Law and Provisions under CGST

Chapter 11 – REFUNDS

11.0 REFUNDS – The provisions related to Refunds - Refund of tax, Refund in certain cases, Interest on delayed refunds, Consumer Welfare Fund and Utilisation of Fund are covered under Chapter XI of the CGST Act 2017 from Section 54 to Section 58.

The Central Government has appointed the 1st day of July, 2017, as the date on which the provisions of these sections came in to force vide Notification No. 9/2017- Central Tax dated 28.06.2017.

Chapter XI of the CGST Act 2017 - Refunds	
Section	**Particulars**
Section 54	Refund of tax
Section 55	Refund in certain cases
Section 56	Interest on delayed refunds
Section 57	Consumer Welfare Fund
Section 58	Utilisation of Fund

CGST Rules 2017 - Refunds	
Rules	**Particulars**
Rule 89	Application for refund of tax, interest, penalty, fees or any other amount
Rule 90	Acknowledgement
Rule 91	Grant of provisional refund
Rule 92	Order sanctioning refund
Rule 93	Credit of the amount of rejected refund claim
Rule 94	Order sanctioning interest on delayed refunds
Rule 95	Refund of tax to certain persons
Rule 95A	Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist
Rule 96	Refund of integrated tax paid on goods [1][or services] exported out of India
Rule 96A	[2][Export] of goods or services under bond or Letter of Undertaking
Rule 96B	Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised.

Rule 96C	Bank Account for credit of refund
Rule 97	Consumer Welfare Fund
Rule 97A	Manual filing and processing

Forms - Refunds	
Forms	**Particulars**
FORM-GST-RFD-01	Application for Refund (applicable for casual or non-resident taxable person, tax deductor, tax collector, un-registered person and other registered taxable person)
FORM-GST-RFD-01 A	Application for Refund Application for Refund (manual) (applicable for casual taxable person or non-resident taxable person, tax deductor, tax collector and other registered taxable person)
FORM-GST-RFD-01 B	Refund Order details
FORM GST RFD-01 W	Application for Withdrawal of Refund Application
FORM-GST-RFD-02	Acknowledgment of the Application for Refund
FORM-GST-RFD-03	Deficiency Memo
FORM-GST-RFD-04	Provisional Refund Order
FORM-GST-RFD-05	Payment Order
FORM-GST-RFD-06	Refund Sanction/Rejection Order
FORM-GST-RFD-07	Order for Complete adjustment of sanctioned Refund
FORM-GST-RFD-08	Notice for rejection of the application for refund
FORM-GST-RFD-09	Reply to the Show Cause Notice
FORM-GST-RFD-10	Application for Refund by any specialized agency of UN or any Multilateral Financial Institution and Organization, Consulate or Embassy of foreign countries, etc.
FORM GST RFD-10A	Application for refund by Canteen Stores Department (CSD)
FORM GST RFD-10B	Application for refund by Duty Free Shops/Duty Paid Shops (Retail outlets)
FORM-GST-RFD-11	Furnishing of bond or Letter of Undertaking for export of goods or services

11.1 Refund of tax. [Section 54]

Section 54(1)	01.07.2017 to till date	**Time limit for filing of refund application – Form GST RFD 01**

		Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:
First Proviso	01.07.2017 to 30.09.2022	**Claiming refund of any balance in the electronic cash ledger** **Provided that** a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.
	01.10.2022 to till date	**Claiming refund of any balance in the electronic cash ledger** **Provided that** a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in [1][such form and] manner as may be prescribed. 1. Substituted w.e.f. 01.10.2022 for the words and figures "the return furnished under section 39 in such", vide clause (a) of section 113 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.
Section 54(2)	01.07.2017 to 30.09.2022	**Time limit for application for refund of tax paid by a specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55**. A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a 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, before the expiry of six months[$] from the last day of the quarter in which such supply was received. $ The Central Government had notified the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, before the expiry of eighteen

		months from the last date of the quarter in which such supply was received, vide Notification No. 20/2018 – Central Tax dated 28th March, 2018. Later, the Central Government rescinded Notification No. 20/2018 – Central Tax dated 28th March, 2018 vide Notification No. 20 /2022–Central Tax dated 28th September, 2022.
	01.10.2022 to till date	**Time limit for application for refund of tax paid by a specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55**. A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a 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, before the expiry of [1][two years] from the last day of the quarter in which such supply was received. **1.** Substituted w.e.f. 01.10.2022 for the words "six months", vide clause (b) of section 113 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.
Section 54(3)	01.07.2017 to till date	**Claim of refund of any unutilised input tax credit at the end of any tax period** Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:
First Proviso	01.07.2017 to till date	**Specified cases in which refund of unutilised input tax credit shall be allowed** **Provided that** no refund of unutilised input tax credit shall be allowed in cases other than— (i) zero rated supplies made without payment of tax; (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both

		as may be notified[$] by the Government on the recommendations of the Council: $ The Central Government has notified the supply of services specified in sub-item (b) of item 5 of Schedule II of the CGST Act 2017 not eligible for refund of unutilized ITC under sub-section (3) of section 54 of the CGST Act 2017 vide Notification No. 15/2017-Central Tax (Rate) dated 28th June, 2017. Further, the Central Government, has notified the goods, in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies) vide Notification No.5/2017-Central Tax (Rate) dated 28th June, 2017 as amended from time to time.
Second Proviso	01.07.2017 to till date	**No refund of unutilised input tax credit allowed in cases where the goods exported out of India are subjected to export duty.** **Provided further that** no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:
Third Proviso	01.07.2017 to till date	**No refund of input tax credit allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.** **Provided also that** no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.
Section 54(4)	01.07.2017 to till date	**The application to accompany documentary evidence as to establish that a refund is due to the applicant and to establish that 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.** 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 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:
First Proviso	01.07.2017 to till date	**The applicant not required to furnish any documentary and other evidences where the amount claimed as refund is less than two lakh rupees** **Provided that** where the amount claimed as refund is less than two lakh rupees, 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 the incidence of such tax and interest had not been passed on to any other person.
Section 54(5)	01.07.2017 to till date	**Issue of refund order and the amount so determined shall be credited to the Consumer Welfare Fund referred to in section 57.** If, on receipt of any such application, the proper officer is satisfied that the whole or 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 Fund referred to in section 57.
Section 54(6)	01.07.2017 to 30.09.2023	**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, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted 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.** 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 total amount so claimed, excluding the amount of input tax credit provisionally accepted, 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.
	01.10.2023 to till date	**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, refund on a provisional**

		basis, ninety per cent. of the total amount so claimed 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. 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 total amount so claimed, [1][*****], 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. **1.** Omitted the words "excluding the amount of input tax credit provisionally accepted," vide Section 146 of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.
Section 54(7)	01.07.2017 to till date	**The proper officer shall issue the refund order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.** The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.
Section 54(8)	01.07.2017 to 31.01.2019	**Circumstances wherein refundable amount shall, instead of being credited to the Fund, be paid to the applicant.** Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to— (a) 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; (b) refund of unutilised input tax credit under sub-section (3); (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;
		(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.
	01.02.2019 to till date	**Circumstances wherein refundable amount shall, instead of being credited to the Fund, be paid to the applicant.** Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—	
		(a)	refund of tax paid on [1][export] of goods or services or both or on inputs or input services used in making such [2][exports];
		(b)	refund of unutilised input tax credit under sub-section (3);
		(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;
		(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.

1 Substituted for the words “zero-rated supplies” w.e.f. 01.02.2019 vide clause (a) of Section 23 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.

2 Substituted for the words “zero-rated supplies” w.e.f. 01.02.2019 vide clause (a) of Section 23 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.

[1][**Section 54(8A)**	01.09.2019 to till date	**The Government may disburse the refund of the State tax.** The Government may disburse the refund of the State tax in such manner as may be prescribed.] 1. Inserted w.e.f. 1st September, 2019 vide Section 103 of Finance Act 2019, which comes into force vide Notification No. 39/2019 – Central Tax dated 31st August,, 2019.
Section 54(9)	01.07.2017 to till date	**No refund shall be made except in accordance with the provisions of sub-section (8).** 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 sub-section (8).
Section 54(10)	01.07.2017 to 30.09.2022	**Where any refund is due under sub-section (3) 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 withhold payment of refund due or 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.** Where any refund is due under sub-section (3) 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.

<table>
<tr><td></td><td>01.10.2022 to till date</td><td>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 withhold payment of refund due or 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.

Where any refund is due [1][*****] 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—

<table><tr><td>(a)</td><td>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;</td></tr><tr><td>(b)</td><td>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.</td></tr></table>
1. Omitted w.e.f. 01.10.2022 the words, brackets and figure “under sub-section (3)” vide clause (c) of section 113 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.</td></tr>
<tr><td>Explanation.</td><td>01.07.2017 to till date</td><td>The expression “specified date” for the purposes of this sub-section 54(10)

For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.</td></tr>
<tr><td>Section 54(11)</td><td>01.07.2017 to till date</td><td>Withholding the refund 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 – Give the taxable person an opportunity of being heard.

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</td></tr>
</table>

		giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.
Section 54(12)	01.07.2017 to till date	**Payment of interest where a refund is withheld and the taxable person becomes entitled to refund at such rate not exceeding six per cent** Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.
Section 54(13)	01.07.2017 to till date	**The amount of advance tax deposited by a casual taxable person or a non-resident taxable person under section 27(2), shall not be refunded unless 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.** Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless 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(14)	01.07.2017 to till date	**No refund under sub-section (5) or sub-section (6) shall be paid, if the amount is less than one thousand rupees i.e. CGST Rs. 1000 and SGST Rs. 1000.** 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.
Explanation	01.07.2017 to 31.01.2019	**Terms - "refund" and "relevant date"** For the purposes of this section,—

(1)	"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 sub-section (3).
(2)	"relevant date" means—

(a)	in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

					(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or (ii) if the goods are exported by land, the date on which such goods pass the frontier; or (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
				(b)	in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
				(c)	in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of— (i) receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;
				(d)	in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
				(e)	in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;
				(f)	in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
				(g)	in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
				(h)	in any other case, the date of payment of tax.

	01.02.2019 to 30.09.2022	**Terms - "refund" and "relevant date"** For the purposes of this section,—

(1)	"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 sub-section (3).
(2)	"relevant date" means—

(a)	in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,— (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or (ii) if the goods are exported by land, the date on which such goods pass the frontier; or (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
(b)	in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
(c)	in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of— (i) receipt of payment in convertible foreign exchange [1][or in Indian rupees wherever permitted by the Reserve Bank of India], where the supply of services had been completed prior to the receipt of such payment; or (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

1 Inserted w.e.f. 01.02.2019 vide clause (b) (i) of Section 23 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide

				Notification No. 02/2019 – Central Tax dated 29th January, 2019.
			(d)	in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
			[1][(e)	in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;] 1 Substituted w.e.f. 01.02.2019 for sub-clause (e) "in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;" vide clause (a) of Section 23 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.
			(f)	in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
			(g)	in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
			(h)	in any other case, the date of payment of tax.
	01.10.2022 to till date	**Terms - "refund" and "relevant date"** For the purposes of this section,—		
			(1)	"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 sub-section (3).
			(2)	"relevant date" means—

(a)	in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,— (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or (ii) if the goods are exported by land, the date on which such goods pass the frontier; or (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
(b)	in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
[1][(ba)	in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;]
(c)	in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of— (i) receipt of payment in convertible foreign exchange [1][or in Indian rupees wherever permitted by the Reserve Bank of India], where the supply of services had been completed prior to the receipt of such payment; or (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

1. Inserted w.e.f. 01.10.2022 vide clause (d) of section 113 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.

					1 Inserted w.e.f. 01.02.2019 vide clause (b) (i) of Section 23 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.
				(d)	in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
				[1][(e)	in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;]
					1 Substituted w.e.f. 01.02.2019 for sub-clause (e) "in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;" vide clause (a) of Section 23 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.
				(f)	in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
				(g)	in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
				(h)	in any other case, the date of payment of tax.

11.1.1.1 Departmental Notifications – Goods in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate

of tax on inputs being higher than the rate of tax on the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).

Notification No.5/2017-Central Tax (Rate) dated 28th June, 2017 - The Central Government has notified the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, heading, sub-heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).

S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
7.	60	Knitted or crocheted fabrics [All goods]
8.	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9.	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
10.	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11.	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)
12.	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)

13.	8606	Railway or tramway goods vans and wagons, not self-propelled
14.	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
15.	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing

Further, Notification No. 29/2017-Central Tax (Rate) dated 22nd September, 2017 - The Central Government has amended Notification No.5/2017-Central Tax (Rate) dated 28th June, 2017, namely:-

In the said notification, in the Table, after S. No. 6 and the entries relating thereto, the following serial numbers and the entries shall be inserted, namely:-

"6A	5801	Corduroy fabrics.".

Further, Notification No. 44/2017-Central Tax (Rate) dated 14th November, 2017 effective from 15th day of November, 2017 - The Central Government has amended Notification No.5/2017-Central Tax (Rate) dated 28th June, 2017, namely:-

In the said notification, in the TABLE, for Sl. No. 6A and the entries relating thereto, the following entries shall be substituted, namely: -

"6A	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B	5801	Corduroy fabrics
6C	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)".

Further, Notification No. 20/2018-Central Tax (Rate) dated 26th July, 2018 - The Central Government has amended Notification No.5/2017-Central Tax (Rate) dated 28th June, 2017, namely:-

In the said notification, in the opening paragraph the following proviso shall be inserted, namely:-

“Provided that,-

(i) nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and

(ii) in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse.”.

Further, Notification No. 09/2022-Central Tax (Rate) dated 13th July, 2022 effective from 18th day of July, 2022- The Central Government has amended Notification No.5/2017-Central Tax (Rate) dated 28th June, 2017, namely:-

In the said notification,

(i) in the opening paragraph, in the proviso, in clause (i), for the words and figure “serial numbers 1”, the words, figure and letters “serial numbers 1AA” shall be substituted;

(ii) in the TABLE, S. No. 1 shall be re-numbered as S. No. 1AA, and before S. No. 1AA as so re-numbered, the following serial numbers and entries shall be inserted, namely :-

(1)	(2)	(3)
"1A.	1507	Soya-bean oil and its fractions, whether or not refined, but not chemically modified
1B.	1508	Ground-nut oil and its fractions, whether or not refined, but not chemically modified.
1C.	1509	Olive oil and its fractions, whether or not refined, but not chemically modified.
1D.	1510	Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509
1E.	1511	Palm oil and its fractions, whether or not refined, but not chemically modified.
1F.	1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified.
1G.	1513	Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified.
1H.	1514	Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified.
1I.	1515	Other fixed vegetable or microbial fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified.

1J.	1516	Vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared.
1K.	1517	Edible mixtures or preparations of vegetable fats or vegetable oils or of fractions of different vegetable fats or vegetable oils of this Chapter, other than edible fats or oils or their fractions of heading 1516
1L.	1518	Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516
1M.	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal
1N.	2702	Lignite, whether or not agglomerated, excluding jet
1O.	2703	Peat (including peat litter), whether or not agglomerated"

11.1.1.2 Departmental Notifications – Supply of services specified in sub-item (b) of item 5 of Schedule II of the CGST Act 2017 not eligible for refund of unutilized ITC under sub-section (3) of section 54 of the CGST Act 2017.

Notification No. 15/2017-Central Tax (Rate) dated 28th June, 2017 effective from 1st day of July, 2017. – The Central Government, has notified that no refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 of the said Central Goods and Services Tax Act, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act.

11.1.1.3 Departmental Notifications – Conditions and safeguards for the registered person for furnishing a Letter of Undertaking in place of a bond for export without payment of integrated tax

Notification No. 37 /2017 – Central Tax dated 4th October, 2017 - The Central Board of Excise and Customs has specified conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person who intends to supply goods or services for export without payment of integrated tax –

(i) all registered persons who intend to supply goods or services for export without payment of integrated tax shall be eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or

any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees;

(ii) the Letter of Undertaking shall be furnished on the letter head of the registered person, in duplicate, for a financial year in the annexure to FORM GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor;

(iii) where the registered person fails to pay the tax due along with interest, as specified under sub-rule (1) of rule 96A of Central Goods and Services Tax Rules, 2017, within the period mentioned in clause (a) or clause (b) of the said sub-rule, the facility of export without payment of integrated tax will be deemed to have been withdrawn and if the amount mentioned in the said sub-rule is paid, the facility of export without payment of integrated tax shall be restored.

2. The provisions of this notification shall mutatis mutandis apply in respect of zero-rated supply of goods or services or both made by a registered person (including a Special Economic Zone developer or Special Economic Zone unit) to a Special Economic Zone developer or Special Economic Zone unit without payment of integrated tax.

11.1.1.4 Departmental Notifications – Extention of period to pass order under Section 54(7) of CGST Act.

Notification No. 46/2020-Central Tax dated 9-6-2020 effective from 20th day of March, 2020 - **I**n view of the spread of pandemic COVID-19 across many countries of the world including India, the Government, on the recommendations of the Council, has notified that in cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuance of order in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of the said Act falls during the period from the 20th day of March, 2020 to the 29th day of June, *2020*, in such cases the time limit for issuance of the said order shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 30th day of June, 2020, whichever is later.

Further, Notification No. 56/2020 – Central Tax 27th June, 2020 - The Government, on the recommendations of the Council, has amended Notification No. 46/2020-Central Tax dated 9-6-2020, namely:-

In the said notification, in the first paragraph,--

(i) for the words, figures and letters “29th day of June, 2020”, the words, figures and letters “30th day of August, 2020” shall be substituted;
(ii) for the words, figures and letters “30th day of June, 2020”, the words, figures and letters “31st day of August, 2020” shall be substituted.

11.1.1.5 Departmental Notifications – Extention of dates of specified compliances in exercise of powers under section 168A of CGST Act.

Notification No. 13/2022-Central Tax dated 5th July. 2022 effective from 1st day of March, 2020 – The Government, on the recommendations of the Council, hereby,-
(i) extends the time limit specified under sub-section (10) of section 73 for issuance of order under subsection (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, up to the 30th day of September, 2023;
(ii) excludes the period from the 1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation under sub-section (10) of section 73 of the said Act for issuance of order under subsection (9) of section 73 of the said Act, for recovery of erroneous refund;
(iii) **excludes the period from the 1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.**

11.1.1.6 Departmental Notifications – Proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act.

Notification No. 39/2017 – Central Tax dated 13th October, 2017 - The Central Government has specified that the officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, 2017 (14 of 2017) (hereafter in this notification referred to as “the said Acts”) who are authorized to be the proper officers for the purposes of section 54 or section 55 of the said Acts (hereafter in this notification referred to as “the said officers”) by the Commissioner of the said Acts, shall act as proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act read with the rules made thereunder except rule 96 of the Central Goods and Services Tax Rules, 2017, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

Further, Notification No. 10/2018 – Central Tax dated 23rd January, 2018 - The Central Government has amended Notification No. 39/2017 – Central Tax dated 13th October, 2017, namely:-

In the said notification, for the words and figures “except rule 96”, the words, figures, brackets and letter ‘except sub rules (1) to (8) and sub rule (10) of rule 96” shall be substituted.

11.1.1.7 Departmental Notifications – Rates of interest under CGST Act, 2017

Notification No. 13/2017 – Central Tax dated 28th June, 2017 effective from 1st day of July, 2017 - —The Central Government, on the recommendations of the Council, has fixed the rate of interest per annum, for the purposes of the sections as specified in column (2) of the Table below, as mentioned in the corresponding entry in column (3) of the said Table.

Table

Serial Number	*Section*	*Rate of interest (in per cent)*
(1)	*(2)*	*(3)*
1.	Sub-section (1) of section 50	18
2.	sub-section (3) of section 50	24
3.	sub-section (12) of section 54	6
4.	section 56	6
5.	proviso to section 56	9

Further, Section 116(1) of the Finance Act 2022 - The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G. S. R. 661(E), dated the 28th June, 2017, issued by the Central Government on the recommendations of the Council, under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017 (12 of 2017), shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Sixth Schedule, on and from the date specified in column (3) of that Schedule.

THE SIXTH SCHEDULE

[See section 116(1)]

Notification number and date	Amendment	Date of effect of amendment
(1)	**(2)**	**(3)**

G.S.R 661 (E), dated the 28th June, 2017 [No.349/72/2017-GST, dated 28th June, 2017]	In the said notification, in the Table, against serial number 2, in column (3), for the figures "24", the figures "18" shall be substituted.	1st July, 2017.

11.1.2.1 Departmental Clarifications - Issues related to furnishing of Bond/ Letter of Undertaking for Exports - Circular No. 2/2/2017-GST dated 4th July, 2017

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

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

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

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

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

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

11.1.2.2 Departmental Clarifications - Issues related to Bond/Letter of Undertaking for exports without payment of integrated tax - Circular No. 4/4/2017-GST dated 7th July, 2017

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

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

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

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

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

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

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

8. Attention is further invited to circular No. 26/2017 – Customs dated 1st July 2017, vide which it has been clarified that the existing practice of sealing the container with a bottle seal under Central Excise supervision or otherwise would continue till 01st September, 2017. Such

sealing shall be done under the supervision of the officer having physical jurisdiction over the place of business where the sealing is being done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

9. These instructions shall apply to exports on or after 1st July, 2017.

11.1.2.3 Departmental Clarifications - Clarification on issues related to furnishing of Bond/Letter of Undertaking for Exports– Circular No. 5/5/2017 – GST dated 11th August, 2017

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

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

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

i. An exporter had a turnover of Rs. 15 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.5 crore or more (10% of export turnover is more than Rs. 1 crore)

ii. An exporter had a turnover of Rs. 5 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.0 crore or more (10% of export turnover is less than Rs. 1 crore)

iii. An exporter has an export turnover of Rs. 2 crore. He has received Rs. 80 lacs as foreign inward remittances in FY 2016-17 which is 40% of the export turnover. He will not be eligible for LUT facility as remittance received is less than Rs. 1 crore.

iv. An exporter has export turnover of Rs. 40crore. He has received Rs. 2 Crores as foreign inward remittances in FY 2016-17 which is 5% of the export turnover. He will not be eligible for LUT facility as remittance received is less than 10% of export turnover, even though it is in excess of Rs. 1 crore.

v. An exporter has received Rs. 1 Crore 10 lacs as foreign inward remittances in FY 2016-17 which is 20% of the export turnover. In this scenario, he will be eligible for LUT facility.

