i) the value of exempt supplies other than zero-rated supplies during the relevant period.

"Relevant period" means the period for which the claim has been filed.

Tax payable on inverted rated supply of goods = ₹ 10,00,000 × 5% = ₹ 50,000

Here, Net ITC = ₹ 3,50,000,

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Adjusted Total Turnover = ₹ 28,00,000 [₹ 7,00,000 + ₹ 10,00,000 + ₹ 5,00,000 + ₹ 6,00,000] and Turnover of inverted rated supply of goods = ₹ 10,00,000

Thus, maximum refund amount under rule 89(5) = ₹ 3,50,000 x 10,00,000/ ₹ 28,00,000 – (₹ 50,000×{₹ 3,50,000/(₹ 3,50,000+₹ 1,50,000)} = ₹ 90,000

(iii) As per section 2(39), deemed exports means such supplies of goods as may be notified under section 147. Supplies to EOU is notified as deemed export under section 147 vide *Notification No. 48/2017 CT dated 18.10.2017*. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Second proviso to rule 89(1)]. Therefore, since in the given case, the recipient is claiming ITC, Kailash Global (P) Ltd. (supplier of deemed exports) cannot claim refund of ITC.

(iv) Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. Section 54(3) of the CGST Act, 2017 allows refund of ITC in the case of zero rated supply made without payment of tax.

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

$$\text{Refund Amount} = \frac{\text{(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services)}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

where-

"Net ITC" means ITC availed on inputs and input services during the relevant period.

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"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less.

"Adjusted total turnover" means the same as explained in point ii above.

Here, Turnover of zero rated supply of goods = ₹ 6,00,000 (Lower of ₹ 6,00,000 or 1.5 times of ₹ 5,00,000 i.e. 7,50,000 whichever is lower), Net ITC = ₹ 5,00,000 and Adjusted Total Turnover = ₹ 28,00,000 (as computed in point ii above)

Thus, maximum refund amount under rule 89(4) = ₹ 5,00,000 x ₹ 6,00,000/ ₹ 28,00,000 = ₹ 1,07,143.

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

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3)(ii). Further rate of tax on input used in the product C is carrying same rate of tax on output supplies hence it is not the case of inverted duty structure. Therefore, no refund on the Product C.

Therefore, only Product A is eligible for refund under section 54(3)(ii).

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Further, rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula -

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \left\{ \text{tax payable on such inverted rated supply of goods and services} \times \frac{\text{Net ITC}}{\text{ITC availed on inputs and input services}} \right\}$$

where,-

A. **"Net ITC"** means input tax credit availed on inputs during the relevant period;

B. Adjusted Total Turnover means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under section 2(112), excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in specified manner and non-zero-rated supply of services, excluding-

the value of exempt supplies other than zero-rated supplies during the relevant period.

C. Relevant period means the period for which the claim has been filed.

In accordance with the aforesaid provisions, the maximum refund amount which Super Engineering Works is eligible to claim shall be computed as follows:

Tax payable on inverted rated supply of Product A = ₹ 5,00,000 × 5% = ₹ 25,000

Net ITC = ₹ 108000 (₹ 54,000 + ₹ 54,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not]

Adjusted Total Turnover = ₹ 9,50,000 (₹ 5,00,000 + ₹ 3,50,000 + ₹ 1,00,000)

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Turnover of inverted rated supply of Product A = ₹ 5,00,000

Maximum refund amount for Super Engineering Works is as follows:

= [(₹ 5,00,000 × ₹ 108000)/ ₹ 9,50,000] – (₹ 25,000 x 108,000/118,000)

= ₹ 33,961 (rounded off)

8. As per section 54(3), a registered person may claim refund of unutilised input tax credit at the end of any tax period in the following cases:

(i) **Zero rated supplies made without payment of tax:** Supply of goods or services or both for authorised operations to an SEZ developer/unit or export of goods or services or both qualifies as zero rated supplies.

(ii) **Accumulated ITC on account of inverted duty structure:** Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

However, refund of unutilized input tax credit shall not be allowed if:

- the goods exported out of India are subjected to export duty;
- the supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.

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

(a) refund of tax paid on export of goods and/or services or on inputs or input services used in making such exports;

(b) refund of unutilized ITC in case of zero-rated supplies made without payment of tax or accumulated ITC on account of inverted duty structure;

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

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(d) refund of tax paid on a transaction treating it to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by notified class of applicants.

10 If an applicant's refund claim is initially denied by the Adjudicating Authority and the Appellate Authority upholds the claim on appeal made to it, the applicant needs to file a second refund application consequent to said order.

If refund is not issued within 60 days of filing the second application, interest @ 9% p.a. is payable from the date immediately after the expiry of 60 days (i.e. from 61st day) from the date of receipt of said application till the date of refund.

Thus, in the given case, no interest is payable since refund has been paid before expiry of said 60 days. Additionally, interest @ 6% p.a. is payable for the period commencing from the date immediately after expiry of 60 days from his first application (i.e. 15th May being fresh application filed after deficiency memo) till the expiry of 60 days after filing of his second application pursuant to the appellate orders or date of actual refund, whichever is earlier.

Therefore, interest payable is as follows:

Period of delay from 15th July to 20th September (both inclusive) is 68 days:

Interest = ₹ 20,00,000 × 6% × 68/365

= ₹ 22,356.16 or 22,356 (rounded off).

The contention of Suraj Pvt Ltd. is correct and the contention of the proper officer is not correct.

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AMENDMENTS MADE VIDE THE FINANCE ACT,2026

The Finance Act, 2026 has come into force from 30.03.2026. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2026 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2026. Therefore, the applicability or otherwise of such amendment for May 2027 and/or November 2027 examinations shall be informed by the ICAI by way of an announcement.

In the table given below, the existing provisions of section 54 of the CGST Act, 2017 are compared with the provisions as amended by the Finance Act, 2026.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

Section No.	Existing provisions	Provisions as amended by the Finance Act, 2026	Remarks
54(6)	Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent of the	Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both ***or of unutilized input tax credit allowed under clause (ii) of the first proviso to sub-section (3)*** made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent of the total amount so	Sub-section (6) of Section 54 of the Central Goods and Services Tax Act, 2017 is being amended to extend the provisions of provisional refund to refunds arising out of inverted duty structure.

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	total amount so claimed, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.	claimed, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub- section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.	
54(14)	Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees	Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6)***, other than cases where refund of tax is claimed on account of goods exported out of India with payment of tax***, shall be paid to an applicant, if the amount is less than one thousand rupees.	Sub-section (14) of Section 54 of the Central Goods and Services Tax Act, 2017 is being amended to remove the threshold limit for sanction of refund claims in case of goods exported out of India with payment of tax.

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