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

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

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

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

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

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

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

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

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

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

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

i. Documents for LUT: Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise. For example, a self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of notification No. 16/2017 - Central tax dated 7th July, 2017. Verification, if any, may be done on post facto basis. Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient.

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

11.1.2.4 Departmental Clarifications - Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports - Circular No. 2/2/2017-GST dated 4th July, 2017, Circular No. 4/4/2017-GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017 are rescinded. - Circular No. 8/8/2017-GST dated 4th October, 2017

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

2. In the light of the new notification, three circulars in this matter, namely Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017, which were issued for providing clarity on the procedure to be followed for export under bond/LUT, now require revision and a consolidated circular on this matter is warranted. Accordingly, to ensure uniformity in the procedure in this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 clarifies the following issues:

a) Eligibility to export under LUT: The facility of export under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees unlike Notification No. 16/2017-Central Tax dated 7th July, 2017 which extended the facility of export under LUT to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore.

b) Validity of LUT: The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in subrule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.

c) Form for bond/LUT: Till the time FORM GST RFD-11 is available on the common portal, the registered person (exporters) may download the FORM GST RFD-11 from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business. The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.

d) Documents for LUT: Self-declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. That is, self declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of Notification No. 37/2017- Central Tax dated 4 th October, 2017. Verification, if any, may be done on post-facto basis.

e) Time for acceptance of LUT/Bond: As LUT/Bond is a priori requirement for export, including exports to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority. It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration as stated in para 2(d) above by the exporter. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall deemed to be accepted.

f) Bank guarantee: Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.

g) Clarification regarding running bond: The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.

h) Sealing by officers: Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business

i) Purchases from manufacturer and Form CT-1: It is clarified that there is no provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime. The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST.

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

k) Realization of export proceeds in Indian Rupee: Attention is invited to para A (v) Part I of RBI Master Circular No. 14/2015-16 dated 01stJuly, 2015 (updated as on 05th November, 2015), which states that “there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan”

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance

with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

l) Jurisdictional officer: In exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, it is hereby stated that the LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

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

11.1.2.4A Departmental Clarifications – Amendment to Circular No. 8/8/2017-GST dated 4th October, 2017 - Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports- Circular No. 40/14/2018-GST dated April 6, 2018

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

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

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

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

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

11.1.2.5 Departmental Clarifications - Procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit

under deemed export benefits under section 147 of CGST Act, 2017 - Circular No. 14/14 /2017 – GST dated 6th November, 2017

In accordance with the decisions taken by the GST Council in its 22nd meeting held on 06.10.2017 at New Delhi to resolve certain difficulties being faced by exporters post GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 (hereinafter referred to as 'the Act') and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies. Accordingly, Notification No. 48/2017-Central Tax dated 18.10.2017 has been issued to treat such supplies to EOU / EHTP / STP / BTP units as deemed exports. Further, rule 89 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') has been amended vide Notification No. 47/2017- Central Tax dated 18.10.2017 to allow either the recipient or supplier of such supplies to claim refund of tax paid thereon.

2. For supplies to EOU / EHTP / STP / BTP units in terms of Notification No. 48/2017- Central Tax dated 18.10.2017, the following procedure and safeguards are prescribed –

(i) The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form–A" (appended herewith) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to –

(a) the registered supplier;

(b) the jurisdictional GST officer in charge of such registered supplier; and

(c) its jurisdictional GST officer.

(ii) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.

(iii) On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –

(a) the registered supplier;

(b) the jurisdictional GST officer in charge of such registered supplier; and

(c) its jurisdictional GST officer

(iv) The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.

(v) The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B" (appended herewith). The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required. A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.

3. The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015- 20 and the duty exemption notification being availed by such unit.

11.1.2.6 Departmental Clarifications - Manual filing and processing of refund claims in respect of zero-rated supplies- Circular No. 17/17/2017 – GST dated 15th November, 2017

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

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

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

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

2.4 The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in FORM GST RFD01A on the common portal and the amount claimed as refund shall get debited in accordance with sub-rule (3) of rule 86 of the CGST Rules from the amount in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN- Acknowledgement Receipt Number) which would be mentioned in the FORM GST RFD-01A submitted manually, along with the print out of FORM GST RFD-01A to the jurisdictional proper officer, and with all necessary documentary evidences as applicable (as per details in statement 3 or 5 of Annexure to FORM GST RFD-01), within the time stipulated for filing of such refund under the CGST Act.

2.5 The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an

undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime.

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

TABLE 1

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

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

Sl. No.	FORM	Details	Relevant provision of the CGST Rules, 2017
1.	**FORM GST RFD-02**	Acknowledgement	Rule 90(1) and 90(2)
2.	**FORM GST RFD-03**	Deficiency memo	Rule 90(3)
3.	**FORM GST RFD-04**	Provisional refund order	Rule 91(2)
4.	**FORM GST RFD-05**	Payment advice	Rules 91(3), 92(4), 92(5) and 94
5.	**FORM GST RFD-06**	Refund sanction/Rejection order	Rules 92(1), 92(3), 92(4), 92(5) and 96(7)
6.	**FORM GST RFD-07**	Order for complete adjustment/withholding of sanctioned refund	Rules 92(1), 92(2) and 96(6)

7.	**FORM GST RFD-08**	Notice for rejection of application for refund	Rule 92(3)
8.	**FORM GST RFD-09**	Reply to show cause notice	Rule 92(3)

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

Table 2

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

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

Table 3

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

2.10 After the refund claim is processed in accordance with the provisions of the CGST Act and the rules made thereunder and where any amount claimed as refund is rejected under

rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03. The amount would be credited by the proper officer using FORM GST RFD-01B (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) subject to the provisions of rule 93 of the CGST Rules.

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

3.1 Filing of Refund Claims:

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

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

Step No.	*Action to be Taken*
Step-1	Entry to be made in the Refund register for receipt of refund applications
Step-2	Check for completeness of application as well as availability of the supporting documents in totality. Once completeness in all respects is ascertained, acknowledgement in **FORM GST RFD-02** shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register for receipt of refund applications
Step-3	• All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in the format prescribed in the Forms appended to the CGST Rules, and shall be done manually (i.e. not on the common portal) within the timelines prescribed in the rules;

	• Processing for grant of provisional refund shall be completed within 7 days as per the CGST Rules and details to be maintained in the register for provisional refunds. Bifurcation of the taxes to be refunded under CGST (CT) /SGST (ST) /UTGST (UT) /IGST (IT) /Cess shall be maintained in the register mandatorily;
	• After the sanction of the provisional refund, final order is to be issued within sixty days (after due verification of the documentary evidences) of the date of receipt of the complete application form. The details of the finally sanctioned refund and rejected portion of the refund along with the breakup (CT/ST/UT/IT/Cess) to be maintained in the final refund register;
	• The amount not sanctioned and eligible for re-credit is to be re-credited to the electronic credit ledger by an order made in **FORMGST PMT-03**. The actual credit of this amount will be done by the proper officer in **FORM GST RFD-01B.**

3.3 Detailed procedure for manual processing of refund claims:

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

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

	• Deficiencies, if any, in documentary evidences are to be ascertained and communicated in FORM GST RFD-03 within 15 days of filing of the refund application. • Deficiency Memo should be complete in all respects and only one Deficiency Memo shall be given. • Submission of application after Deficiency Memo shall be treated as a fresh application. • Resubmission of the application, after rectifying the deficiencies pointed out in the Deficiency memo, shall be made by using the ARN and debit entry number generated originally • If the application is not filed afresh within thirty days of the communication of the deficiency memo, the proper officer shall pass an order in FORM GST PMT-03 and re-credit the amount claimed as refund through FORM GST RFD-01B.	Rule 93(1) - re-credit of refund amount applied for
Issue acknowledgement manually within 15 days in **FORM GST RFD-02**	• The date of submission of application for which acknowledgement has been given will be considered as the date for ensuring whether the refund application has been sanctioned within the stipulated time period.	Rule 90(2) - Acknowledgement
Grant of provisional refund within seven days of issue of acknowledgement	• The amount of provisional refund shall be calculated taking into account the total input tax credit, without making any reduction for credit being provisionally accepted. • Provisional refund shall be granted separately for each head CT / ST / UT / IT/ Cess within 7 days of acknowledgement in FORM GST RFD-04. • Before sanction of the refund a declaration shall be obtained that the applicant has not contravened rule 91(1). • Payment advice to be issued in FORM GST RFD-05. • Refund would be made directly in the bank account mentioned in the registration.	Rule 91(1) - Requirement of no prosecution for last 5 years Rule 91(2) - Prima facie satisfaction, seven day requirement Rule 91(3) - Payment advice, electronic credit to bank account

Detailed scrutiny of the refund application along with submitted documents	• The officer shall validate refund statement details with details in FORM GSTR 1 (or Table 6A of FORM GSTR-1) available on the common portal. • The Shipping bill details shall be checked by officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date. • Further, details of IGST paid also needs to be verified from FORM GSTR- 3 or FORM GSTR- 3B, as the case may be, filed by the applicant and it needs to be verified that the refund amount claimed shall be less than the tax paid on account of zero rated supplies as per FORM GSTR-3 or FORM GSTR- 3B, as the case may be. • Ascertain what amount may be sanctioned finally and see whether any adjustments against any outstanding liability is required (FORM GST RFD-07 – Part A). • Ascertain what amount of the input tax credit is sanction-able, and amount of refund, if any, liable to be withheld. • Order needs to be passed in FORM GST RFD-07 – Part B.	Rule 89(4) - Refund Amount Calculation Rule 92(1) - Any adjustments made in the amount against existing demands Rule 92(2) - reasons for withholding of refunds
If the sanction-able amount is less than the applied amount	• Notice has to be issued to the applicant in FORM GST RFD-08. • The applicant has to reply within 15 days of receipt of the notice in FORM GST RFD-09. • Principles of natural justice to be followed before making the final decision. • Final order to be made in FORM GST RFD06.	Rule 92(3) - Notice for refund not admissible / payable Rule 92(3) - Requirement of reply to the notice within 15 days Rule 92(3), 92(4), 92(5) - Sanction of Refund order
Pre-Audit	• Pre-audit of the manually processed refund applications is not required to be carried out, irrespective of the amount involved, till separate detailed guidelines are issued. • Post-audit of the orders may however continue on the basis of extant guidelines.	

Final sanction of refund	• The proper officer shall issue the refund order manually for each head i.e. CT / ST / UT / IT/ Cess. • Amount paid provisionally needs to be adjusted accordingly. • Payment advice is to be made in FORM GST RFD-05. • The amount of credit rejected has to be recredited to the credit ledger by an order in FORM GST PMT- 03 and shall be intimated to the common portal in FORM GST RFD01B. • Refund, if any, will be paid by an order with payment advice in FORM GST RFD-05. • The details of the refund along with taxpayer bank account details shall be manually submitted in PFMS/[States'] system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to PAO office for release of payment	Rule 92(3), 92(4), 92(5) - Sanction of Refund order Rule 92(4), 92(5) - Payment advice issue
Payment of interest if any	Amount, if any, will be paid by an order with payment advice in FORM GST RFD-05.	Rule 94

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

11.1.2.7 Departmental Clarifications - Refund of unutilized input tax credit of GST paid on inputs in respect of exporters of fabrics.- Circular No.18/18/2017-GST dated 16th November, 2017

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

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

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

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

(*i*)		zero rated supplies made without payment of tax;
(*ii*)		where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

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

2.3 However, the aforesaid notification having been issued under clause (*ii*) of the proviso to sub-section (3) of section 54 of the CGST Act, 2017, restriction on refund of unutilised input tax credit of GST paid on inputs will not be applicable to zero rated supplies, that is (a) exports of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

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

11.1.2.8 Departmental Clarifications - Manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger- Circular No.24/24/2017-GST dated 21st December, 2017

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

the relevant provisions of the CGST Act, 2017 (hereafter referred to as 'the CGST Act') and the CGST Rules, 2017 (hereafter referred to as 'the CGST Rules'):-

(i) refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council (section 54(3) of the CGST Act refers);

(ii) refund of tax on the supply of goods regarded as deemed exports; and

(iii) refund of balance in the electronic cash ledger.

2.0 It is clarified that refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in FORM GST RFD-01A.However, in case registered persons having aggregate turnover of up to Rs1.5 crorein the preceding financial year or the current financial year are opting to file FORM GSTR-1 quarterly (notification No. 57/2017-Central Tax dated 15.11.2017 refers), such persons shall apply for refund on a quarterly basis. Further, it is stated that the refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed. Since the date of furnishing of FORM GSTR 1 from July, 2017 onwards has been extended while the dates of furnishing of FORM GSTR 2 and FORM GSTR 3 for such period are yet to be notified, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in FORM RFD-01Aon the common portal.

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

Statement -1 [rule 89(5)]

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

(*Amount in Rs*.)

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

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

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

Sl. No.	Details of invoices of inward supplies received			Tax paid on inward supplies			Details of invoices of outward supplies issued			Tax paid on out ward supplies		
	No.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union territory Tax	No.	Date	Taxable Value	Integrated Tax	Central Tax	State / Union territory Tax
1	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	*11*	*12*	*13*

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

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

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

Refund type: On account of deemed exports

(*Amount in Rs*.)

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

5.0 It is reiterated that para 2.5 of Circular No. 17/17/2017-GST dated 15.11.2017 may be referred to in order to ascertain the jurisdictional proper officer to whom the manual application for refund is to be submitted. Where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST RFD-1B until the FORM GST PMT-03 is available on the common portal. Further, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Central or State Government. Thus, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counter- part tax authority within seven working days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular No. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in para 4 of the said Circular. It must be ensured that the timelines specified under section 54(7) and rule 91(2) of the CGST Rules for the sanction of refund are adhered to.

6.0 In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liasioning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule

91(2) of the CGST Rules, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa. The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the sanction order [FORM GST RFD-04 and FORM GST RFD-06], the application for refund in FORM GST RFD-01A and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue FORM GST RFD-05 and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

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

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

11.1.2.9 Departmental Clarifications - Processing of refund applications for UIN entities- Circular No. 36/10/2018-GST dated 13th March, 2018

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

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

3. Status of registration for UINs:

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

ii. The process for applying for UIN has been outlined under Rule 17 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"). As stated in the said rule, any person covered under clause (a) of sub-section (9) of section 25 of the CGST Act may submit an application electronically in FORM GST REG-13 on the common portal. Therefore, Specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall apply for grant of UIN electronically by filling FORM GST REG-13.

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

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

4. Filing of return by UIN agencies:

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

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

5. Applying for refund by UIN agencies:

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

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

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

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

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

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

6. Passing of refund order and settlement of funds:

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

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

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

11.1.2.9A Departmental Clarifications - Queries regarding processing of refund applications for UIN agencies- Circular No. 43/17/2018-GST dated 13th April, 2018

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

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

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

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

3. No mention of UINs on Invoices:

3.1. It has been represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. It is hereby clarified that the recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers /

vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.

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

11.1.2.10 Departmental Clarifications - Clarifications on exports related refund issues- Circular No. 37/11/2018-GST dated 15th March, 2018

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

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

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

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

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

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

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

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

5. Exports after specified period: Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

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

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

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

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

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

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

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

9. Discrepancy between values of GST invoice and shipping bill/bill of export: It has been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15

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

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

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

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

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

11.1 In many scenarios, exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed. Similarly, there may be cases where exports may have been made in a period but no input tax credit has been availed in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.

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

12. BRC / FIRC for export of goods: It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realisation Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required

to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

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

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

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

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

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

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

Table

Type of Refund	**Documents**
Export of Services with payment of tax (Refund of IGST paid on export of services)	✓ Copy of **FORM RFD-01A** filed on common portal ✓ Copy of Statement 2 of **FORM RFD-01A**

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

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

11.1.2.11 Departmental Clarifications - Clarifications on refund related issues- Circular No. 45/19/2018-GST dated 30th May, 2018

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

2. Representations have been received seeking clarification on certain refund related issues. In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (CGST Act for short) hereby clarifies the issues raised as below:

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

3.1 Doubts have been raised in case of claims for refund filed by an Input Service Distributor (ISD for short), a person paying tax under section 10 of the CGST Act (composition taxpayer for short)or a non-resident taxable person in light of para 2.0 of Circular No. 24/24/2017-GST dated 21.12.2017 which mandates that the refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period and that it is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

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

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

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

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

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

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

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

5.2 In this regard, section 16(2) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) states that, subject to the provisions of section 17(5) of the CGST Act, credit of

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

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

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

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

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

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

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

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

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

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

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

11.1.2.12 Departmental Clarifications - Clarifications of certain issues under GST - Circular No. 48/22/2018-GST dated 14th June, 2018

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

Sl. No.	*Issue*	*Clarification*
1.	Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an inter State supply (under section 7(5)(b) of the IGST Act, 2017) or an intra-State supply (under section 12(3)(c) of the IGST Act, 2017)?	1.1 As per section 7(5) (b) of the Integrated Goods and Services Tax Act, 2017 (IGST Act in short), the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/Union territory, it would be treated as an intra-State supply. 1.2 It is an established principle of interpretation of statutes that in case of an apparent conflict between

<table>
<tr><td></td><td></td><td>two provisions, the specific provision shall prevail over the general provision.

1.3 In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies.

1.4 It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.</td></tr>
<tr><td>2.</td><td>Whether the benefit of zero rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event management services, hotel and accommodation services, consumables etc?</td><td>2.1 As per section 16(1) of the IGST Act, "zero rated supplies" means supplies of goods or services or both to a SEZ developer or a SEZ unit. Whereas, section 16(3) of the IGST Act provides for refund to a registered person making zero rated supplies under bond/LUT or on payment of integrated tax, subject to such conditions, safeguards and procedure as may be prescribed. Further, as per the second proviso to rule 89(1) of the Central Goods and Services Tax Rules, 2017 (CGST Rules in short), in respect of supplies to a SEZ developer or a SEZ unit, the application for refund shall be filed by the:

<table>
<tr><td>(a)</td><td>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;</td></tr>
<tr><td>(b)</td><td>supplier of services along with such evidences regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone.</td></tr>
</table>

2.2 A conjoint reading of the above legal provisions reveals that the supplies to a SEZ developer or a SEZ unit shall be zero rated and the supplier shall be eligible for refund of unutilized input tax credit or integrated tax paid, as the case may be, only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations. An endorsement to this effect shall have to be issued by the specified officer of the Zone.

2.3 Therefore, subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of</td></tr>
</table>

		zero rated supply shall be available in such cases to the supplier.
3.	Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017, even if the goods (fabrics) supplied are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017?	3.1 Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics). 3.2 Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

11.1.2.13 Departmental Clarifications - Clarification on removal of restriction of refund of accumulated ITC on fabrics- Circular No.56/30/2018-GST dated 24th August, 2018

Certain doubts have been raised regarding the applicability and intent of notification No. 20/2018-Central Tax (Rate) dated 26th July, 2018 (which seeks to amend Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017) relating to the provision for lapsing of input tax credit accumulated on account of inverted duty structure on fabrics for the period upto the 31st July, 2018.

2. The said notification No. 5/2017-Central Tax (Rate) was issued in exercise of powers vested under section 54 of the Central Goods and Services Tax Act, 2017(CGST Act, 2017). It notifies the items on which refund of accumulated input tax credit on account of inverted duty structure is not allowed. Some of the items notified under this notification are fabrics. A total 10 categories of fabrics covered in the notification are as follows:

S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	**(2)**	**(3)**
1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials

6.	5512 to 5516	Woven fabrics of manmade staple fibres
6A#	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B*	5801	Corduroy fabrics
6C#	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive
7.	60	Knitted or crocheted fabrics [All goods]

*Inserted in the month of Sep 17, # Inserted in the month of Nov 17.

3. In the 28th GST Council meeting, it was decided to remove the restriction of not allowing refund of ITC accumulated on account of inverted duty structure on fabrics with prospective effect on the input supplies received after the date of issue of notification. It was also decided to simultaneously lapse the accumulated ITC, lying unutilised, for the past period, after the payment of GST for the month of July, 2018. Accordingly, to give effect to this decision, the notification No. 20/2018-Central Tax (Rate) has been issued amending Notification No. 5/2017-Central Tax(Rate). To keep the accounting simple, it was decided to make these changes effective from the 1st day of August, 2018.

4. *Vide* the said notification No. 20/2018-Central Tax (Rate), the following proviso has been inserted in notification No. 5/2017-Central Tax (Rate).

"**Provided** that,-

(*i*)	nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and
(*ii*)	in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse. ".

5. The doubts raised, with reference to changes made vide notification No. 20/2018- Central Tax (Rate) are as follows:

(1)	Whether this notification seeks to lapse all the input tax credit lying unutilised after payment of tax upto the month of July. 2018?
(2)	Whether unutilised ITC in respect of services and capital goods shall also be disallowed?
(3)	Implication to fabrics like cotton and silk where there was no inverted duty structure?
(4)	Whether accumulated ITC in respect of exports shall also be made to lapse?

6. The matter has been examined. Section 54 of the CGST Act, 2017 provides for refund of accumulated credit on inputs on account of inverted duty structure, i.e., GST rate on inputs being higher than the GST rates on finished goods. However, proviso (ii) to section 54 (3)

provides that in respect of notified goods, the refund of such accumulated input tax credit shall not be allowed. Notification No. 5/2017-Central Tax (Rate) has been issued in terms of this provision and it *interalia* prescribes that refund of accumulated ITC on account of inverted duty structure shall not be allowed in respect of fabrics as mentioned in para 2. Therefore, the restriction of refund of accumulated ITC under notification No. 5/2017-Central Tax (rate) dated 28.06.2017 is applicable only in respect of refund of accumulated ITC on inputs. This notification does not put any restriction in relation to the ITC on input services and capital goods.

7. The proviso has to be read with the principal part of the notification. A comprehensive reading of amended notification makes it clear that the proviso seeks to lapse only such input tax credit which is the subject matter of principal notification, i.e. accumulated credit on account of inverted duty structure in respect of stated fabrics. The net effect of clause (ii) in the said proviso is that it provides for lapsing of input tax credit that would have been refundable in terms of section 54 of the Act, for the period prior to the 31st July, 2018, but for the restriction imposed vide said notification No. 5/2017-Central Tax (Rate) and that too to the extent of accumulated ITC lying unutilised after making payment of GST upto the month of July, 2018. In other words, in terms of amended notification, the input tax credit on account of inverted duty structure lying in balance after payment of GST for the month of July (on purchases made on or before the 31st July, 2018) shall lapse.

8. As the notification No. 5/2017-Central Tax (Rate) does not put any restriction in respect of ITC on input services and capital goods, therefore the proviso now inserted in the said notification No. 5/2017-Central Tax (Rate) vide notification No. 20/2018 does not affect the ITC availed on input services and capital goods.

9. As regards, the legislative power of providing for lapsing of input tax credit, the same flows inherently from the power to deny refund of accumulated ITC on account of inverted structure.

10. Doubts have also been raised as regards the manner of calculating the ITC amount accumulated on account of inverted duty structure on the inputs of said fabrics that would lapse on account of above stated change. It is clarified that for determination of such amount, the formula as prescribed in rule 89 (5) of the CGST rules shall *mutatis mutandis* apply as it applies for determination of refundable amount for inverted duty structure. Such amount shall be determined for the months from July, 2017 to July 2018 [or for the relevant period for such fabrics on which refund was blocked subsequently by inserting entries in notification No. 5/2017-Central Tax (Rate)]. The accumulated input tax credit determined by each supplier using the prescribed formula lying unutilised in balance after making the payment of GST for the month of July, 2018 shall lapse.

Illustrations:

(1) A manufacture who produces only manmade fibre fabrics, had a turnover of Rs 5 crore for the period from July, 2017 to July 2018[or for the relevant period for fabrics on which refund was blocked subsequently by inserting entries in notification No. 5/2017-Central Tax (Rate)]. Tax payable thereon is Rs 25 lakh (@ 5%). Assuming the net ITC availed on inputs, during this period, was Rs 30 lakh. Applying the formula prescribed in rule 89 (5), the accumulated ITC on account of inverted duly structure comes to Rs 5 lakh. In other words, this manufacturer has accumulated Rs 5 lakh on inputs on account of inverted duty structure during the said period. If ITC balance lying unutilized with him is more than this amount, say Rs 10 lakh, the

ITC equal to Rs 5 lakh will only lapse. However, if for any reason, the ITC balance lying unutilized is less than Rs 5 lakh, say Rs 3 lakh, the ITC equal to Rs 3 lakh will lapse.

(2) A manufacture who produces, say, grey manmade fibre fabrics and cotton fabrics, had a turnover of Rs 5 crore and 2 crore respectively for manmade fabrics and cotton fabrics for the months from July, 2017 to July 2018 [or for the relevant period for fabrics on which refund was blocked subsequently by inserting entries in notification No. 5/2017-Central Tax (Rate)]. Tax payable thereon is Rs 25 lakh on MMF fabrics and Rs 10 lakh on cotton fabrics. MMF fabric has inverted duty structure while cotton fabric does not have inverted duty structure. Assuming the net ITC availed on inputs, during this period, was Rs 35 lakh, i.e.,

= ((Turnover of inverted rated supply of goods Adjusted Total Turnover) x Net ITC) - tax payable on such inverted rated supply of goods

The accumulated ITC on account of inverted duty structure shall be equal to nil (5/7*35-25). Thus no amount shall lapse. However, assuming that in this case the ITC availed on input is Rs. 42 lakh, the accumulated ITC on accounted on inverted duty structure is Rs 5 lakh (5/7*42-25)

The manner of calculation as provided in rule 89(5) would *mutatis mutandis* apply.

10.1 As illustrated, the application of formula prescribed in rule 89(5) ensures that ITC relating to capital goods and input services does not lapse.

11. However, a manufacturer may have closing stock of finished goods and inputs as on 31.7.2018. A doubt has been raised as to whether input tax relating thereto shall also lapse and concern has been expressed that this would amount to double taxation. It is clarified that the proposed amendment seeks to lapse only such credit that has been accumulated on inputs on account of inverted duty structure. Therefore, in case a manufacturer, whose accumulated ITC is liable to lapse in terms of said notification, has certain stock lying in balance as on 31.7.2018, the input tax credit involved in inputs contained in such stock (including inputs lying as such) may be excluded for determination of Net ITC for the purposes of applying the said formula. For this purpose, the ITC relating to inputs contained in stock may be determined in the manner as provided in S. No. 7 of Form GST ITC-01.

12. As regards the applicability of said proviso to cotton, silk and other natural fibre fabrics, which do not suffer inverted duty structure, this is clarified that the said condition of lapsing of ITC would apply only if input tax credit on inputs has been accumulated on account of inverted duty structure. The aforesaid formula takes care of this aspect.

13. As regards accumulated ITC in relation to exports, the refund of such ITC on exports is separately determined under rule 89 (4). Application of formula, as prescribed in rule 89(5), ensures that accumulated ITC on exports does not lapse as this formula excludes zero rated supplies. Further notification No. 5/2017-Central Tax (Rate) does not impose any restriction of refunds on zero rated supplies as was also clarified *vide* CGST circular no. 18/2017-Central Tax dated 16th November, 2017. Hence the proviso has no applicability to the input tax credit relating to zero rated supplies. Accordingly, accumulated ITC on zero rated supplies shall not lapse. This is ensured by application of formula.

14.The procedure to be followed for lapsing of accumulated input tax credit - A taxable person, whose input tax credit is liable to be lapsed in terms of said notification, shall calculate the amount of such accumulated ITC, in the manner as clarified above. This amount shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018. The amount shall be furnished in column 4B (2) of the return [ITC amount to be reversed for any reason (others)]. Verification of accumulated ITC amount so lapsed may be done at the time of filing of first refund (on account of inverted duty structure on fabrics) by such person. Therefore, a detailed calculation sheet in respect of accumulated ITC lapsed shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.

11.1.2.14 Departmental Clarifications - Clarification on refund related issues- Circular No. 59/33/2018-GST dated 4th September, 2018

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

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

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

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

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

11.1.2.15 Departmental Clarifications - Processing of refund applications filed by Canteen Stores Department (CSD)- Circular No. 60/34/2018-GST dated 4th September, 2018

Vide notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) and No. 6/2017-Union territory Tax (Rate), all dated 28th June 2017, the Central Government has specified the Canteen Stores Department (CSD for short), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax, integrated tax and Union territory tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD. Identical notifications have been issued by the State Governments allowing refund of fifty per cent of the State tax paid by the CSD on the inward supply of goods received by it and supplied subsequently as stated above. 2. With a view to ensuring expeditious processing of refund claims, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereafter referred to as the 'CGST Act'), hereby specifies the manner and procedure for filing and processing of such refund claims as below:-

3. Filing Application for Refund:

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

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

(i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD;

(ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed;

(iii) Copies of the valid return filed in FORM GSTR-3B by the CSD for the period covered in the refund claim;

(iv) Copies of FORM GSTR-2A of the CSD for the period covered in the refund claim along with the attested hard copies of the invoices on which refund is claimed but which are not reflected in FORM GSTR-2A;

(v) Details of the bank account in which the refund amount is to be credited.

4. Processing and sanction of the refund claim

4.1 Upon receipt of the complete application in FORM GST RFD-10A, an acknowledgement shall be issued manually within 15 days of the receipt of the application in FORM GST RFD-02 by the proper officer. In case of any deficiencies in the requisite documentary evidences to be submitted as detailed in para 3.2 above, the same shall be communicated to the CSD by

issuing a deficiency memo manually in FORM GST RFD-03 by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued which should be complete in all respects.

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

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

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

11.1.2.16 Departmental Clarifications - Clarification regarding processing of refund claims filed by UIN entities- Circular No. 63/37/2018 – GST dated 14th September, 2018

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

2. Non-compliance with letter of reciprocity: Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts provide for examination of the refund claims in accordance with the letter of reciprocity issued by the Ministry of External Affairs (hereinafter referred to as MEA). Generally, these letters of reciprocity have certain conditions specified on the basis of which refunds have to be

processed and sanctioned. For example, letters may specify the minimum value of goods or services or the end use of such goods or services (official or personal purposes).

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

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

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

4.1 Refund Checklist: In order to bring in uniformity in the processing of the refund claims, a checklist has been specified in Annexure A. All UIN entities may refer to this checklist while filing the refund claims.

4.2 Certificate: A sample certificate to be submitted by Embassy/Mission/Consulate is enclosed as Annexure-B and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as Annexure-B-1.

4.3 Undertaking: A sample undertaking to be submitted by Embassy/Mission/Consulate is enclosed as Annexure-C and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as Annexure-C-1.

4.4 Statement of Invoices: The detailed statement of invoices shall be submitted in the format specified in Annexure D.

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

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

the personnel and officials posted in the Embassy/Mission/Consulate shall be determined based on the principle of reciprocity.

7. Waiver from recording UIN in the invoices for the months of April, 2018 to March, 2019: A one-time waiver is hereby given from recording the UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April, 2018 to March, 2019, subject to the condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer.

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

11.1.2.17 Departmental Clarifications - Clarification on certain issues related to refund- Circular No. 70/44/2018 -GST date 26th October, 2018

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

2. Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:

2.1 Para 7.1 of circular No. 59/33/2018-GST dated the 4th September, 2018 clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim. In para 7.2 of the said circular, the practise being followed in the field formations was elaborated and it was clarified that show cause notices are not required to be issued (and consequently no orders are required to be issued in FORM GST RFD-04/06) in cases where refund application is not resubmitted after the issuance of a deficiency memo (in FORM GST RFD-03). It was also clarified that once a deficiency memo has been issued against an application for refund, the amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") is required to be recredited to the electronic credit ledger of the applicant by using FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund.

2.2 The issue has been re-examined and it has been observed that presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in FORM GST RFD-03 is issued to taxpayers, re-credit in the electronic credit ledger (using FORM GST RFD-01B) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

3. Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:

3.1 Sub-rule (10) of Rule 96 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "said sub-rule"), restricts exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations have been received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the IGST paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, had accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility notification No. 54/2018 – Central Tax dated the 9th October, 2018 has been issued to carry out the changes recommended by the GST Council. Alongside the amendment carried out in the said sub-rule through the notification No. 39/2018- Central Tax dated 4th September, 2018 has been rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

3.2 For removal of doubts, it is clarified that the net effect of these changes would be that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification No. 54/2018 – Central Tax dated the 9th October, 2018 referred to above.

3.3 Further, after the issuance of notification No. 54/2018 – Central Tax dated the 9th October, 2018 , exporters who are importing goods in terms of notification Nos. 78/2017- Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule. All clarifications issued in this regard vide any Circular issued earlier are hereby superseded.

11.1.2.18 Departmental Clarifications - Clarification on export of services under GST- Circular No. 78/52/2018-GST dated 31st December, 2018

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

Sl. No.	Issue	Clarification
1.	In case an exporter of services outsources a portion of the services contract to another person located outside India, what would be the tax treatment	1. Where an exporter of services located in India is supplying certain services to a recipient located outside India, either wholly or partly through any other supplier of services located outside India, the following two supplies are taking place:-

	of the said portion of the contract at the hands of the exporter? There may be instances where the full consideration for the outsourced services is not received by the exporter in India.	(*i*) Supply of services from the exporter of services located in India to the recipient of services located outside India for the full contract value; (*ii*) Import of services by the exporter of services located in India from the supplier of services located outside India with respect to the outsourced portion of the contract. Thus, the total value of services as agreed to in the contract between the exporter of services located in India and the recipient of services located outside India will be considered as export of services if all the conditions laid down in section 2(6) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) read with section 13(2) of the IGST Act are satisfied. 2. It is clarified that the supplier of services located in India would be liable to pay integrated tax on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India. Furthermore, the said supplier of services located in India would be eligible for taking input tax credit of the integrated tax so paid. 3. Thus, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services), that portion of the consideration shall also be treated as receipt of consideration for export of services in terms of section 2(6)(iv) of the IGST Act, provided the: (*i*) integrated tax has been paid by the supplier located in India for import of services on that portion of the services which has been directly provided by the supplier located outside India to the recipient of services located outside India; and (*ii*) RBI by general instruction or by specific approval has allowed that a part of the consideration for such exports can be retained outside India. *Illustration*: ABC Ltd. India has received an order for supply of services amounting to $ 5,00,000/- to a US

		based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in Section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay integrated tax on the same under reverse charge and also be eligible to take input tax credit of the integrated tax so paid. Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided integrated tax on import of services has been paid on the part of the services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.

11.1.2.19 Departmental Clarifications - Clarification on refund related issues- Circular No. 79/53/2018-GST dated 31st December, 2018

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

Physical submission of refund claims with jurisdictional proper officer:

2. Due to the non-availability of the complete electronic refund module, a work around was prescribed vide Circular No. 17/17/2017-GST dated 15.11.2017 and Circular No. 24/24/2017-GST dated 21.12.2017, wherein a taxpayer was required to file FORM GST RFD-01A on the common portal, generate the Application Reference Number (ARN), take print-outs of the same, and submit it physically in the office of the jurisdictional proper officer, along with all the supporting documents. It has been learnt that this requirement of physical submission of

documents in the jurisdictional tax office is causing undue hardship to the taxpayers. Therefore, in order to further simplify the refund process, the following instructions, in partial modification of the aforesaid circulars, are issued:

a) All documents/undertaking/statements to be submitted along with the claim for refund in FORM GST RFD-01A shall be uploaded on the common portal at the time of filing of the refund application. Circular No. 59/33/2018-GST dated 04.09.2018 specified that instead of providing copies of all invoices, a statement of invoices needs to be submitted in a prescribed format and copies of only those invoices need to be submitted the details of which are not found in FORM GSTR-2A for the relevant period. It is now clarified that the said statement and these invoices, instead of being submitted physically, shall be electronically uploaded on the common portal at the time of filing the claim of refund in FORM GST RFD-01A. Neither the application in FORM GST RFD-01A, nor any of the supporting documents, shall be required to be submitted physically in the office of the jurisdictional proper officer.

b) However, the taxpayer will still have the option to physically submit the refund application to the jurisdictional proper officer in FORM GST RFD-01A, along with supporting documents, if he so chooses. A taxpayer who still remains unallocated to the Central or State Tax Authority will necessarily have to submit the refund application physically. They can choose to do so before the jurisdictional proper officer of either the State or the Central tax authority, as was earlier clarified vide Circular No. 17/17/2017 - GST dated 15.11.2017.

c) The ARN will be generated only after the claimant has completed the process of filing the refund application in FORM GST RFD-01A, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

d) As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under rule 90(2) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement shall be counted from that date. This will obviate the need for a claimant to visit the jurisdictional tax office for the submission of the refund application. Accordingly, the acknowledgement for the complete application or deficiency memo, as the case may be, would be issued by the jurisdictional tax officer based on the documents so received electronically from the common portal. However, the said acknowledgement or deficiency memo shall continue to be issued manually for the time being.

e) If a refund application is electronically transferred to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically within a period of three days. In such cases, the application shall be deemed to have been filed under rule 90(2) of the CGST Rules only after it has been so reassigned. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction. Where the facility of electronic re-assignment is not available, the present arrangement shall continue.

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

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

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

4. Representations have been received stating that while processing the refund of unutilized ITC on account of inverted tax structure, the departmental officers are denying the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

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

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with help of the following example:

i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).

ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.

iii. Further assume that the claimant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the claimant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.

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

v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of Rs. 385/-.

vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

Disbursal of refund amounts after sanction:

5. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the claimant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the claimant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the claimant. Accordingly, all tax authorities are advised to issue the final sanction orders in FORM GST RFD-06 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days by both Central and State Tax Authorities for CGST / IGST / UTGST / Compensation Cess and SGST respectively.

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

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

a) All refund applications in which the amount claimed is less than the statutory limit of Rs. 1,000/- should be rejected and the amount re-credited to the electronic credit ledger of the applicant through the issuance of FORM GST RFD-01B.

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

7. For the applications generated on the common portal before the issuance of this Circular in relation to refund of excess balance from the electronic cash ledger which have not yet been received in the jurisdictional office, the amount debited in the electronic cash ledger in such applications may be re-credited through FORM GST RFD-01B provided that there are no liabilities in the electronic liability register. The said amount shall be re-credited even though the return in FORM GSTR-3B, as the case may be for the relevant period has not been filed.

8. For the refund applications generated on the common portal after the issuance of this Circular, and for the refund applications generated on the common portal before the issuance

of this Circular and which have been physically received in the jurisdictional tax offices before the issuance of this Circular, the existing guidelines, as modified by this Circular may be followed.

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

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

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

Clarification: In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of CGST/SGST/UTGST/IGST was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. Further, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of IGST. This process would be applicable for application for refund of compensation cess (not claimed earlier) in respect of the past period.

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

Clarification: There is no distinction between intermediate goods or services and final goods or services under GST. Inputs have been clearly defined to include any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Since coal is an input used in the production of aluminium, albeit indirectly through

the captive generation of electricity, which is directly connected with the business of the registered person, input tax credit in relation to the same cannot be denied.

c) Issue: A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e. Rs. 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the FORM GSTR-3B filed for the month as a result of which an amount of Rs. 50/- only is credited in the electronic credit ledger. The reversed amount (Rs. 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares Rs. 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be Rs. 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the balance in the electronic credit ledger at the time of filing the refund claim is Rs. 50/- (assuming that no other debits/credits have happened), the system will proceed to debit Rs. 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction Rs. 50/- as the refund amount or Rs. 25/- (i.e. half of the ITC availed after adjusting for reversals)?

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

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

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

11. In this regard, it is clarified that „Net ITC‟ as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been „availed‟ when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in FORM GSTR-3B. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2017, „availed‟

in September, 2017 cannot be excluded from the calculation of the refund amount for the month of September, 2017.

Misinterpretation of the meaning of the term "inputs":

12. It has been represented that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the claimant.

13. In relation to the above, it is clarified that the input tax credit of the GST paid on inputs shall be available to a registered person as long as he/she uses or intends to use such inputs for the purposes of his/her business and there is no specific restriction on the availment of such ITC anywhere else in the GST Act. The GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

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

14. Section 54(3) of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, section 2(59) of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. Accordingly, in order to align the CGST Rules with the CGST Act, notification No. 26/2018-Central Tax dated 13.06.2018 was issued wherein it was stated that the term Net ITC, as used in the formula for calculating the maximum refund amount under rule 89(5) of the CGST Rules, shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both. In view of the above, it is clarified that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted duty structure.

15. All previous Circulars/Instructions issued on the subject stand modified accordingly.

11.1.2.20 Departmental Clarifications - Clarifications on refund related issues under GST- Circular No. 94/13/2019-GST dated 28th March, 2019

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

Sl. No.	Issue	Clarification
1.	Certain registered persons have reversed, through return in **FORM GSTR-3B** filed for the month of August, 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 read with circular No. 56/30/2018-GST dated 24.08.2018 (hereinafter referred to as the "said notification"). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of **FORM GST RFD-01A** from being higher than the amount of ITC availed in **FORM GSTR-3B** of the relevant period minus the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?	(*a*) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required to be lapsed in terms of the said notification, is to be claimed under the category "any other" instead of under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure" in **FORM GST RFD-01A**. It is emphasized that this application for refund should relate to the same tax period in which such reversal has been made. (*b*) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a "refund claim of unutilized ITC on account of accumulation due to inverted tax structure". On receiving the said application, the proper officer shall himself calculate the refund amount admissible as per rule 89(5) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), in the manner detailed in para 3 of Circular No. 59/33/2018-GST dated 04.09.2018. After calculating the admissible refund amount, as described above, and scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment advice in **FORM GST RFD-05**.

		(*c*) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in **FORM GST RFD-01A** under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure"**.**
2.	The clarification at Sl. No. 1 above applies to registered persons who have already reversed the ITC required to be lapsed in terms of the said notification through return in **FORM GSTR-3B**. What about those registered persons who are yet to perform this reversal?	It is hereby clarified that all those registered persons required to make the reversal in terms of the said notification and who have not yet done so, may reverse the said amount through **FORM GST DRC-03** instead of through **FORM GSTR-3B**.
3.	What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, through the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018?	(*a*) As the registered person has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for a month subsequent to the month of August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018, he shall be liable to pay interest under sub-section (1) of section 50 of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in **FORM GSTR- 3B** for the month of August, 2018 till the date of reversal of said amount through **FORM GSTR-3B** or through **FORM GST DRC-03**, as the case may be. (*b*) The registered person who has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f. 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed, either through **FORM GSTR-3B** or **FORM GST DRC-03,** along with payment of interest, as applicable.

4.	How should a merchant exporter claim refund of input tax credit availed on supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017 (hereinafter referred to as the "said notifications")?	(*a*)	Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted.
		(*b*)	This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category "any other" instead of under the category "refund of unutilized ITC on account of exports without payment of tax" in **FORM GST RFD-01A** and shall be accompanied by all supporting documents required for substantiating the refund claim under the category "refund of unutilized ITC on account of exports without payment of tax". After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment advice in **FORM GST RFD-05**.
5.	Vide Circular No. 59/33/2018-GST dated 04.09.2018, it was clarified that after issuance of a deficiency memo, the input tax credit is required to be re-credited through **FORM GST RFD-01B** and the taxpayer is expected to file a fresh application for refund. Accordingly, in several cases, the ITC amounts were re-credited after issuance of deficiency memo. However, it was later represented that the common portal does not allow a taxpayer to file a fresh application for the same period after issuance of a deficiency memo. Therefore, the matter was re-examined and it was subsequently clarified, vide Circular No. 70/44/2018-GST dated 26.10.2018 that no re-	In such cases, the claimant may re-submit the refund application manually in **FORM GST RFD-01A** after correction of deficiencies pointed out in the deficiency memo, using the same ARN. The proper officer shall then proceed to process the refund application as per the existing guidelines. After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment advice in **FORM GST RFD-05**.	

	credit should be carried out in such cases and taxpayers should file the rectified application, after issuance of the deficiency memo, under the earlier ARN only. It was also further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out. However, no such clarification has yet been issued and several refund claims are pending on this account.	

11.1.2.21 Departmental Clarifications - Processing of refund applications in FORM GST RFD-01A submitted by taxpayers wrongly mapped on the common portal - Circular No. 104/23/2019-GST dated 28th June, 2019

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

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

3. Prior to 31.12.2018, refund applications were being processed only after submission of printed copies of FORM GST RFD 01A in the respective jurisdictional tax offices. Subsequent to the issuance of Circular No.79/53/2018-GST dated 31.12.2018, copies of refund applications are no longer required to be submitted physically in the jurisdictional tax office. Now, the common portal forwards the refund applications submitted on the said portal to the jurisdictional proper officer of the tax authority to whom the taxpayer has been administratively assigned. In case of the example cited in para 2 above, as the applicant was wrongly mapped with the State tax authority on the common portal, the application was transferred by the common portal to the proper officer of the State tax authority despite M/s XYZ Ltd. being

administratively assigned to the Central tax authority. As per para 2(e) of Circular No. 79/53/2018-GST dated 31.12.2018, the proper officer of the State tax authority should electronically re-assign the said application to the designated jurisdictional proper officer. It has, however, been reported that the said re-assignment facility is not yet available on the common portal.

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

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

11.1.2.22 Departmental Clarifications - Clarification in respect of goods sent/taken out of India for exhibition or on consignment basis for export promotion- Circular No. 108/27/2019-GST dated 18th July, 2019

Various representations have been received from the trade and industry regarding procedure to be followed in respect of goods sent / taken out of India for exhibition or on consignment basis for export promotion. Such goods sent / taken out of India crystallise into exports, wholly or partly, only after a gap of certain period from the date they were physically sent / taken out of India.

2. The matter has been examined and in view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) hereby clarifies various issues in succeeding paragraphs.

3. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-

(i) it should be for a consideration by a person; and

(ii) it should be in the course or furtherance of business.

4. The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration. Further, sub-section (21) of section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”) defines “supply”, wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

5. Section 16 of the IGST Act deals with “Zero rated supply”. The provisions contained in the said section read as under:

16. (1) “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

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

Therefore, it can be concluded that only such „supplies" which are either „export" or are „supply to SEZ unit / developer" would qualify as zero-rated supply.

6. It is, accordingly, clarified that the activity of sending / taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act (hereinafter referred to as the “specified goods”), do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as “Zero rated supply” as per the provisions contained in section 16 of the IGST Act.

7. Since the activity of sending / taking specified goods out of India is not a supply, doubts have been raised by the trade and industry on issues relating to maintenance of records, issuance of delivery challan / tax invoice etc. These issues have been examined and the clarification on each of these points is as under: -

Sl.No.	Issue	Clarification
1.	Whether any records are required to be maintained by registered person for sending/taking specified goods out of India?	The registered person dealing in specified goods shall maintain a record of such goods as per the format at Annexure to this Circular.
2.	What is the documentation required for sending/taking the specified goods out of India?	(*a*) As clarified above, the activity of sending/taking specified goods out of India is not a supply. (*b*) The said activity is in the nature of "sale on approval basis" wherein the goods are sent/taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place. The activity of sending/taking specified goods is covered under the provisions of sub-section (7) of section 31 of the CGST Act read with rule 55 of Central Goods & Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules"). (*c*) The specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.

		(*d*) As clarified in paragraph 6 above, the activity of sending/taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.
3.	When is the supply of specified goods sent /taken out of India said to take place?	(*a*) The specified goods sent/taken out of India are required to be either sold or brought back within the stipulated period of six months from the date of removal as per the provisions contained in sub-section (7) of section 31 of the CGST Act. (*b*) The supply would be deemed to have taken place, on the expiry of six months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period. (*c*) If the specified goods are sold abroad, fully or partially, within the specified period of six months, the supply is effected, in respect of quantity so sold, on the date of such sale.
4.	Whether invoice is required to be issued when the specified goods sent/taken out of India are not brought back, either fully or partially, within the stipulated period?	(*a*) When the specified goods sent/taken out of India have been sold fully or partially, within the stipulated period of six months, as laid down in sub-section (7) of section 31 of the CGST Act, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. (*b*) When the specified goods sent/taken out of India have neither been sold nor brought back, either fully or partially, within the stipulated period of six months, as laid down in sub-section (7) of section 31 of the CGST Act, the sender shall issue a tax invoice on the date of expiry of six months from the date of removal, in respect of such quantity of specified goods which have neither been sold nor brought back, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

5.	Whether the refund claims can be preferred in respect of specified goods sent/taken out of India but not brought back?	(*a*) As clarified in para 5 above, 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. (*b*) It has further been clarified in answer to question no. 3 above that the supply would be deemed to have taken place: (*i*) on the date of expiry of six months from the date of removal, if the specified goods are neither sold nor brought back within the said period; or (*ii*) on the date of sale, in respect of such quantity of specified goods which have been sold abroad within the specified period of six months. (*c*) 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 sub-section (3) of section 54 the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules, in respect of zero rated supply of goods after he has issued the tax invoice on the dates as has been clarified in answer to the question no. 4 above. It is further clarified that refund claim cannot be preferred under rule 96 of CGST Rules as supply is taking place at a time after the goods have already been sent/taken out of India earlier.

8. The above position is explained by way of illustrations below:

Illustrations:

i) M/s ABC sends 100 units of specified goods out of India. The activity of merely 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 of the CGST Rules. In case the entire quantity of specified goods is brought back within the stipulated period of six months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case. In case, however, the entire quantity of specified goods is neither sold nor brought back within six months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under sub-section (7) of section 31 of the CGST Act.

ii) 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 of the CGST Rules. 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 of the CGST Act read with rule 46 of the CGST Rules. 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 of the CGST Act read with rule 46 of the CGST Rules. Further, M/s ABC may claim refund of accumulated input tax credit in accordance with the provisions contained in subsection (3) of section 54 of the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules in respect of zero-rated supply of 60 units.

11.1.2.23 Departmental Clarifications - Eligibility to file a refund application in FORM GST RFD-01 for a period and category under which a NIL refund application has already been filed - Circular No. 110/29/2019 – GST dated 3rd October, 2019

Several registered persons have inadvertently filed a NIL refund claim for a certain period under a particular category on the common portal in FORM GST RFD-01A/RFD-01 in spite of the fact that they had a genuine claim for refund for that period under the said category. Once a NIL refund claim is filed, the common portal does not allow the registered person to re-file the refund claim for that period under the said category. Representations have been received requesting that registered persons may be allowed to re-file the refund claim for the period and the category under which the NIL claim has inadvertently been filed. The matter has been examined and in order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues raised as below:

2. Whenever a registered person proceeds to claim refund in FORM GST RFD-01A/RFD-01 under a category for a particular period on the common portal, the system pops up a message box asking whether he wants to apply for ‘NIL’ refund for the selected period. This is to ensure that all refund applications under a particular category are filed chronologically. However, certain registered persons may have inadvertently opted for filing of ‘NIL’ refund. Once a ‘NIL’ refund claim has been filed for a period under a particular category, the common portal does not allow the registered person to re-file the refund claim for that period under the said category.

3. It is now clarified that a registered person who has filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a given period under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following two conditions:

a. The registered person must have filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a certain period under a particular category; and

b. No refund claims in FORM GST RFD-01A/RFD-01 must have been filed by the registered person under the same category for any subsequent period.

It may be noted that condition (b) shall apply only for refund claims falling under the following categories:

i. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;

ii. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;

iii. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

In all other cases, registered persons shall be allowed to re-apply even if the condition (b) is not satisfied.

4. Registered persons satisfying the above conditions may file the refund claim under "Any Other" category instead of the category under which the NIL refund claim has already been filed. However, the refund claim should pertain to the same period for which the NIL application was filed. The application under the "Any Other" category shall also be accompanied by all the supporting documents which would be required to be otherwise submitted with the refund claim.

5. On receipt of the claim, the proper officer shall calculate the admissible refund amount as per the applicable rules and in the manner detailed in para 3 of Circular No.59/33/2018-GST dated 04.09.2018, wherever applicable. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer in writing, if required, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD-05.

11.1.2.24 Departmental Clarifications - Procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum - Circular No. 111/30/2019 – GST dated 3rd October, 2019

Doubts have been raised on the procedure to be followed by a registered person to claim refund subsequent to a favourable order in appeal or any other forum against rejection of a refund claim in FORM GST RFD-06. The matter has been examined and in order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues raised as below:

2. Appeals against rejection of refund claims are being disposed offline as the electronic module for the same is yet to be made operational. As per rule 93 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger, if any, is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in FORM GST RFD-01.

3. In case a favourable order is received by a registered person in appeal or in any other forum in respect of a refund claim rejected through issuance of an order in FORM GST RFD-06, the registered person would file a fresh refund application under the category "Refund on account

of assessment/provisional assessment/appeal/any other order" claiming refund of the amount allowed in appeal or any other forum. Since the amount debited, if any, at the time of filing of the refund application was not re-credited, the registered person shall not be required to debit the said amount again from his electronic credit ledger at the time of filing of the fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order". The registered person shall be required to give details of the type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority. The registered person would also be required to upload a copy of the order of the Appellate or other authority, copy of the refund rejection order in FORM GST RFD 06 issued by the proper officer or such other order against which appeal has been preferred and other related documents.

4. Upon receipt of the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" the proper officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in FORM GST RFD 06 and issue payment order in FORM GST RFD 05 accordingly. The proper officer disposing the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" shall also ensure re-credit of any amount which remains rejected in the order of the appellate (or any other authority). However, such re-credit shall be made following the guideline as laid down in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018.

5. The above clarifications can be illustrated with the help of an example. Consider a registered person who makes an application for refund of unutilized ITC on account of export to the extent of Rs.100/- and debits the said amount from his electronic credit ledger. The proper officer disposes the application by allowing refund of Rs.70/- and rejecting the refund of Rs. 30/-. However, he does not recredit Rs.30/- since appeal is preferred by the claimant and accordingly FORM GST RFD 01B is not uploaded. Assume that the appellate authority allows refund of only Rs.10/- out of the Rs. 30/- for which the registered person went in appeal. This Rs.10/- shall be claimed afresh under the category "Refund on account of assessment/provisional assessment/appeal/any other order" and processed accordingly. However, subsequent to processing of this claim of Rs.10/- the proper officer shall re-credit Rs.20/- to the electronic credit ledger of the claimant, provided that the registered person is not challenging the order in a higher forum. For this purpose, FORM GST RFD 01B under the original ARN which has so far not been uploaded will be uploaded with refund sanctioned amount as Rs.80/- and the amount to be re-credited as Rs. 20/-. In case, the proper officer who rejected the refund claim is not the one who is disposing the application under the category "Refund on account of assessment/provisional assessment/appeal/any other order", the latter shall communicate to the proper officer who rejected the refund claim to close the ARN as above only after obtaining the undertaking as referred in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018.

11.1.2.25 4.4.2.8 Departmental Clarifications - Fully electronic refund process through FORM GST RFD-01 and single disbursement - The procedure for electronic submission and processing of refund applications in supersession of earlier Circulars viz. Circular No. 17/17/2017-GST dated 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum dated 18.07.2019), - The provisions of the said Circulars shall continue to apply for all refund

applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually Circular No. 125/44/2019 – GST dated 18th November, 2019

After roll out of GST w.e.f. 01.07.2017, on account of the unavailability of electronic refund module on the common portal, a temporary mechanism had to be devised and implemented wherein applicants were required to file the refund application in FORM GST RFD-01A on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of these refund applications, i.e. issuance of acknowledgement of the refund application, issuance of deficiency memo, passing of provisional/final order, payment advice etc. was also being done manually. In order to make the process of submission of the refund application electronic, Circular No. 79/53/2018-GST dated 31.12.2018 was issued wherein it was specified that the refund application in FORM GST RFD01A, along with all supporting documents, shall be submitted electronically. However, various post submission stages of processing of the refund application continued to be manual.

2. The necessary capabilities for making the refund procedure fully electronic, in which all steps of submission and processing shall be undertaken electronically, have been deployed on the common portal with effect from 26.09.2019. Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims need to be suitably modified and a fresh set of guidelines needs to be issued for electronic submission and processing of refund claims. With this objective and in order to ensure uniformity in the implementation of the provisions of law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby lays down the procedure for electronic submission and processing of refund applications in supersession of earlier Circulars viz. Circular No. 17/17/2017-GST dated 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum dated 18.07.2019), 59/33/2018-GST dated 04.09.2018, 70/44/2018-GST dated 26.10.2018, 79/53/2018-GST dated 31.12.2018 and 94/13/2019-GST dated 28.03.2019. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually as prior to deployment of new system.

Filing of refund applications in FORM GST RFD-01

3. With effect from 26.09.2019, the applications for the following types of refunds shall be filed in FORM GST RFD 01 on the common portal and the same shall be processed electronically:

a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;

b. Refund of tax paid on export of services with payment of tax;

c. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;

d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;

e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

f. Refund to supplier of tax paid on deemed export supplies;

g. Refund to recipient of tax paid on deemed export supplies;

h. Refund of excess balance in the electronic cash ledger;

i. Refund of excess payment of tax;

j. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;

k. Refund on account of assessment/provisional assessment/appeal/any other order;

l. Refund on account of “any other” ground or reason.

4. The following modalities shall be followed for all refund applications filed in FORM GST RFD-01 on the common portal with effect from 26.09.2019:

a. FORM GST RFD-01 shall be filled on the common portal by an applicant seeking refund under any of the categories mentioned above. This shall entail filing of statements/declarations/undertakings which are part of FORM GST RFD-01 itself, and also uploading of other documents/invoices which shall be required to be provided by the applicant for processing of the refund claim. A comprehensive list of such documents is provided at Annexure-A and it is clarified that no other document needs to be provided by the applicant at the stage of filing of the refund application. The facility of uploading these other documents/invoices shall be available on the common portal where four documents, each of maximum 5MB, may be uploaded along with the refund application. Neither the refund application in FORM GST RFD-01 nor any of the supporting documents shall be required to be physically submitted to the office of the jurisdictional proper officer.

b. The Application Reference Number (ARN) will be generated only after the applicant has completed the process of filing the refund application in FORM GST RFD-01, and has completed uploading of all the supporting documents/ undertaking/ statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

c. As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under sub-rule (2) of rule 90 of the CGST Rules on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement or a deficiency memo, as the case may be, shall be counted from the said date. This will obviate the need for an applicant to visit the jurisdictional tax office for the submission of the refund application and /or any of the supporting documents. Accordingly, the acknowledgement for the complete application (FORM GST RFD-02) or deficiency memo (FORM GST RFD-03), as the case may be, would be issued electronically by the jurisdictional tax officer based on the documents so received from the common portal.

d. If a refund application is electronically transmitted to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically as soon as possible, but not later than three working days, from the date of generation of the ARN. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction.

e. It may be noted that the facility to reassign such refund applications is already available with the Commissioner or the officer(s) authorized by him.

5. The refund application in FORM GST RFD-01 filed by all taxpayers, who have already been assigned to the Centre or the State tax authorities, shall be automatically forwarded by the common portal to the concerned authority. At the same time, there might be some migrated taxpayers, who have remained unassigned so far. The refund application in FORM GST RFD-01 filed by such unassigned taxpayers shall be forwarded, for processing, by the common portal to the jurisdictional proper officer of the tax authority from which the taxpayer has originally migrated. Such officers will continue to process these applications up to the stage of issuance of final order in FORM GST RFD-06 and the related payment order in FORM GST RFD-05 even if the applicant is assigned to the counterpart tax authority while the refund claim is under processing. However, if such an applicant gets assigned to one of the tax authorities after generation of the ARN and a deficiency memo gets issued for the refund application submitted by him, then the re-submitted refund application, after correction of deficiencies, shall be treated as a fresh refund application and shall be forwarded to the jurisdictional proper officer of the tax authority to which the taxpayer has now been assigned, irrespective of which authority handled the initial refund claim and issued the deficiency memo.

6. Any refund claim for a tax period may be filed only after furnishing all the returns in FORM GSTR-1 and FORM GSTR-3B which were due to be furnished on or before the date on which the refund application is being filed. However, in case of a claim for refund filed by a composition taxpayer, a non-resident taxable person, or an Input Service Distributor (ISD) furnishing of returns in FORM GSTR-1 and FORM GSTR-3B is not required. Instead, the applicant should have furnished returns in FORM GSTR-4(along with FORM GST CMP-08), FORM GSTR-5 or FORM GSTR-6, as the case may be, which were due to be furnished on or before the date on which the refund application is being filed.

7. Since the functionality of furnishing of FORM GSTR-2 and FORM GSTR-3 remains unimplemented, it has been decided by the GST Council to sanction refund of provisionally accepted input tax credit. However, the applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of section 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim.

8. The applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund claim has been filed, however, cannot spread across different financial years. Registered persons having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or the current financial year opting to file FORM GSTR-1 on quarterly basis, can only apply for refund on a quarterly basis or clubbing successive quarters as aforesaid. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier.

Deficiency Memos

9. It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in FORM GST RFD-02 should be issued within 15 days of the filing of the refund application. The date of generation of ARN for FORM GST RFD-01 is to be considered as the date of filing of the refund application. Sub-rule (3) of rule 90 of the CGST Rules provides for communication of deficiencies in FORM GST RFD-03 where deficiencies are noticed within the aforesaid period of 15 days. It is clarified that either an acknowledgement or a deficiency memo should be issued within the aforesaid period of 15 days starting from the date of generation of ARN. Once an acknowledgement has been issued in relation to a refund application, no deficiency memo, on any grounds, may be subsequently issued for the said application.

10. After a deficiency memo has been issued, the refund application would not be further processed and a fresh application would have to be filed. Any amount of input tax credit/cash debited from electronic credit/ cash ledger would be re-credited automatically once the deficiency memo has been issued. It may be noted that the re-credit would take place automatically and no order in FORM GST PMT-03 is required to be issued. The applicant is required to rectify the deficiencies highlighted in deficiency memo and file fresh refund application electronically in FORM GST RFD-01 again for the same period and this application would have a new and distinct ARN.

11. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original deficiency memo remain un-rectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

12. It is also clarified that since a refund application filed after correction of deficiency is treated as a fresh refund application, such a rectified refund application, submitted after correction of deficiencies, shall also have to be submitted within 2 years of the relevant date, as defined in the explanation after sub-section (14) of section 54 of the CGST Act.

Provisional Refund

13. Doubts get raised as to whether provisional refund would be given even in those cases where the proper officer prima-facie has sufficient reasons to believe that there are irregularities in the refund application which would result in rejection of whole or part of the refund amount so claimed. It is clarified that in such cases, the proper officer shall refund on a provisional basis ninety percent of the refundable amount of the claim (amount of refund claim less the inadmissible portion of refund so found) in accordance with the provisions of rule 91 of the CGST Rules. Final sanction of refund shall be made in accordance with the provisions of rule 92 of the CGST Rules.

14. It is further clarified that there is no prohibition under the law preventing a proper officer from sanctioning the entire amount within 7 days of the issuance of acknowledgement through issuance of FORM GST RFD-06, instead of grant of provisional refund of 90 per cent of the amount claimed through FORM GST RFD-04. If the proper officer is fully satisfied about the eligibility of a refund claim on account of zero-rated supplies, and is of the opinion that no further scrutiny is required, the proper officer may issue final order in FORM GST RFD-06 within 7 days of the issuance of acknowledgement. In such cases, the issuance of a provisional refund order in FORM GST RFD-04 will not be necessary.

15. Further, there are doubts on the procedure to be followed in situations where the final refund amount to be sanctioned in FORM GST RFD-06 is less than the amount of refund

sanctioned provisionally through FORM GST RFD-04. For example, consider a situation where an applicant files a refund claim of Rs.100/- on account of zero-rated supplies. The proper officer, after prima-facie examination of the application, sanctions Rs. 90 as provisional refund through FORM GST RFD-04 and the same is electronically credited to his bank account. However, on detailed examination, it appears to the proper officer that only an amount of Rs. 70 is admissible as refund to the applicant. In such cases, the proper officer shall have to issue a show cause notice to the applicant, in FORM GST RFD-08, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:

(a) the amount claimed of Rs. 30/- should not be rejected as per the relevant provisions of the law; and

(b) the amount of Rs. 20/- erroneously refunded should not be recovered under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

16. The proper officer for adjudicating the above case shall be the same as the proper officer for sanctioning refund under section 54 of the CGST Act. The above notice shall be adjudicated following the principles of natural justice and an order shall be issued, in FORM GST RFD-06, under section 54 of the CGST Act, read with section 73 or section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, then an amount of Rs. 70/- will have to be sanctioned in FORM GST RFD-06, and an amount of Rs. 20/-, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Further, if the application pertains to refund of unutilized/accumulated ITC, then Rs. 30/-, i.e. the amount rejected, shall have to be re-credited to the electronic credit ledger of the applicant through FORM GST PMT-03. However, this re-credit shall be done only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same has been finally decided against the applicant. In such cases, it may be noted that FORM GST RFD08 and FORM GST RFD-06, are to be considered as show cause notice and adjudication order respectively, under both section 54 (for rejection of refund) and section 73/74 of the CGST Act as the case may be (for recovery of erroneous refund).

17. It is further clarified that no adjustment or withholding of refund, as provided under subsections (10) and (11) of section 54 of the CGST Act, shall be allowed in respect of the amount of refund which has been provisionally sanctioned. In cases where there is an outstanding recoverable amount due from the applicant, the proper officer, instead of granting refund on provisional basis, may process and sanction refund on final basis at the earliest and recover the amount from the amount so sanctioned.

Scrutiny of Application

18. In case of refund claim on account of export of goods without payment of tax, the Shipping bill details shall be checked by the proper officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date. It is advised that while processing refund claims, information contained in Table 9 of FORM GSTR-1 of the relevant tax period as well as that of the subsequent tax periods should also be taken into cognizance, wherever applicable. In this regard, Circular No. 26/26/2017–GST dated 29.12.2017 may be referred, wherein the procedure for rectification of errors made while filing the returns in FORM GSTR-3B has been

provided. Therefore, in case of discrepancies between the data furnished by the taxpayer in FORM GSTR-3B and FORM GSTR-1, the proper officer shall refer to the said Circular and process the refund application accordingly.

19. Detailed guidelines laid down in subsequent paragraphs of this Circular covering various types of refund claims may also be followed while scrutinizing refund claims for completeness and eligibility.

Re-crediting of electronic credit ledger on account of rejection of refund claim

20. In case of rejection of refund claim of unutilized/accumulated ITC due to ineligibility of the input tax credit under any provisions of the CGST Act and rules made thereunder, the proper officer shall have to issue a show cause notice in FORM GST RFD-08, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:

(a) the refund amount corresponding to the ineligible ITC should not be rejected as per the relevant provisions of the law; and

(b) the amount of ineligible ITC should not be recovered as wrongly availed ITC under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

21. The above notice shall be adjudicated following the principles of natural justice and an order shall be issued, in FORM GST RFD-06, under section 54 of the CGST Act, read with section 73 or section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, then FORM GST RFD-06 shall have to be issued accordingly, and the amount of ineligible ITC, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Alternatively, the applicant can voluntarily pay this amount, along with interest and penalty, as applicable, before service of the demand notice, and intimate the same to the proper officer in FORM GST DRC-03 in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of the CGST Act, as the case may be, read with subrule (2) of rule 142 of the CGST Rules. In such cases, the need for serving a demand notice for recovery of ineligible ITC will be obviated. In any case, the proper officer shall order for the rejected amount to be re-credited to the electronic credit ledger of the applicant using FORM GST PMT-03, only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

22. In case of rejection of a claim for refund, on account of any reason other than the ineligibility of credit, the process described in para 20 and 21 above shall be followed with the only difference that there shall be no proceedings for recovery of ineligible ITC under section 73 or section 74, as the case may be.

23. Consider an example where against a refund claim of unutilized/accumulated ITC of Rs.100/-, only Rs.80/- is sanctioned (Rs.15/- is rejected on account of ineligible ITC and Rs.5/- is rejected on account of any other reason). As stated above, a show cause notice, in FORM GST RFD-08 shall have to be issued to the applicant, requiring him to show cause as to why the refund claim amounting to Rs.20/-should not be rejected under the relevant provisions of the law and why the ineligible ITC of Rs. 15/- should not be recovered under section 73 or section 74, as the case may be, with interest and penalty, if any. If the said notice is decided against the applicant, Rs. 15/-, along with interest and penalty, if any, shall be entered by the

officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Further, Rs. 20/- would be recredited through FORM GST PMT-03 only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

24. Continuing with the above example, further assume that the applicant files an appeal against this order and the appellate authority decides wholly in the applicant's favour. It is hereby clarified in such a case the petitioner would file a fresh refund claim for the said amount of Rs. 20/- under the option of claiming refund "On Account of Assessment/Provisional Assessment/Appeal/Any other order".

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

25. It has been represented that while filing the return in FORM GSTR-3B for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero-rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of FORM GSTR-3B whilst they have shown the correct details in Table 6A or 6B of FORM GSTR-1 for the relevant tax period and duly discharged their tax liabilities. Such registered persons were earlier unable to file the refund application in FORM GST RFD-01A for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricted the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of FORM GSTR3B (zero rated supplies) filed for the corresponding tax period.

26. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in FORM GST RFD-01 on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.

Disbursal of refunds

27. Separate disbursement of refund amounts under different tax heads by different tax authorities, i.e. disbursement of Central tax, Integrated tax and Compensation Cess by Central tax officers and disbursement of State tax by State tax officers, was causing undue hardship to the refund applicants. In order to facilitate refund applicants on this account, it has now been decided that for a refund application assigned to a Central tax officer, both the sanction order (FORM GST RFD-04/06) and the corresponding payment order (FORM GST RFD-05) for the sanctioned refund amount, under all tax heads, shall be issued by the Central tax officer only. Similarly, for refund applications assigned to a State/UT tax officer, both the sanction order (FORM GST RFD04/06) and the corresponding payment order (FORM GST RFD-05) for the sanctioned refund amount, under all tax heads, shall be issued by the State/UT tax officer only.

28. The sanctioned refund amounts, as entered in the payment orders issued by the Central and State/UT tax officers, shall be disbursed through the Public Financial Management System (PFMS) of the Controller General of Accounts (CGA), Ministry of Finance, Government of India. On filing of a refund application in FORM GST RFD-01, the common

portal shall generate a master file for the applicant containing the relevant details like name, GSTIN, bank account details etc. This master file shall be shared with PFMS for validation of the bank account details provided by the applicant in the refund application. Once the bank account is validated, PFMS will create a unique assessee code (combination of GSTIN + validated bank account number) for the applicant. This unique assessee code will be used by PFMS for all refund payments made to the applicant in the said bank account. Therefore, in order to avoid repeat validations and generation of multiple unique assessee codes for the same GSTIN, it shall be advisable for the applicants to enter the same bank account details in successive refund applications submitted in FORM GST RFD-01. In cases where an applicant wishes to avail the refund in a different bank account, which has not yet been validated, a new unique assessee code (comprising of GSTIN + new bank account) will be generated by PFMS after validation of the said bank account.

29. If the bank account details mentioned by an applicant in the refund application submitted in FORM GST RFD-01 are invalidated, an error message shall be transmitted by PFMS to the common portal electronically and the common portal shall make the error message available to the applicant and the refund officers on their dashboards. On receiving such an error message, an applicant can:

a) rectify the invalidated bank account details by filing a non-core amendment in FORM GST REG-14; or

b) add a new bank account by filing a non-core amendment in FORM GST REG-14

30. The updated bank account details will be reflected in a drop-down menu on the dashboard. From this drop-down menu, the applicant can choose any bank account, including the ones rectified (option (a)) or newly added (option (b)), from the list of bank accounts available in his registration database. The chosen bank account details will again be sent to PFMS for validation. The proper officer will be able to issue the payment order in FORM GST RFD-05 only after the selected bank account has been validated.

31. By following the above process, validation errors, if any, will generally be corrected before the issuance of payment order in FORM GST RFD-05. Therefore, there should generally not be any validation errors after issuance of a payment order in FORM GST RFD-05. However, in certain exceptional cases, it is possible that a validation error occurs after issuance of the payment order. In such cases, the said payment order will be invalidated by the common portal and a new payment order will have to be issued by the proper officer after following the rectification process described in paras 29 and 30 above. The re-issued payment order will have a new reference number and shall contain the newly selected bank account details. However, there will be no change in either the original ARN or the sanction order number or the amount for which the payment order was originally issued.

32. It may be noted that the applicant, at the time of filing of refund application in FORM GST RFD-01, can select a bank account only from the list of bank accounts provided by him at the time of registration in FORM GST REG-01, or subsequently through filing a non-core amendment in FORM GST REG-14. The same account details will be auto-populated in the payment order issued in FORM GST RFD-05. Any change in these auto-populated bank account details shall not be allowed unless there is a validation error in relation to the same.

33. The disbursement status of the refund amount would be communicated by PFMS to the common portal. The common portal shall notify the same to the taxpayer by email/SMS. Such details shall also be available on the status tracking facility on the dashboard.

34. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the applicant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order in FORM GST RFD-06 and the payment order in FORM GST RFD-05 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.

35. The provisions relating to refund provide for partial as well as complete adjustment of refund against any outstanding demand under GST or under any existing law. It is hereby clarified that both partial or complete adjustment of sanctioned amount of refund against any outstanding demand under GST or under any existing law would be made in FORM GST RFD-06. Furthermore, sub-clause (b) of sub-section (6), sub-clause (a) of sub-section (7), sub-clause (a) of sub-section (8) and sub-clause (a) of sub-section (9) of Section 142 of the CGST Act provides for recovery of any tax, interest, fine, penalty or any other amount recoverable under the existing law as an arrear of tax under GST unless such amount is recovered under the existing law. It is hereby clarified that adjustment of refund amount against any outstanding demand under the existing law can be done.

Guidelines for refunds of unutilized Input Tax Credit

36. Applicants of refunds of unutilized ITC, i.e. refunds pertaining to items listed at (a), (c) and (e) in para 3 above, shall have to upload a copy of FORM GSTR-2A for the relevant period (or any prior or subsequent period(s) in which the relevant invoices have been auto-populated) for which the refund is claimed. The proper officer shall rely upon FORM GSTR-2A as an evidence of the accountal of the supply by the corresponding supplier(s) in relation to which the input tax credit has been availed by the applicant. Such applicants shall also upload the details of all the invoices on the basis of which input tax credit has been availed during the relevant period for which the refund is being claimed, in the format enclosed as Annexure-B along with the application for refund claim. Such availment of ITC will be subject to restriction imposed under sub-rule (4) in rule 36 of the CGST rules inserted vide Notification No. 49/2019-CT dated 09.10.2019. The applicant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said format for enabling the proper officer to determine the same. Self-certified copies of invoices in relation to which the refund of ITC is being claimed and which are declared as eligible for ITC in Annexure – B, but which are not populated in FORM GSTR-2A, shall be uploaded by the applicant along with the application in FORM GST RFD 01. It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are available in FORM GSTR-2A of the relevant period uploaded by the applicant.

37. In case of refunds pertaining to items listed at (a), (c) and (e) in para 3 above, the common portal calculates the refundable amount as the least of the following amounts:

a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the CGST Rules [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.

After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the 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).

38. The order of debit described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications. However, for applications where this order is not adhered to by the applicant, no adverse view may be taken by the tax authorities. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01 is generated.

39. For all refund applications where refund of unutilized ITC of compensation cess is being claimed, the calculation of the refundable amount of compensation cess shall be done separately and the amount so calculated will be entirely debited from the balance of compensation cess available in the electronic credit ledger.

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

Guidelines for refund of tax paid on deemed exports

41. Certain supplies of goods have been notified as deemed exports vide notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act. Further, the third proviso to rule 89(1) of the CGST Rules allows either the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017- Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking that the recipient of deemed export supplies shall not claim the refund in respect of such supplies and shall not avail any input tax credit on such supplies. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking shall have to be furnished by him stating that refund has been claimed only for those invoices which have been detailed in statement 5B for the tax period for which refund is being claimed and that he has not availed input tax credit on such invoices. The recipient shall also be required to declare that the supplier has not claimed refund with respect to the said supplies. The procedure

regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with.

Guidelines for claims of refund of Compensation Cess

42. Doubts have been raised whether a registered person is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the zero-rated final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminium products, whereas cess is not levied on aluminium products. In this context, attention is invited to section 16(2) of the Integrated Goods and Services Tax Act, 2017 (hereafter referred to as the "IGST Act") which states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, section 16 of the IGST Act has been mutatis mutandis made applicable to inter-State supplies under the Cess Act vide section 11 (2) of the Cess Act. Thus, it implies that input tax credit of Compensation Cess may be availed for making zero-rated supplies. Further, by virtue of section 54(3) of the CGST Act, the refund of such unutilized ITC shall be available. Accordingly, it is clarified that a registered person making zero rated supply of aluminium products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal. Such registered persons may also make zero-rated supply of aluminium products on payment of Integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of Integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies.

43. As regards the certain issues related to refund of accumulated input tax credit of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking on which clarifications have been sought since GST roll out, the same have been examined and are clarified as below:

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

Clarification: In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of Central tax/State tax/Union Territory tax/Integrated tax was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess

calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. However, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of Integrated tax. This process would be applicable for application(s) for refund of compensation cess (not claimed earlier) in respect of the past period.

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

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

c) Issue: A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e. Rs. 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the FORM GSTR-3B filed for the month as a result of which an amount of Rs. 50/- only is credited in the electronic credit ledger. The reversed amount (Rs. 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares Rs. 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be Rs. 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the balance in the electronic credit ledger at the time of filing the refund claim is Rs. 50/- (assuming that no other debits/credits have happened), the common portal will proceed to debit Rs. 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction Rs. 50/- as the refund amount or Rs. 25/- (i.e. half of the ITC availed after adjusting for reversals)?

Clarification: ITC which is reversed cannot be held to have been 'availed' in the relevant period. Therefore, the same cannot be part of refund of unutilized ITC on account of zerorated supplies. Moreover, the reversed ITC has been accounted as a cost which would have reduced the income tax liability of the applicant. Therefore, the same amount cannot, at the same time, be refunded to him/her in the ratio of export turnover to total turnover. However, if the said reversed amount is again availed in a later tax period, subject to the restriction under section 16(4) of the CGST Act, it can be refunded in the ratio of export turnover to total turnover in that tax period in the same manner as detailed in para 37 above. This is subject to the restriction that the accounting entry showing the said ITC as cost is also reversed.

Clarifications on issues related to making zero-rated supplies

44. Export of goods or services can be made without payment of Integrated tax under the provisions of rule 96A of the CGST Rules. Under the said provisions, an exporter is required

to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has been specified vide Circular No. 8/8/2017 –GST dated 4.10.2017. It has been brought to the notice of the Board that in some cases, such zero-rated supplies were made before filing the LUT and refund claims for unutilized input tax credit got filed. In this regard, it is emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

45. Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of Integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange. It has been reported that the exporters have been asked to pay Integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, payment of Integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

46. It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the applicant has not been prosecuted. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 04.10.2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 04.10.2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self–declaration with every refund claim where the exports have been made under LUT is not warranted.

47. It has also been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero-rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are meant for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the

value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund.

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

49. As per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. In terms of section 2 (47) of the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of Integrated tax. However, in case of zero-rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of Integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, the exporter would be eligible for refund of unutilized input tax credit of Central tax, State tax, Union Territory tax, Integrated tax and compensation cess in such cases.

Refund of transitional credit

50. Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC' and thus no refund of such unutilized transitional credit is admissible.

Restrictions imposed by sub-rule (10) of rule 96 of the CGST Rules

51. Sub-rule (10) of rule 96 of the CGST Rules, restricted exporters from availing the facility of claiming refund of Integrated tax paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations were received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of

the Integrated tax paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility. Notification No. 54/2018 – Central Tax dated the 9th October, 2018 was issued to carry out the changes recommended by the GST Council. In addition, notification No. 39/2018- Central Tax dated 4th September, 2018 was rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

52. The net effect of these changes is that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13.10.2017, before the issuance of the notification No. 54/2018 – Central Tax dated 09.10.2018, shall be eligible to claim refund of the Integrated tax paid on exports. Further, exporters who have imported inputs in terms of notification Nos. 78/2017-Customs dated 13.10.2017, after the issuance of notification No. 54/2018 – Central Tax dated 09.10.2018, would not be eligible to claim refund of Integrated tax paid on exports. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13.10. 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18.10.2017, shall continue to be eligible to claim refund of Integrated tax paid on exports and would not be hit by the restrictions provided in sub-rule (10) of rule 96 of the CGST Rules.

Clarification on calculation of refund amount for claims of refund of accumulated ITC on account of inverted tax structure

53. Sub-section (3) of section 54 of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, subsection (59) of section 2 of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. It is clarified that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted tax structure.

54. There have been instances where while processing the refund of unutilized ITC on account of inverted tax structure, some of the tax authorities denied the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

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

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with the help of following example:

i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).

ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.

iii. Further assume that the applicant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the applicant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.

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

v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of Rs. 385/-. vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

Refund of TDS/TCS deposited in excess

55. Tax deducted in accordance with the provisions of section 51 of the CGST Act or tax collected in accordance with the provisions of section 52 of the CGST Act is required to be paid while discharging the liability in FORM GSTR 7 or FORM GSTR 8, as the case may be, by the deductor or the collector, as the case may be.

56. It has been reported that, there are instances where taxes so deducted or collected is deposited under the wrong head (e.g. an amount deducted as Central tax is deposited as Integrated tax/State tax), thereby creating excess balance in the cash ledger of the deductor or the collector as the case may be. Doubts have been raised on the fate of this excess balance of TDS/TCS in the cash ledger of the deductor or the collector. It is clarified that such excess balance may be claimed by the tax deductor or the collector as the excess balance in electronic cash ledger. In this case, the common portal would debit the amount so claimed as refund. However, in case where tax deducted or collected in excess is also paid while discharging the liability in FORM GSTR 7 or FORM GSTR 8, as the case may be, and the said amount has been credited to the electronic cash ledger of the deductee, the deductee can adjust the same while discharging his output liability or he can claim refund of the same under the category “refund of excess balance in the electronic cash ledger”.

Debit of electronic credit ledger using FORM GST DRC-03

57. Various representations have been received seeking clarifications on certain refund related issues, the solutions to which involve debiting the electronic credit ledger using FORM GST DRC-03. These issues are clarified as under:

Sl. No.	Issue	Clarification

1	Certain registered persons have reversed, through return in **FORM GSTR-3B** filed for the month of August, 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 read with circular No. 56/30/2018-GST dated 24.08.2018 (hereinafter referred to as the "said notification"). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of **FORM GST RFD-01A from** being higher than the amount of ITC availed in **FORM GSTR-3B** of the relevant period minus the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?	(*a*) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required to be lapsed in terms of the said notification, is to be claimed under the category "any other" instead of under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure" in **FORM GST RFD-01A** It is emphasized that this application for refund should relate to the same tax period in which such reversal has been made. (*b*) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a "refund claim of unutilized ITC on account of accumulation due to inverted tax structure". On receiving the said application, the proper officer shall himself calculate the refund amount admissible as per rule 89(5) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), in the manner detailed in **para 37** above. After calculating the admissible refund amount, as described above, and scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03.** Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05** (*c*) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in **FORM GST RFD-01** under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure".
2	The clarification at Sl. No. 1 above applies to registered persons who have already reversed the ITC required to be lapsed in terms of the said notification through return in **FORM GSTR-3B.** What about those registered persons who are yet to perform this reversal?	It is hereby clarified that all those registered persons required to make the reversal in terms of the said notification and who have not yet done so, may reverse the said amount through **FORM GST DRC-03** instead of through **FORM GSTR-3B**

3	What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, through the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018?	(*a*) As the registered person has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for a month subsequent to the month of August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018, he shall be liable to pay interest under sub-section (1) of section 50 of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in **FORM GSTR-3B** for the month of August, 2018 till the date of reversal of said amount through **FORM GSTR-3B** or through **FORM GST DRC-03,** as the case may be. (*b*) The registered person who has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed, either through **FORM GSTR-3B or FORM GST DRC-03,** along with payment of interest, as applicable.
4	How should a merchant exporter claim refund of input tax credit availed on supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017 (hereinafter referred to as the "said notifications")?	(*a*) Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted. (*b*) This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category "any other" instead of under the category "refund of unutilized ITC on account of exports without payment of tax" in **FORM GST RFD-01** and shall be accompanied by all supporting documents required for substantiating the refund claim under the category "refund of unutilized ITC on account of exports without payment of tax". After scrutinizing the application for

		completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03.** Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05**

Refund of Integrated Tax paid on Exports

58. The refund of Integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter is deemed to be an application for refund in such cases, but the same is deemed to have been filed only when the export manifest or export report is filed and the applicant has filed the return in FORM GSTR-3B for the relevant period duly indicating the integrated tax paid on goods exported in Table 3.1(b) of FORM-GSTR-3B . In addition, the exporter is expected to furnish the details of the exported goods in Table 6A of FORM GSTR-1 of the relevant period. Only where the common portal is able to validate the consistency of the details so entered by the applicant, the relevant information regarding the refund claim is forwarded to Customs Systems. Upon receipt of the information from the common portal regarding furnishing of these details, the Customs Systems processes the claim for refund and an amount equal to the Integrated tax paid in respect of such export is electronically credited to the bank account of the applicant.

Clarifications on other issues

59. Notification No. 40/2017 – Central Tax (Rate) and notification No. 41/2017 – Integrated Tax (Rate) both dated 23.10.2017 provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications. It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate. It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of Integrated tax.

60. Sub-section (14) of section 54 of the CGST Act provides that no refund under subsection (5) or sub-section (6) of section 54 of the CGST Act shall be paid to an applicant, if the amount is less than one thousand rupees. In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively.

61. Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self-declaration basis in FORM GSTR-3B for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2018, may be declared in the FORM GSTR-3B filed for a subsequent month, say September 2018. This is inevitable in cases where the supplier raises an invoice, say in August, 2018, and the goods reach the recipient's premises in September, 2018. Since GST

law mandates that ITC can be availed only after the goods have been received, the recipient can only avail the ITC on such goods in the FORM GSTR-3B filed for the month of September, 2018. However, it has been reported that tax authorities are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September, 2018. In this regard, it is clarified that "Net ITC" as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been "availed" when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in FORM GSTR-3B. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2019, "availed" in September, 2019 cannot be excluded from the calculation of the refund amount for the month of September, 2019.

62. It has been represented that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the applicant. It is clarified that the ITC of the GST paid on inputs, including inward supplies of stores and spares, packing materials etc., shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

11.1.2.26 Departmental Clarifications - Clarification on refund related issues - Circular No.135/05/2020 – GST dated 31st March, 2020

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

2. Bunching of refund claims across Financial Years

2.1 It may be recalled that the restriction on clubbing of tax periods across different financial years was put in vide para 11.2 of the Circular No. 37/11/2018-GST dated 15.03.2018. The said circular was rescinded being subsumed in the Master Circular on Refunds No. 125/44/2019-GST dated 18.11.2019 and the said restriction on the clubbing of tax periods

across financial years for claiming refund thus has been continued vide Paragraph 8 of the Circular No. 125/44/2019-GST dated 18.11.2019, which is reproduced as under:

> "8. The applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund claim has been filed, however, cannot spread across different financial years. Registered persons having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or the current financial year opting to file FORM GSTR-1 on quarterly basis, can only apply for refund on a quarterly basis or clubbing successive quarters as aforesaid. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier."

2.2 Hon'ble Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt Ltd., vide para 13 of the said order has stayed the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 and has also directed the Government to either open the online portal so as to enable the petitioner to file the tax refund electronically, or to accept the same manually within 4 weeks from the Order. Hon'ble Delhi High Court vide para 12 of the aforesaid Order has observed that the Circulars can supplant but not supplement the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law. 2.3 Further, same issue has been raised in various other representations also, especially those received from the merchant exporters wherein merchant exporters have received the supplies of goods in the last quarter of a Financial Year and have made exports in the next Financial Year i.e. from April onwards. The restriction imposed vide para 8 of the master refund circular prohibits the refund of ITC accrued in such cases as well.

2.4 On perusal of the provisions under sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 and sub-section (3) of section 54 of the CGST Act, there appears no bar in claiming refund by clubbing different months across successive Financial Years.

2.5 The issue has been examined and it has been decided to remove the restriction on clubbing of tax periods across Financial Years. Accordingly, circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply.

3. Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate

3.1 It has been brought to the notice of the Board that some of the applicants are seeking refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods. This can be explained through an illustration. 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 is being claimed that accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act.

3.2 It may be noted that refund of accumulated ITC in terms clause (ii) of sub-section (3) of section 54 of the CGST Act is available where the credit has accumulated on account of rate

of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of sub-section (3) of section 54 of the CGST Act. It is hereby clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same.

4. Change in manner of refund of tax paid on supplies other than zero rated supplies

4.1 Circular No. 125/44/2019-GST dated 18.11.2019, in para 3, categorizes the refund applications to be filed in FORM GST RFD-01 as under:

a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;

b. Refund of tax paid on export of services with payment of tax;

c. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;

d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;

e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

f. Refund to supplier of tax paid on deemed export supplies;

g. Refund to recipient of tax paid on deemed export supplies;

h. Refund of excess balance in the electronic cash ledger;

i. Refund of excess payment of tax;

j. Refund of tax paid on intra-State supply which is subsequently held to be interState supply and vice versa;

k. Refund on account of assessment/provisional assessment/appeal/any other order;

l. Refund on account of “any other” ground or reason.

4.2 For the refund of tax paid falling in categories specified at S. No. (i) to (l) above i.e. refund claims on supplies other than zero rated supplies, no separate debit of ITC from electronic credit ledger is required to be made by the applicant at the time of filing refund claim, being claim of tax already paid. However, the total tax would have been normally paid by the applicant by debiting tax amount from both electronic credit ledger and electronic cash ledger. At present, in these cases, the amount of admissible refund, is paid in cash even when such payment of tax or any part thereof, has been made through ITC.

4.3.1 As this could lead to allowing unintended encashment of credit balances, this issue has been engaging attention of the Government. Accordingly, vide notification No.16/2020-Central Tax dated 23.03.2020, sub-rule (4A) has been inserted in rule 86 of the CGST Rules, 2017 which reads as under:

“(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03.”

4.3.2 Further, vide the same notification, sub-rule (1A) has also been inserted in rule 92 of the CGST Rules, 2017. The same is reproduced hereunder:

> "(1A)Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in FORM RFD-06 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 for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input Tax Credit in electronic credit ledger."

4.4 The combined effect the abovementioned changes is that any such refund of tax paid on supplies other than zero rated supplies will now be admissible proportionately in the respective original mode of payment i.e. in cases of refund, where the tax to be refunded has been paid by debiting both electronic cash and credit ledgers (other than the refund of tax paid on zero-rated supplies or deemed export), the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which application for refund has been filed. Such amount, shall be accordingly paid by issuance of order in FORM GST RFD-06 for amount refundable in cash and FORM GST PMT-03 to re-credit the amount attributable to credit as ITC in the electronic credit ledger.

5. Guidelines for refunds of Input Tax Credit under Section 54(3)

5.1 In terms of para 36 of circular No. 125/44/2019-GST dated 18.11.2019, the refund of ITC availed in respect of invoices not reflected in FORM GSTR-2A was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the FORM GSTR-2A of the applicant.

5.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

6. New Requirement to mention HSN/SAC in Annexure 'B'

6.1 References have also been received from the field formations that HSN wise details of goods and services are not available in FORM GSTR-2A and therefore it becomes very difficult to distinguish ITC on capital goods and/or input services out of total ITC for a relevant tax period. It has been recommended that a column relating to HSN/SAC Code should be added in the statement of invoices relating to inward supply as provided in Annexure–B of the circular No. 125/44/2019- GST dated 18.11.2019 so as to easily identify between the supplies of goods and services.

6.2 The issue has been examined and considering that such a distinction is important in view of the provisions relating to refund where refund of credit on Capital goods and/or services is not permissible in certain cases, it has been decided to amend the said statement. Accordingly, Annexure-B of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

6.3 A suitably modified statement format is attached for applicants to upload the details of invoices reflecting in their FORM GSTR-2A. The applicant is, in addition to details already prescribed, now required to mention HSN/SAC code which is mentioned on the inward invoices. In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

11.1.2.27 Departmental Clarifications - Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws- Circular No. 137/07/2020-GST dated 13th April, 2020 (Relevant extracts only)

Circular No.136/06/2020-GST, dated 03.04.2020 had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). It has been brought to the notice of the Board that certain challenges are being faced by taxpayers in adhering to the compliance requirements under various other provisions of the CGST Act which also need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies as under:

S. No.	Issue	Clarification
6.	As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.

11.1.2.28 Departmental Clarifications - Clarification on refund related issues- Circular No. 139/09/2020-GST dated 10th June, 2020

Various representations have been received seeking clarification on the issue relating to refund of accumulated ITC in respect of invoices whose details are not reflected in the FORM GSTR-2A of the applicant. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

2. Circular No.135/05/2020 – GST dated the 31st March, 2020 states that:

> "5. Guidelines for refunds of Input Tax Credit under Section 54(3)
>
> 5.1 In terms of para 36 of circular No. 125/44/2019-GST dated 18.11.2019, the refund of ITC availed in respect of invoices not reflected in FORM GSTR-2A was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the FORM GSTR-2A of the applicant.
>
> 5.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent."

3.1 Representations have been received that in some cases, refund sanctioning authorities have rejected the refund of accumulated ITC is respect of ITC availed onImports, ISD invoices, RCM etc. citing the above-mentioned Circular on the basis that the details of the said invoices/ documents are not reflected in FORM GSTR-2A of the applicant.

3.2 In this context it is noteworthy that before the issuance of Circular No. 135/05/2020- GST dated 31st March, 2020, refund was being granted even in respect of credit availed on the strength of missing invoices (not reflected in FORM GSTR-2A) which were uploaded by the applicant along with the refund application on the common portal. However, vide Circular No.135/05/2020 – GST dated the 31st March, 2020, the refund related to these missing invoices has been restricted. Now, the refund of accumulated ITC shall be restricted to the ITC available on those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.

4. The aforesaid circular 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.. It is hereby clarified that the treatment of refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will continue to be same as it was before the issuance of Circular No. 135/05/2020- GST dated 31st March, 2020.

11.1.2.29 Departmental Clarifications - Clarification on refund related issues- Circular No. 147/03//2021-GST dated 12th March, 2021

Various representations have been received seeking clarification on some of the issues relating to GST refunds. The issues have been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

2. Clarification in respect of refund claim by recipient of Deemed Export Supply

2.1 Representations have been received in respect of difficulties being faced by the recipients of the deemed export supplies in claiming refund of tax paid in respect of such supplies since the system is not allowing them to file refund claim under the aforesaid category unless the claimed amount is debited in the electronic credit ledger.

2.2 Para 41 of Circular No. 125/44/2019 – GST dated 18/11/2019 has placed a condition that the recipient of deemed export supplies for obtaining the refund of tax paid on such supplies shall submit an undertaking that he has not availed ITC on invoices for which refund has been claimed. Thus, in terms of the above circular, the recipient of deemed export supplies cannot avail ITC on such supplies but when they proceed to file refund on the portal, the system requires them to debit the amount so claimed from their electronic credit ledger.

2.3 The 3rd proviso to Rule 89(1) of CGST Rules, 2017 allows for refund of tax paid in case of a deemed export supply to the recipient or the supplier of deemed export supplies. The said proviso is reproduced as under:

> "Provided also that in respect of supplies regarded as deemed exports, the application may be filed by, -
>
> (a) the recipient of deemed export supplies; or
>
> (b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund"

From the above, it can be seen that there is no restriction on recipient of deemed export supplies in availing ITC of the tax paid on such supplies when the recipient files for refund claim. The said restriction has been placed by the Circular No. 125/44/2019-GST dated 18.11.2019.

2.4 In this regard, it is submitted that in order to ensure that there is no dual benefit to the claimant, the portal allows refund of only Input Tax Credit (ITC) to the recipients which is required to be debited by the claimant while filing application for refund claim. Therefore, whenever the recipient of deemed export supplies files an application for refund, the portal requires debit of the equivalent amount from the electronic credit ledger of the claimant.

2.5 As stated above, there is no restriction under 3rd proviso to Rule 89(1) of CGST Rules, 2017 on recipient of deemed export supply, claiming refund of tax paid on such deemed export supply, on availment of ITC on the tax paid on such supply. Therefore, the para 41 of Circular No. 125/44/2019-GST dated 18.11.2019 is modified to remove the restriction of non-availment of ITC by the recipient of deemed export supplies on the invoices, for which refund has been claimed by such recipient. The amended para 41 of Circular no. 125/44/2.019-GST dated 18.11.2019 would read as under:

> "41. Certain supplies of goods have been notified as deemed exports vide notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act. Further, the third proviso to rule 89(1) of the CGST Rules allows either the recipient or

the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017- Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking that the recipient of deemed export supplies shall not claim the refund in respect of such supplies and shall not avail any input tax credit on such supplies. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking shall have to be furnished by him stating that refund has been claimed only for those invoices which have been detailed in statement 5B for the tax period for which refund is being claimed and the amount does not exceed the amount of input tax credit availed in the valid return filed for the said tax period. The recipient shall also be required to declare that the supplier has not claimed refund with respect to the said supplies. The procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with."

3. Extension of relaxation for filing refund claim in cases where zero-rated supplies has been wrongly declared in Table 3.1(a)

3.1 Para 26 of Circular No. 125/44/2019-GST dated 18th November 2019 gave a clarification in relation to cases where taxpayers had inadvertently entered the details of export of services or zero-rated supplies to a Special Economic Zone Unit/Developer in table 3.1(a) instead of table 3.1(b) of FORM GSTR-3B of the relevant period and were unable to claim refund of the integrated tax paid on the same through FORM GST RFD-01A. This was because of a validation check placed on the common portal which prevented the value of refund of integrated tax/cess in FORM GST RFD-01A from being more than the amount of integrated tax/cess declared in table 3.1(b) of FORM GSTR-3B. The said Circular clarified that for the tax periods from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in FORM GST RFD-01A on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the tables 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.

3.2 Since the clarification issued vide the above Circular was valid only from 01.07.2017 to 30.06.2019, taxpayers who committed these errors in subsequent periods were not able to file the refund applications in FORM GST RFD-01A/ FORM GST RFD-01.

3.3 The issue has been examined and it has been decided to extend the relaxation provided for filing refund claims where the taxpayer inadvertently entered the details of export of services or zero-rated supplies to a Special Economic Zone Unit/Developer in table 3.1(a) instead of table 3.1(b) of FORM GSTR-3B till 31.03.2021. Accordingly, para 26 of Circular No. 125/44/2019-GST dated 18.11.2019 stands modified as under:

"26. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2021, such registered persons shall be allowed to file the refund application in FORM GST RFD-01 on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period."

4. The manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules, 2017.

4.1 Doubts have been raised as to whether the restriction on turnover of zero-rated supply of goods to 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, imposed by amendment in definition of the "Turnover of zero-rated supply of goods" vide Notification No. 16/2020-Central Tax dated 23.03.2020, would also apply for computation of "Adjusted Total Turnover" in the formula given under Rule 89 (4) of CGST Rules, 2017 for calculation of admissible refund amount.

4.2 Sub-rule (4) of Rule 89 prescribes the formula for computing the refund of unutilised ITC payable on account of zero-rated supplies made without payment of tax. The formula prescribed under Rule 89 (4) is reproduced below, as under:

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

4.3 Adjusted Total Turnover has been defined in clause (E) of sub-rule (4) of Rule 89 as under:

> "Adjusted Total Turnover" means the sum total of the value of-
>
> (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
>
> (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,
>
> excluding-
>
> (i) the value of exempt supplies other than zero-rated supplies; and
>
> (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,
>
> during the relevant period.'

4.4 "Turnover in state or turnover in Union territory" as referred to in the definition of "Adjusted Total Turnover" in Rule 89 (4) has been defined under sub-section (112) of Section 2 of CGST Act 2017, as:

> "Turnover in State or turnover in Union territory" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess"

4.5 From the examination of the above provisions, it is noticed that "Adjusted Total Turnover" includes "Turnover in a State or Union Territory", as defined in Section 2(112) of CGST Act. As per Section 2(112), "Turnover in a State or Union Territory" includes turnover/ value of export/ zero-rated supplies of goods. The definition of "Turnover of zero-rated supply of goods" has been amended vide Notification No.16/2020-Central Tax dated 23.03.2020, as detailed above. In view of the above, it can be stated that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", need to be taken into consideration while calculating "turnover in a state or a union territory",

and accordingly, in “adjusted total turnover” for the purpose of sub-rule (4) of Rule 89. Thus, the restriction of 150% 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” in Rule 89 (4) of the CGST Rules, 2017.

4.6 Accordingly, it is clarified that 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 the said sub-rule. The same can explained by the following illustration 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:

Illustration: 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 = Rs. 270

All values in Rs.

Outward Supply	Value per unit	No. of units supplied	Turnover	Turnover as per amended definition
Local (Quantity 5)	200	5	1000	1000
Export (Quantity 5)	350	5	1750	1500 (1.5*5*200)
Total			**2750**	2500

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) x Net ITC ÷Adjusted Total Turnover

Turnover of Zero-rated supply of goods (as per amended definition) = Rs. 1500

Adjusted Total Turnover= Rs. 1000 + Rs. 1500 = Rs. 2500 [and not Rs. 1000 + Rs. 1750]

Net ITC = Rs. 270

Refund Amount = Rs. 1500*270 = Rs. 162 2500

Thus, the admissible refund amount in the instant case is Rs. 162.

11.1.2.30 Departmental Clarifications - Clarification in respect of certain GST related issues- Circular No. 160/16/2021-GST dated 20th September, 2021

Various representations have been received from taxpayers and other stakeholders seeking clarification in respect of certain issues pertaining to GST laws. The issues have been examined. In order to ensure uniformity in the implementation of the provisions of the law

across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies each of these issues as under:

S. No.	*Issue*	*Clarification*
1.	Section 16 (4), as amended with effect from 1-1-2021, provides that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. Doubts have been raised seeking following clarification: 1. Which of the following dates are relevant to determine the 'financial year' for the purpose of section 16(4): (a) date of issuance of debit note, or (b) date of issuance of underlying invoice. 2. Whether any availment of input tax credit, on or after 1-1-2021, in respect of debit notes issued either prior to or after 1-1-2021, will be governed by the provisions of the amended section 16(4), or the amended provision will be applicable only in respect of the debit notes issued after 1-1-2021?	1. With effect from 1-1-2021, section 16(4) of the CGST Act, 2017 was amended *vide* the Finance Act, 2020, so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit. The amendment made is shown as below: *"A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or ~~invoice relating to such~~ debit note pertains or furnishing of the relevant annual return, whichever is earlier."* As can be seen, the words "invoice relating to such" were omitted w.e.f. 1-1-2021. 2. The intent of law as specified in the Memorandum explaining the Finance Bill, 2020 states that "Clause 118 of the Bill seeks to amend sub-section (4) of section 16 of the Central Goods and Services Tax Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit. 3. Accordingly, it is clarified that: (a) w.e.f. 1-1-2021, in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of the CGST Act. (b) The availment of ITC on debit notes in respect of amended provision shall be applicable from 1-1-2021. Accordingly, for availment of ITC on or after 1-1-2021, in respect of debit notes issued either prior to or after 1-1-2021, the eligibility for availment

		of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 1-1-2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 1-1-2021. *Illustration 1*. A debit note dated 7-7-2021 is issued in respect of the original invoice dated 16-3-2021. As the invoice pertains to F.Y. 2020-21, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) of the CGST shall be 2020-21. However, as the debit note has been issued in FY 2021-22, the relevant financial year for availment of ITC in respect of the said debit note shall be 2021-22 in terms of amended provision of section 16(4) of the CGST Act. *Illustration 2*. A debit note has been issued on 10-11-2020 in respect an invoice dated 15-7-2019. As per amended provision of section 16(4), the relevant financial year for availment of input tax credit on the said debit note, on or after 1-1-2021, will be FY 2020-21 and accordingly, the registered person can avail ITC on the same till due date of furnishing of FORM GSTR-3B for the month of September, 2021 or furnishing of the annual return for FY 2020-21, whichever is earlier.
2.	Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued invoices in the manner prescribed under rule 48 (4) of the CGST Rules, 2017 (*i.e.* in cases of e-invoice).	1. Rule 138A (1) of the CGST Rules, 2017 inter-alia, provides that the person in charge of a conveyance shall carry— (*a*) the invoice or bill of supply or delivery challan, as the case may be; and (*b*) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner. 2. Further, rule 138A (2) of CGST Rules, after being amended *vide* notification No. 72/2020-Central Tax dated 30-9-2020, states that "In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice"

		3. A conjoint reading of rules 138A (1) and 138A (2) of CGST Rules, 2017 clearly indicates that there is no requirement to carry the physical copy of tax invoice in cases where e-invoice has been generated by the supplier. After amendment, the revised rule 138A (2) states in unambiguous words that whenever e-invoice has been generated, the Quick Reference (QR) code, having an embedded Invoice Reference Number (IRN) in it, may be produced electronically for verification by the proper officer in lieu of the physical copy of such tax invoice. 4. Accordingly, it is clarified that there is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules and production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.
3.	Whether the *Second proviso* to section 54(3) of CGST/SGST Act, prohibiting refund of unutilized ITC is applicable in case of exports of goods which are having NIL rate of export duty.	1. The term 'subjected to export duty' used in *Second proviso* to section 54(3) of the CGST Act, 2017 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 considered to be subjected to any export duty under Customs Tariff Act, 1975. 2. 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 the restriction imposed under section 54(3) from availment of refund of accumulated ITC. Goods, which are not subject to any export duty and 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, would not be covered by the restriction imposed under the *Second proviso* to section 54(3) of the CGST Act for the purpose of availment of refund of accumulated ITC.

11.1.2.31 Departmental Clarifications - Clarification on certain refund related issues - Circular No. 166/22/2021-GST dated 17th Nov, 2021

Various representations have been received from taxpayers and other stakeholders seeking clarification in respect of certain issues relating to refund. The issues have been examined. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies each of these issues as under:

S. No.	*Issue*	*Clarification*
1.	Whether the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?	No, the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.
2.	Whether certification/ declaration under Rule 89(2)(1) or 89(2)(*m*) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?	No, furnishing of certification/declaration under Rule 89(2)(1) or 89(2)(*m*) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases.
3.	Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51/52 of the CGST Act can be refunded as excess balance in cash ledger?	The amount deducted/collected as TDS/TCS by TDS/TCS deductors under the provisions of section 51 /52 of the CGST Act, as the case may be, 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 for discharging tax liability. 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 CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act.
4.	Whether relevant date for the refund of tax paid on supplies regarded as deemed export by recipient is to be determined as per clause (*b*) of *Explanation* (2) under section 54 of CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining relevant date for such refunds?	Clause (*b*) of *Explanation* (2) under section 54 of CGST Act reads as under: "(*b*) *in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods,* ***the date on which the return relating to such deemed exports is furnished****;"* On perusal of the above, it is clear that clause (*b*) of *Explanation* (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient. Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the 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.

11.1.2.32 Departmental Clarifications - Mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli.- Circular No. 168/24/2021 – GST dated 30th December, 2021

New GSTINs with UT Code 26 were created for the taxpayers of erstwhile UT of Daman and Diu w.e.f 1 st August, 2020 on merger of the UT of Dadra & Nagar Haveli and UT of Daman & Diu. During the transition, the taxpayers have transferred their ITC balance from their electronic credit ledger of the old GSTIN (by reversing the balance amount available in electronic credit ledger through the last return in FORM GSTR 3B filed for the old GSTIN prior to merger) to the new GSTIN (by availing the ITC for the said amount in the first return in FORM GSTR 3B filed for the new GSTIN) as per procedure specified under Notification No. 10/2020-CT dated 21.03.2020.

2 Representations have now been received from the field formations and trade/industry that due to transfer of ITC from old GSTIN to new GSTIN, the taxpayers are unable to apply for refund on account of zero-rated supplies and inverted rated structure for the period prior to merger in respect of old GSTIN as they have no ITC available in the electronic credit ledger of the old GSTIN for debiting the amount from electronic credit ledger for claiming refund of unutilised ITC. Such taxpayers are also unable to apply for such refund claim from the new GSTIN because all the invoices bear the old GSTIN and the system has certain validations which do not allow the refund application to be filed from the new GSTIN for the period prior to the merger.

3 The matter has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, hereby prescribes the following procedure in respect of the taxpayers, registered in the erstwhile UT of Daman & Diu and who are unable to file refund claim, due to merger of UT of Dadra & Nagar Haveli and UT of Daman & Diu, to enable such taxpayers to file refund claim for the period prior to merger:

i. The application for refund shall be filed under 'Any other' category on the GST portal using their new GSTIN. In the Remarks column of the application, the applicant needs to enter the category in which the refund application otherwise would have been filed. For example, if the applicant wants to claim refund of unutilised ITC on account of export of goods/services, in remarks column, he shall enter 'Refund of unutilised ITC on account of export of goods/services without payment of tax for the period prior to merger of Daman & Diu with Dadra & Nagar Haveli'. The application shall be accompanied by all the supporting documents which otherwise are required to be submitted with the refund claim.

ii. At this stage, the applicant is not required to make any debit from the electronic credit ledger.

iii. On receipt of the claim, the proper officer shall calculate the admissible refund amount as per law. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD-05.

iv. For the categories of refund where debit of ITC is not required, the applicant may apply for refund under the category "Any other" mentioning the reasons in the Remarks column. Such application shall also be accompanied by all the supporting documents which are otherwise required to be submitted along with the refund claim.

4. No refund claim, requiring debit from the electronic credit ledger or where the refund would result in re-credit of the amount sanctioned in the electronic credit ledger, shall be filed using old GSTIN.

11.1.2.33 Departmental Clarifications - Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification- Circular No. 173/05/2022-GST dated 6th July, 2022

Various representations have been received seeking clarification with regard to applicability of para 3.2 of the Circular No. 135/05/2020-GST dated 31.03.2020 in cases where the supplier is required to supply goods at a lower rate under Concessional Notification issued by the Government. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issue as under:

2. Vide para 3.2 of Circular No. 135/05/2020-GST dated 31.03.2020, it was clarified that refund on account of inverted duty structure would not be admissible in cases where the input and output supply are same. Para 3.2 of Circular No. 135/05/2020-GST dated 31.03.2020is reproduced, as under:

> "Refund of accumulated ITC in terms clause (ii) of sub-section (3) of section 54 of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of sub-section (3) of section 54 of the CGST Act. It is hereby clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same."

3. The matter has been examined. The intent of para 3.2 of Circular No. 135/05/2020-GST dated 31.03.2020 was not to cover those cases where the supplier is making supply of goods under a concessional notification and the rate of tax of output supply is less than the rate of tax on input supply (of the same goods) at the same point of time due to supply of goods by the supplier under such concessional notification.

4. Therefore, it is clarified that in such cases, refund of accumulated input tax credit on account of inverted structure as per clause (ii) of sub-section (3) of section 54 of the CGST Act, 2017 would be allowed in cases where accumulation of input tax credit is on account of rate of tax on outward supply being less than the rate of tax on inputs (same goods) at the same point of time, as per some concessional notification issued by the Government providing for lower rate of tax for some specified supplies subject to fulfilment of other conditions. Accordingly, para 3.2 of the Circular No. 135/05/2020-GST dated 31.03.2020 stands substituted as under:

> "3.2 It may be noted that refund of accumulated ITC in terms of clause (ii) of first proviso to sub-section (3) of section 54 of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act.
>
> 3.3 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 sub-section (3) of section 54 of the CGST Act, 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 Government for their exclusion from refund of accumulated ITC under the said clause."

11.1.2.34 Departmental Clarifications - Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A- Circular No. 174/06/2022-GST dated 6th July, 2022

Difficulties were being faced by the taxpayers in taking re-credit of the amount in the electronic credit ledger in cases where any excess or erroneous refund sanctioned to them had been paid back by them either on their own or on being pointed by the tax officer. In order to resolve this issue, GSTN has recently developed a new functionality of FORM GST PMT03A which allows proper officer to re-credit the amount in the electronic credit ledger of the taxpayer. Further, sub-rule (4B) in rule 86 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") has been inserted vide Notification No. 14/2022-CT dated 05.07.2022 to provide for re-credit in the electronic credit ledger where the taxpayer deposits the erroneous refund sanctioned to him.

2. In order to ensure uniformity in the implementation of the above provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the following:

3**. Categories of refunds where re-credit can be done using FORM GST PMT-03 A:**

3.1 Reference is invited to sub-rule (4B) of rule 86 of the CGST Rules, which is reproduced as under:

> (4B) Where a registered person deposits the amount of erroneous refund sanctioned to him –
>
> a. under sub-section (3) of section 54 of the Act, or
>
> b. under sub-rule (3) of rule 96, in contravention of sub-rule (10) of rule 96, along with interest and penalty, wherever applicable, through FORM GST DRC-03, in cash, on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT03A.

3.2 From the above, it can be stated that in respect of the following categories of refund sanctioned erroneously, re-credit of amount in the electronic credit ledger can be done through FORM GST PMT-03A, on deposit of such erroneous refund along with interest and penalty, wherever applicable, by the taxpayer:

> a. Refund of IGST obtained in contravention of sub-rule (10) of rule 96.
>
> b. Refund of unutilised ITC on account of export of goods/services without payment of tax.

c. Refund of unutilised ITC on account of zero-rated supply of goods/services to SEZ developer/Unit without payment of tax.

d. Refund of unutilised ITC due to inverted tax structure.

4. Procedure for re-credit of amount in electronic credit ledger:

4.1 The taxpayer shall deposit the amount of erroneous refund along with applicable interest and penalty, wherever applicable, through FORM GST DRC-03 by debit of amount from electronic cash ledger. While making the payment through FORM GST DRC-03, the taxpayer shall clearly mention the reason for making payment in the text box as the deposit of erroneous refund of unutilised ITC, or the deposit of erroneous refund of IGST obtained in contravention of sub-rule (10) of rule 96 of the CGST Rules.

4.2 Till the time an automated functionality for handling such cases is developed on the portal, the taxpayer shall make a written request, in format enclosed as Annexure-A, to jurisdictional proper officer to re-credit the amount equivalent to the amount of refund thus paid back through FORM GST DRC-03, to electronic credit ledger.

4.3 The proper officer, on being satisfied that the full amount of erroneous refund along with applicable interest, as per the provisions of section 50 of the CGST Act, and penalty, wherever applicable, has been paid by the said registered person in FORM GST DRC-03 by way of debit in electronic cash ledger, he shall re-credit an amount in electronic credit ledger, equivalent to the amount of erroneous refund so deposited by the registered person, by passing an order in FORM GST PMT-03A, preferably within a period of 30 days from the date of receipt of request for re-credit of erroneous refund amount so deposited or from the date of payment of full amount of erroneous refund along with applicable interest, and penalty, wherever applicable, whichever is later.

11.1.2.35 Departmental Clarifications - Manner of filing refund of unutilized ITC on account of export of electricity- Circular No. 175/07/2022-GST dated 6th July, 2022

Reference has been received from Ministry of Power regarding the problem being faced by power generating units in filing of refund of unutilised Input Tax Credit (ITC) on account of export of electricity. It has been represented that though electricity is classified as “goods” in GST, there is no requirement for filing of Shipping Bill/ Bill of Export in respect of export of electricity. However, the extant provisions under Rule 89 of CGST Rules, 2017 provided for requirement of furnishing the details of shipping bill/ bill of export in respect of such refund of unutilised ITC in respect of export of goods. Accordingly, a clause (ba) has been inserted in sub-rule (2) of rule 89 and a Statement 3B has been inserted in FORM GST RFD-01 of the CGST Rules, 2017 vide notification No. 14/2022-CT dated 5 th July, 2022. In order to clarify various issues and procedure for filing of refund claim pertaining to export of electricity, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby prescribes the following procedure for filing and processing of refund of unutilised ITC on account of export of electricity:

2. Filing of refund claim:

2.1 Till the time necessary changes are carried out on the portal, the applicant would be required to file the application for refund under “Any Other” category electronically in FORM GST RFD-01, on the portal. In remark column of the application, the taxpayer would enter

"Export of electricity- without payment of tax (accumulated ITC)". At this stage, the applicant is not required to make any debit from the electronic credit ledger.

2.2 The applicant would be required to furnish/upload the details contained in Statement 3B (and not in statement 3) of FORM GST RFD-01 (in pdf format), containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement.

2.3 The applicant will also be required to upload the copy of statement of scheduled energy for electricity exported by the Generation Plants (in format attached as AnnexureI) issued as part of Regional Energy Account by Regional Power Committee Secretariat ("RPC") under regulation 2 (1)(nnn) of the CERC (Indian Electricity Grid Code) Regulations, 2010, for the period for which refund has been claimed and the copy of the relevant agreement(s) detailing the tariff per unit for the electricity exported. The applicant will also give details of calculation of the refund amount in Statement -3A of FORM GST RFD-01 by uploading the same in pdf format along with refund application in FORM GST RFD-01.

3. Relevant date for filing of refund: As per sub-section (1) of section 54 of the CGST Act, 2017, time period of two years from the relevant date has been specified for filing an application of refund. Electrical energy is in nature of "goods" under GST and is exported on a continuous basis through the transmission lines attached to the land. Therefore, it is not possible to determine the specific date on which a specific unit of electricity passes through the frontier. However, a statement of scheduled energy for export of electricity by a Generation Plant is issued by Regional Power Committee RPC Secretariat, as a part of Regional Energy Account (hereinafter referred to as "REA") under Regulation 2(1)(nnn) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010. Accordingly, it is hereby clarified that in case of export of electricity, the relevant date shall be the last date of the month, in which the electricity has been exported as per monthly Regional Energy Account (REA) issued by the Regional Power Committee Secretariat under regulation 2(1)(nnn) of the CERC (Indian Electricity Grid Code) Regulations, 2010.

4. Processing of refund claim by proper officer

4.1 Rule 89(4) provides for the formula for calculation of refund of unutilised ITC on account of zero-rated supplies which is reproduced as under:

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

Export of electricity being zero-rated supply, refund of unutilised ITC on account of export of electricity would also be calculated using the same formula.

4.2 The turnover of export of electricity would be calculated by multiplying the energy exported during the period of refund with the tariff per unit of electricity, specified in the agreement. It is clarified that **quantum of Scheduled Energy exported, as reflected in the Regional Energy Account (REA) issued by Regional Power Committee (RPC) Secretariat for a particular month, will be deemed to be the quantity of electricity exported during the said month and will be used for calculating the value of zero-rated supply in case of export of electricity. Such monthly Regional Energy Account (REA)issued by Regional Power Committee (RPC) Secretariat, as uploaded on the websites of RPC Secretariat, can be downloaded by GST officers as well as the concerned electricity generator** for the purpose of refund under Rule 89(4) of CGST Rules 2019.The **calculation of the value of the exports of electricity** during the month, can be done based on the quantity of scheduled

electricity exported during the month by the exporter (as detailed in the REA for the month)and the tariff rate per unit (details of which will have to be provided by the concerned exporter based on agreed contracted rates).

4.3 It is also mentioned that usually, the quantum of electricity exported as specified in the statement of scheduled energy exported and on invoice should be same. However, in certain cases, it might happen that the quantum of electricity exported as mentioned on invoice is different from the quantum of electricity exported mentioned on the statement of scheduled energy uploaded with REA on Regional Power Committee website. In such cases, turnover of export of electricity shall be calculated using the lower of the quantum of electricity exported mentioned on the statement of scheduled energy exported and that mentioned on the invoice issued on account of export of electricity.

4.4 Adjusted Total Turnover shall be calculated as per the clause (E) of sub-rule (4) of rule 89. However, as electricity has been wholly exempted from the levy of GST, therefore, as per the definition of adjusted total turnover provided at clause (E) of the sub-rule (4) of rule 89, the turnover of electricity supplied domestically would be excluded while calculating the adjusted total turnover. The proper officer shall invariably verify that no ITC has been availed on the inputs and inputs services utilised in making domestic supply of electricity.

4.5 The proper officer shall calculate the admissible refund amount as per the formula provided under rule 89(4) and as per the clarification furnished above. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD05.

11.1.2.36 Departmental Clarifications - Clarification on refund related issues- Circular No. 181/13/2022-GST dated 10th November, 2022

Attention is invited to sub-section (3) of section 54 of CGST Act, 2017, which provides for the refund of unutilized input tax credit in cases where credit is accumulated on account of rate of tax of inputs being higher than the rate of tax on output supplies i.e. on account of inverted duty structure. Sub-rule (5) of rule 89 of CGST Rules, 2017 prescribes the formula for grant of refund in cases of inverted duty structure. Vide Notification No. 14/2022-Central Tax dated 05.07.2022, amendment has been made in the formula prescribed under sub-rule (5) of rule 89 of the CGST Rules, 2017. Further, vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022, which has been made effective from 18.07.2022, the restriction has been placed on refund of unutilised input tax credit on account of inverted duty structure in case of supply of certain goods falling under chapter 15 and 27.

2. Representations have been received from the trade and the field formations seeking clarification on various issues pertaining to the implementation of the above notifications. In order to clarify the issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues as under:

Sl. No.	Issue	Clarification
1.	Whether the formula prescribed under sub-rule (5) of rule 89 of the CGST Rules, 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure, as amended vide Notification No. 14/2022-Central Tax, dated 5-7-2022, will apply only to the refund applications filed on or after 5-7-2022, or whether the same will also apply in respect of the refund applications filed before 5-7-2022 and pending with the proper officer as on 5-7-2022?	*Vide* Notification No. 14/2022-Central Tax, dated 5-7-2022, amendment has been made in sub-rule (5) of rule 89 of CGST Rules, 2017, modifying the formula prescribed therein. The said amendment is not clarificatory in nature and is applicable prospectively with effect from 5-7-2022. Accordingly, it is clarified that the said amended formula under sub-rule (5) of rule 89 of the CGST Rules, 2017 for calculation of refund of input tax credit on account of inverted duty structure would be applicable in respect of refund applications filed on or after 5-7-2022. The refund applications filed before 5-7-2022 will be dealt as per the formula as it existed before the amendment made vide Notification No. 14/2022-Central Tax, dated 5-7-2022.
2.	Whether the restriction placed on refund of unutilised input tax credit on account of inverted duty structure in case of certain goods falling under chapters 15 and 27 *vide* Notification No. 09/2022-Central Tax (Rate), dated 13-7-2022, which has been made effective from 18-7-2022, would apply to the refund applications pending as on 18-7-2022 also or whether the same will apply only to the refund applications filed on or after 18-7-2022 or whether the same will be applicable only to refunds pertaining to prospective tax periods?	*Vide* Notification No. 9/2022-Central Tax (Rate), dated 13-7-2022, under the powers conferred by clause (*ii*) of the first proviso to sub-section (3) of section 54 of the CGST Act, 2017, certain goods falling under chapter 15 and 27 have been specified in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such specified goods (other than nil rated or fully exempt supplies). The said notification has come into force with effect from 18-7-2022. The restriction imposed vide Notification No. 9/2022-Central Tax (Rate), dated 13-7-2022 on refund of unutilised input tax credit on account of inverted duty structure in case of specified goods falling under chapters 15 and 27 would apply prospectively only. Accordingly, it is clarified that the restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18-7-2022, and would not apply to

		the refund applications filed before 18-7-2022.

11.1.2.37 Departmental Clarifications - Prescribing manner of filing an application for refund by unregistered persons- Circular No. 188/20/2022-GST dated 27th December, 2022

Instances have been brought to the notice 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 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as 'CGST Act') 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.

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

1.3 Representations have been received requesting for providing a facility to such unregistered buyers/ recipients for claiming refund of amount of tax borne by them in the event of cancellation of the contract/agreement for supply of services of construction of flat/ building or on termination of long-term insurance policy.

2. It would be pertinent to mention that sub-section (1) of section 54 of the CGST Act already provides that any person can claim refund of any tax and interest, if any, paid on such tax or any other amount paid by him, by making an application before the expiry of two years from the relevant date in such form and manner as may be prescribed. Further, in terms of clause (e) of sub-section (8) of section 54 of the CGST Act, in cases where the unregistered person has borne the incidence of tax and 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).

2.1 In order to enable such unregistered person to file application for refund under subsection (1) of section 54, in cases where the contract/agreement for supply of services of construction of flat/ building has been cancelled or where long-term insurance policy has been terminated, a new functionality has been made 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'. Further, sub-rule (2) of rule 89 of Central Goods and Service Tax Rules, 2017 (hereinafter referred to as 'CGST Rules') has been amended and statement 8 has been inserted in FORM GST RFD-01 vide Notification No. 26/2022-Central Tax dated 26.12.2022 to provide 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.

3. In order to ensure uniformity in the implementation of the above provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the CGST Act, hereby clarifies the following:

4. Filing of refund application

4.1 The unregistered person, who wants to file an application for refund under sub-section (1) of section 54 of CGST Act, in cases where the contract/agreement for supply of services of construction of flat/ building has been cancelled or where long-term insurance policy has been terminated, shall obtain a temporary registration on the common portal using his Permanent Account Number (PAN). While doing so, the unregistered person shall select the same state/UT where his/her supplier, in respect of whose invoice refund is to be claimed, is registered. Thereafter, the unregistered person would be required to undergo Aadhaar authentication in terms of provisions of rule 10B of the CGST Rules. Further, the unregistered person would be required to enter his bank account details in which he seeks to obtain the refund of the amount claimed. The applicant shall provide the details of the bank account which is in his name and has been obtained on his PAN.

4.2 The application for refund shall be filed in FORM GST RFD-01 on the common portal under the category 'Refund for unregistered person'. The applicant shall upload statement 8 (in pdf format) and all the requisite documents as per the provisions of sub-rule (2) of rule 89 of the CGST Rules. The refund amount claimed shall not exceed the total amount of tax declared on the invoices in respect of which refund is being claimed. Further, the applicant shall also upload the certificate issued by the supplier in terms of clause (kb) of sub-rule (2) of rule 89 of the CGST Rules along with the refund application. The applicant shall also upload any other document(s) to support his claim that he has paid and borne the incidence of tax and that the said amount is refundable to him.

4.3 Separate applications for refund have to be filed in respect of invoices issued by different suppliers. Further, where the suppliers, in respect of whose invoices refund is to be claimed, are registered in different States/UTs, the applicant shall obtain temporary registration in the each of the concerned States/UTs where the said supplier are registered.

4.4 Where the time period for issuance of credit note under section 34 of the CGST Act 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 of the CGST Act has already expired.

5. Relevant date for filing of refund:

As per sub-section (1) of section 54 of the CGST Act, time period of two years from the relevant date has been specified for filing an application of refund. Further, 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 terms of provisions of clause (g) in Explanation (2) under section 54 of the CGST Act. However, in respect of cases where the supplier and the unregistered person

(recipient) have entered into a long-term contract/ agreement for the supply, with the provision of making payment in advance or in instalments, for example. construction of flats or long-term insurance policies, if the contract is cancelled/ terminated before completion of service for any reason, there may be no date of receipt of service, to the extent supply has not been made/ rendered. Therefore, in such type of cases, it has been decided that for the purpose of determining relevant date in terms of clause (g) of Explanation (2) under section 54 of the CGST Act, date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant.

6. Minimum refund amount

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

7. The proper officer shall process the refund claim filed by the unregistered person in a manner similar to other RFD-01 claims. The proper officer shall scrutinize the application with respect to completeness and eligibility of the refund claim to his satisfaction and issue the refund sanction order in FORM GST RFD-06 accordingly. The proper officer shall also upload a detailed speaking order along with the refund sanction order in FORM GST RFD-06.

7.1 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.

11.2 Refund in certain cases. [Section 55]

Section 55	01.07.2017 to till date	**Refund in certain cases - The Government may specify any specialised agency of the UNO, Consulate or Embassy of foreign countries and any other person or class of persons to be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.** The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and 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 supplies of goods or services or both received by them.

11.2.1.1 Departmental Notifications – Proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act.

Notification No. 39/2017 – Central Tax dated 13th October, 2017 - The Central Government has specified that the officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, 2017 (14 of 2017) (hereafter in this notification referred to as "the said Acts") who are authorized to be the proper officers for the purposes of section 54 or section 55 of the said Acts (hereafter in this notification referred to as "the said officers") by the Commissioner of the said Acts, shall act as proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act read with the rules made thereunder except rule 96 of the Central Goods and Services Tax Rules, 2017, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

Further, Notification No. 10/2018 – Central Tax dated 23rd January, 2018 - The Central Government has amended Notification No. 39/2017 – Central Tax dated 13th October, 2017, namely:-

In the said notification, for the words and figures "except rule 96", the words, figures, brackets and letter 'except sub rules (1) to (8) and sub rule (10) of rule 96" shall be substituted.

11.2.1.2 Departmental Notifications – Extention of due date for filing of application for refund under section 55 by notified agencies

Notification No. 20/2018 – Central Tax dated 28th March, 2018 - Whereas, as per section 55 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf (hereafter in this notification referred to as the specified persons), who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them;

Whereas, the Central Government has laid down the conditions and restrictions for claiming of refund of taxes under section 55 of the said Act vide the Central Goods and Services Tax Rules, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R 610 (E), dated the 19th June, 2017 and last amended vide notification No. 14/2018-Central Tax, dated the 23rd March, 2018, published vide number G.S.R 266 (E), dated the 23rd March, 2018;

Whereas, as per sub-section (2) of section 54 of the said Act, the specified persons, as notified under section 55 of the said Act, are entitled to a refund of tax paid by them 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, before the expiry of six months from the last day of the quarter in which such supply was received;

Whereas, the facility for filing the claim of refunds under section 55 of the said Act has been made available on the common portal recently;

Now, therefore, in exercise of the powers conferred by section 148 of the said Act, the Central Government, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, before the expiry of **eighteen months** from the last date of the quarter in which such supply was received.

Further, Notification No. 20 /2022–Central Tax dated 28th September, 2022 - The Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations on the Council, has rescinded the Notification No. 20/2018 – Central Tax dated 28th March, 2018, except as respects things done or omitted to be done before such rescission.

11.2.1.3 Departmental Notifications – Extention of dates of specified compliances in exercise of powers under section 168A of CGST Act.

Notification No. 13/2022-Central Tax dated 5th July. 2022 effective from 1st day of March, 2020 – The Government, on the recommendations of the Council, hereby,-

(i) extends the time limit specified under sub-section (10) of section 73 for issuance of order under subsection (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, up to the 30th day of September, 2023;

(ii) excludes the period from the 1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation under sub-section (10) of section 73 of the said Act for issuance of order under subsection (9) of section 73 of the said Act, for recovery of erroneous refund;

(iii) **excludes the period from the 1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.**

11.2.1.4 Departmental Notifications – The Canteen Stores Department (hereinafter referred to as the CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax 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.

Notification No.6/2017-Central Tax (Rate) dated 28th June, 2017 effective from 1st day of July, 2017- The Central Government, on the recommendations of the Council, has specified the Canteen Stores Department (hereinafter referred to as the CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax 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.

11.2.1.5 Departmental Notifications – United Nations or a specified international organisation and Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, entitled to claim refund of central tax paid on the supplies of goods or services or both received by them.

Notification No. 16/2017-Central Tax (Rate) dated 28th June, 2017 effective from 1st day of July, 2017 - The Central Government hereby specifies, -

(i) United Nations or a specified international organisation; and

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

for the purposes of the said section subject to the following conditions:-

(a) United Nations or a specified international organisation shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to a certificate from United Nations or that specified international organisation that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international organisation.

(b) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to, -

(i) that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to refund of central tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity;

(ii) that in case of supply of services, the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorised by him, shall furnish an undertaking in original, signed by him or the authorised person, stating that the supply of services received are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family;

(iii) that in case of supply of goods, concerned diplomatic mission or consulate or an officer duly authorized by him will produce a certificate that,–

(I) the goods have been put to use, or are in the use, as the case may be, of the mission or consulate;

(II) the goods will not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods; and

(III) in the event of non-compliance of clause (I), the diplomatic or consular mission will pay back the refund amount paid to them;

(iv) in case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post;

(v) the refund of the whole of the central tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.

Explanation. - For the purposes of this notification, unless the context otherwise requires,“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 (46 of 1947), to which the provisions of the Schedule to the said Act apply.

11.2.1.6 Departmental Notifications – Notification to specify retail outlets established in the departure area of an international airport, beyond the immigrationcounters, making tax free supply of goods to an outgoing international tourist, as class of persons who shall be entitled to claim refund.

Notification No. 11 /2019 – Central Tax (Rate) dated 29th June, 2019 effective from 1st day of July, 2019 - The Central Government, on the recommendations of the Council, has specified retail outlets established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to an outgoing international tourist, as class of persons who shall be entitled to claim refund of applicable central tax paid on inward supply of such goods, subject to the conditions specified in rule 95A of the Central Goods and Services Tax Rules, 2017.

Explanation. - For the purposes of this notification, the expression "outgoing international tourist" shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

11.2.2.1 Departmental Clarifications - Processing of refund applications for UIN entities- Circular No. 36/10/2018-GST dated 13th March, 2018

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

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

3. Status of registration for UINs:

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

ii. The process for applying for UIN has been outlined under Rule 17 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"). As stated in the said rule, any person covered under clause (a) of sub-section (9) of section 25 of the CGST Act may submit an application electronically in FORM GST REG-13 on the common portal. Therefore, Specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall apply for grant of UIN electronically by filling FORM GST REG-13.

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

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

4. Filing of return by UIN agencies:

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

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

5. Applying for refund by UIN agencies:

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

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

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

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

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

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

6. Passing of refund order and settlement of funds:

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

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

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

11.2.2.1A Departmental Clarifications - Queries regarding processing of refund applications for UIN agencies- Circular No. 43/17/2018-GST dated 13th April, 2018

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

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

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

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

3. No mention of UINs on Invoices:

3.1. It has been represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. It is hereby clarified that the recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers /

vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.

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

11.2.2.2 Departmental Clarifications - Clarification on refund related issues- Circular No. 59/33/2018-GST dated 4th September, 2018

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

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

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

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

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

11.2.2.3 Departmental Clarifications - Processing of refund applications filed by Canteen Stores Department (CSD)- Circular No. 60/34/2018-GST dated 4th September, 2018

Vide notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) and No. 6/2017-Union territory Tax (Rate), all dated 28th June 2017, the Central Government has specified the Canteen Stores Department (CSD for short), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax, integrated tax and Union territory tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD. Identical notifications have been issued by the State Governments allowing refund of fifty per cent of the State tax paid by the CSD on the inward supply of goods received by it and supplied subsequently as stated above. 2. With a view to ensuring expeditious processing of refund claims, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereafter referred to as the 'CGST Act'), hereby specifies the manner and procedure for filing and processing of such refund claims as below:-

3. Filing Application for Refund:

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

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

(i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD;

(ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed;

(iii) Copies of the valid return filed in FORM GSTR-3B by the CSD for the period covered in the refund claim;

(iv) Copies of FORM GSTR-2A of the CSD for the period covered in the refund claim along with the attested hard copies of the invoices on which refund is claimed but which are not reflected in FORM GSTR-2A;

(v) Details of the bank account in which the refund amount is to be credited.

4. Processing and sanction of the refund claim

4.1 Upon receipt of the complete application in FORM GST RFD-10A, an acknowledgement shall be issued manually within 15 days of the receipt of the application in FORM GST RFD-02 by the proper officer. In case of any deficiencies in the requisite documentary evidences to be submitted as detailed in para 3.2 above, the same shall be communicated to the CSD by

issuing a deficiency memo manually in FORM GST RFD-03 by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued which should be complete in all respects.

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

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

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

11.2.2.4 Departmental Clarifications - Clarification regarding processing of refund claims filed by UIN entities- Circular No. 63/37/2018 – GST dated 14th September, 2018

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

2. Non-compliance with letter of reciprocity: Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts provide for examination of the refund claims in accordance with the letter of reciprocity issued by the Ministry of External Affairs (hereinafter referred to as MEA). Generally, these letters of

reciprocity have certain conditions specified on the basis of which refunds have to be processed and sanctioned. For example, letters may specify the minimum value of goods or services or the end use of such goods or services (official or personal purposes).

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

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

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

4.1 Refund Checklist: In order to bring in uniformity in the processing of the refund claims, a checklist has been specified in Annexure A. All UIN entities may refer to this checklist while filing the refund claims.

4.2 Certificate: A sample certificate to be submitted by Embassy/Mission/Consulate is enclosed as Annexure-B and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as Annexure-B-1.

4.3 Undertaking: A sample undertaking to be submitted by Embassy/Mission/Consulate is enclosed as Annexure-C and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as Annexure-C-1.

4.4 Statement of Invoices: The detailed statement of invoices shall be submitted in the format specified in Annexure D.

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

6. Non-availability of refunds to personnel and officials of United Nations and other International organizations: It is hereby clarified that the personnel and officials of United Nations and other International organizations are not eligible to claim refund under Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications

under the respective State Goods and Services Tax Acts. However, the eligibility of refund for the personnel and officials posted in the Embassy/Mission/Consulate shall be determined based on the principle of reciprocity.

7. Waiver from recording UIN in the invoices for the months of April, 2018 to March, 2019: A one-time waiver is hereby given from recording the UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April, 2018 to March, 2019, subject to the condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer.

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

11.2.2.5 Departmental Clarifications - Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017- Circular No. 68/42/2018-GST dated 5th October 2018

Representations have been received by the Board regarding the entitlement of UN and specified international organizations, foreign diplomatic mission or consular posts, diplomatic agents and consular offices post therein to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them.

2. The issue has been examined. Section 55 of the Central Goods and Services Tax Act, 2017(hereinafter referred to as 'CGST Act') provides that the Government may, on the recommendation of the council, specify UN agencies and organizations notified under the UNPI Act 1947, Consulates, Embassies of foreign countries and any other person to be entitled to claim refund of the taxes paid on the notified supplies of goods and services, subject to such conditions and restrictions as may be prescribed. Notification No. 16/2017- Central Tax(Rate) dated 28.06.2017 has been issued specifying UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein for the purposes of the said section.

3. Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017(hereinafter referred to as 'the Compensation Cess Act'), provides that provisions of CGST Act and IGST Act apply in relation to levy and collection of Compensation Cess. Further, section 9(2) of the Compensation Cess Act provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CGST Act and the rules made thereunder, shall apply in relation to the levy and collection of Compensation Cess. Therefore, notifications issued under the CGST Act except those prescribing rate or granting exemptions, are applicable for the purpose of the Compensation Cess Act.

4. Accordingly, notification No. 16/2017-Central Tax(Rate) dated 28.06.2017 shall be applicable for the purposes of refund of Compensation Cess to UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein.

5. In view of the above, it is clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to

refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.

11.2.2.6 Departmental Clarifications - Clarification on certain issues related to refund- Circular No. 70/44/2018 -GST date 26th October, 2018

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

2. Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:

2.1 Para 7.1 of circular No. 59/33/2018-GST dated the 4th September, 2018 clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim. In para 7.2 of the said circular, the practise being followed in the field formations was elaborated and it was clarified that show cause notices are not required to be issued (and consequently no orders are required to be issued in FORM GST RFD-04/06) in cases where refund application is not resubmitted after the issuance of a deficiency memo (in FORM GST RFD-03). It was also clarified that once a deficiency memo has been issued against an application for refund, the amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") is required to be recredited to the electronic credit ledger of the applicant by using FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund.

2.2 The issue has been re-examined and it has been observed that presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in FORM GST RFD-03 is issued to taxpayers, re-credit in the electronic credit ledger (using FORM GST RFD-01B) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

3. Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:

3.1 Sub-rule (10) of Rule 96 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "said sub-rule"), restricts exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations have been received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the IGST paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, had accorded

approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility notification No. 54/2018 – Central Tax dated the 9th October, 2018 has been issued to carry out the changes recommended by the GST Council. Alongside the amendment carried out in the said sub-rule through the notification No. 39/2018- Central Tax dated 4th September, 2018 has been rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

3.2 For removal of doubts, it is clarified that the net effect of these changes would be that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification No. 54/2018 – Central Tax dated the 9th October, 2018 referred to above.

3.3 Further, after the issuance of notification No. 54/2018 – Central Tax dated the 9th October, 2018 , exporters who are importing goods in terms of notification Nos. 78/2017- Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule. All clarifications issued in this regard vide any Circular issued earlier are hereby superseded.

11.2.2.7 Departmental Clarifications - Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange - Circular No. 106/25/2019-GST dated 29th June, 2019

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

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

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

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

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

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

7. Who is eligible for refund:

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

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

8. Procedure for applying for refunds:

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

8.2. Invoice-based refund: It is clarified that the refund to be granted to retail outlets is not on account of the accumulated input tax credit but is refund based on the invoices of the inward supplies of indigenous goods received by them. As stated in para 6 above, the supply made

by such retail outlets to eligible passengers has been exempted vide notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29.06.2019 and therefore such retail outlets will not be eligible for input tax credit of taxes paid on such inward supplies and the same will have to be reversed in accordance the provisions of the CGST Act read with the rules made thereunder. It is also clarified that no refund of tax paid on input services, if any, will be granted to the retail outlets.

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

(a) Details of the Passport (via Passport Reading Machine);

(b) Details of the Boarding Pass (via a barcode scanning reading device);

(c) A passenger declaration as per Annexure B;

(d) A copy of the invoice clearly evidencing that no tax was charged from the eligible passenger by the retail outlet.

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

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

(i) An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been received by such retail outlets;

(ii) An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been sold to eligible passengers;

(iii)Copies of the valid return furnished in FORM GSTR – 3B by the retail outlets for the period covered in the refund claim;

(iv)Copies of FORM GSTR-2A for the period covered in the refund claim; and

(v) Copies of the attested hard copies of the invoices on which refund is claimed but which are not reflected in FORM GSTR-2A.

9. Processing and sanction of the refund claim :

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

9.2. The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in FORM GSTR- 3B has been filed by the retail outlets. The proper officer may scrutinize the details contained in FORM RFD-10B, FORM GSTR-3B and FORM GSTR-2A. The proper officer may rely upon FORM GSTR-2A as an evidence of the accountal of the supply received by them in relation to which the refund has been claimed by the retail outlets. Normally, officers are advised not to call for hard copies of invoices or details contained in Annexure A. As clarified in clause (v) of Para 8.5 above, it is reiterated that the retail outlets would be required to submit hard copies of only those invoices of inward supplies that have not been reflected in FORM GSTR-2A.

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

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

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

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

11.3 Refund in certain cases. [Section 56]

Section 56	01.07.2017 to 30.09.2023	**Interest on delayed refunds to be paid at such rate not exceeding six per cent.** If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of

		application under the said sub-section till the date of refund of such tax:
	01.10.2023 to till date	**Interest on delayed refunds to be paid at such rate not exceeding six per cent.** If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund [1][for the period of delay beyond sixty 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:] 1. Substituted for the words "from the date immediately after the expiry of sixty days from the date of receipt of application under the said subsection till the date of refund of such tax", the words ""vide Section 147 of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.
First Proviso	01.07.2017 to till date	**Interest on delayed refunds to be paid at such rate not exceeding nine per cent. 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 sixty days from the date of receipt of application filed consequent to such order.** **Provided that** 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 sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.
Explanation	01.07.2017 to till date	**The order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).** For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any

		court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

11.3.1.1 Departmental Notifications – Rates of interest under CGST Act, 2017

Notification No. 13/2017 – Central Tax dated 28th June, 2017 effective from 1st day of July, 2017 - —The Central Government, on the recommendations of the Council, has fixed the rate of interest per annum, for the purposes of the sections as specified in column (2) of the Table below, as mentioned in the corresponding entry in column (3) of the said Table.

Table

Serial Number	*Section*	*Rate of interest (in per cent)*
(1)	*(2)*	*(3)*
1.	Sub-section (1) of section 50	18
2.	sub-section (3) of section 50	24
3.	sub-section (12) of section 54	6
4.	section 56	6
5.	proviso to section 56	9

Further, Section 116(1) of the Finance Act 2022 - The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G. S. R. 661(E), dated the 28th June, 2017, issued by the Central Government on the recommendations of the Council, under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017 (12 of 2017), shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Sixth Schedule, on and from the date specified in column (3) of that Schedule.

THE SIXTH SCHEDULE

[See section 116(1)]

Notification number and date	Amendment	Date of effect of amendment
(1)	**(2)**	**(3)**

G.S.R 661 (E), dated the 28th June, 2017 [No.349/72/2017-GST, dated 28th June, 2017]	In the said notification, in the Table, against serial number 2, in column (3), for the figures "24", the figures "18" shall be substituted.	1st July, 2017.

11.3.2.1 Departmental Clarifications - Guidelines for processing of applications for financial assistance under the Central Sector Scheme named 'Seva Bhoj Yojna' of the Ministry of Culture- Circular No. 75/49/2018-GST dated 27th December, 2018

I. Background

1.1 The Ministry of Culture has introduced a Central Sector Scheme called the „Seva Bhoj Yojna" (hereinafter referred to as "the Scheme") for the reimbursement of central tax and the Central Government"s share of integrated tax paid (hereinafter referred to as "the said taxes") on the purchase of certain raw food items namely, ghee, edible oil, sugar/ burra/ jaggery, rice, atta/ maida/rava/flour and pulses (hereinafter referred to as the "specified items") used for distributing free food to general public/devotees (hereinafter referred to as the "specified activity") by charitable/religious institutions like Gurudwaras, temples, Dharmik Ashrams, Mosques, Dargahs, Churches, Math, Monasteries, etc(hereinafter referred to as the "institutions").

1.2 The Scheme has been made operational with effect from the 1st of August, 2018. The detailed guidelines issued in this regard by the Ministry of Culture vide F. No. 13- 1/2018-US (S&F) dated 01.08.2018 are enclosed as Annexure A. The applications for reimbursement of the said taxes shall be processed by a designated nodal central tax officer of each State or Union territory. The officers who have been designated as nodal officers for the purpose of facilitating the processing of refund applications for UIN entities as per Circular No. 36/10/2018-GST, dated 13th March, 2018 issued vide F. No. 349/48/2017-GST shall act as nodal officers for the purposes of this Scheme as well. The details of the nodal officers is enclosed as Annexure B to this Circular. The Directorate General of Goods and Services Tax (DGGST), 5thFloor, MTNL (Telephone Exchange) Building, 8, Bhikaji Kama Place, New Delhi-110066 shall be the central nodal agency for reporting and monitoring the reimbursement of the said taxes by the nodal officers under the Scheme.

II. Application for obtaining Seva Bhoj Yojana - Unique Identity Number (SBYUIN)

2.1 The institutions opting to avail of the Scheme must first register with the Darpan Portal of NITI Aayog to obtain a Unique ID from the portal and thereafter, apply on the CSMS Portal on the Ministry of Culture"s website www.indiaculture.nic.inin the prescribed format, and upload the requisite documents. The details are contained in paragraph 7 of the guidelines issued by the Ministry of Culture (Annexure A).

2.2 After enrolling with the Ministry of Culture, only the eligible institutions (hereinafter referred to as the "claimant") shall be provided with a unique enrolment number by the Ministry of Culture for filing claims for the reimbursement of the said taxes. The details of the institutions enrolled under this scheme can be viewed online at https://indiaculture.nic.in/scheme-financial-assistance-under-seva-bhoj-yojna-new.

2.3 The claimant is then required to submit an application in FORMSBY-01 for obtaining a Seva Bhoj Yojana - Unique Identity Number (hereinafter called as the "SBY-UIN"), to the

jurisdictional nodal officer of the State/Union Territory, in which the specified activity is undertaken. The claimant must indicate the details of all the locations/branches in a State/Union territory from where the specified activity is undertaken by them in FORM SBY-01. Since the reimbursement of the said taxes by the nodal officers shall be done State-wise or Union territory-wise, the claimant would be required to apply for a separate SBY-UIN for each State or Union territory in which they undertake the specified activity.

2.4 Upon receipt of the application in FORM SBY-01 and the information of allocation of a Unique Enrolment Number by the Ministry of Culture, a unique ten digit SBYUIN, in the format of XX/YYYYY/ZZZ (where XX stands for the two digit State Code, YYYYY stands for the five digit Unique Enrolment Number allotted by the Ministry of Culture and ZZZ stands for the three digit running number assigned by the jurisdictional nodal officer) shall be communicated to the applicant in FORM SBY02 within seven days from the receipt of the complete application in FORM SBY-01 by the nodal officer.

III. Application for claiming reimbursement of the said taxes in FORM SBY-03

3.1 All applications for reimbursement of the said taxes by a claimant shall be submitted to the nodal officer of the State/Union territory in whose jurisdiction the claimant undertakes the specified activity, on a quarterly basis in FORM SBY-03, before the expiry of six months from the last day of the quarter in which the purchases of the specified items have been made.

3.2 For the purposes of this Scheme, the term “quarter” refers to the three-month period in a calendar year from January to March, April to June, July to September and October to December. However, the claimant will be eligible for the reimbursement of the said taxes from the date of issue of the Unique Enrolment Number by the Ministry of Culture.

3.3 The application for reimbursement of the said taxes in FORM SBY-03shall be filed once for each quarter in respect of all the locations within the State/Union territory, which are specified in Column 6 of FORM SBY-02, from where the claimant undertakes the specified activity. In case the claimant undertakes the specified activity from different locations situated in more than one State or Union territory, separate applications would be required to be filed with respect to each SBY-UIN obtained in terms of para 2.3 above, to the jurisdictional nodal officers.

3.4 The application shall be signed by the authorised signatory of the claimant and shall be submitted along with the following documents:

a) Self-attested copies of the invoices issued by the suppliers for the purchases of the specified items mentioning the unique enrolment number allotted by the Ministry of Culture and SBY-UIN;

b) A Chartered Accountant"s Certificate certifying the following:

(i) quantity, price and amount of central tax, State tax/Union territory tax or integrated tax paid on the purchase of the specified items during the quarter for which the claim is filed;

(ii) the claimant is involved in charitable/religious activities;

(iii) the reimbursement claimed in the current quarter/year is not more than the purchases in the previous corresponding quarter/year plus a maximum of 2.5%/10% for the current quarter/year, as the case may be;

(iv) the claimant is using the specified items for only distributing free food to the public/devotees etc. during the claim period; and

(v) the claimant fully satisfies the conditions laid down in para 6 of the guidelines issued by the Ministry of Culture **(Annexure A)**.

3.5 The nodal officer shall, within a period of fifteen days from the date of receipt of FORM SBY-03, scrutinize the same for its completeness and where the application is found to be complete in all respects issue an acknowledgement in FORM SBY-04. The same shall be communicated to the claimant clearly indicating the date of receipt of the application in FORM SBY-03. In case of any deficiencies, the same shall be communicated to the claimant requiring him to file a fresh application after rectification of such deficiencies within a period of 15 days from the date of receipt of the said communication.

IV. Processing of the application filed in FORM SBY-03

4.1 While processing the application filed in FORM SBY-03, the nodal officer shall verify the following:

a) Invoices mentioning the unique enrolment number allotted by the Ministry of Culture and the SBY-UIN for the purchase of the specified items have been submitted;

b) The amount claimed as reimbursement is on account of the said taxes paid on the purchase of the specified items during the claim period;

c) The amount claimed does not exceed the limit specified in para 3.4(b)(iii) above.

4.2 The nodal officer may call for any document in case he has reason to believe that the information provided in the claim is incorrect or insufficient and further enquiry is required to be carried out before the sanction of the claim.

4.3 Where, upon examination of the application, the nodal officer is satisfied that the claimant is eligible for the reimbursement of the said taxes, he shall issue an order in FORM SBY-05 sanctioning the amount of reimbursement with full details of the Grant No. and the Functional Head (of Ministry of Culture) under which the amount is to be disbursed by the designated PAO. He shall also issue a payment advice in FORM SBY-06 for the eligible amount based on First-cum-First-serve basis with regard to the date of receipt of the complete application in FORM SBY-01. The Nodal Officer, in the capacity of Program Division, shall be able to view the available budget (DDO specific) which would get reduced to the extent of the uploaded sanction order immediately after uploading of the sanction order. He shall enter the details on the PFMS portal under his login access; scan the sanction order (FORM SBY05) and the payment Advise (FORM SBY06) and forward the same to the designated DDO. The designated DDO, on the basis of FORM SBY05 and FORM SBY06, shall generate the bill on the PFMS portal and forward the same to the concerned PAO under his digital signature. If a sanction order is uploaded exceeding the available budget, the PAO will prepare the Bill but not be able to pass the bill due to lack of funds, and the said sanction will remain as pending. The detailed procedure to be followed by all the stakeholders for disbursal of financial assistance under the Scheme as prepared by the O/o the Pr. Chief Controller of Accounts, CBIC is enclosed as Annexure C.

4.4 Where the nodal officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed is not payable to the claimant, he shall issue a notice detailing the reasons thereof and requiring the claimant to furnish a reply within a period of fifteen days from the date of the receipt of such notice.

4.5 After receiving the reply, the nodal officer shall process the application and issue an order in FORM SBY-05 either sanctioning or rejecting the amount of reimbursement claimed.

4.6 No amount shall be rejected without giving the claimant a reasonable opportunity of being heard.

4.7 The order in FORM SBY-05 shall be issued within a period of sixty days from the date of issue of the acknowledgment in FORM SBY-04.

V. Reporting of the reimbursement claims filed and processed

5.1 The details of all the applications for obtaining SBY-UIN in FORM SBY-01, and its issuance thereof in FORM SBY-02 shall be recorded in the format given in Table A below, along with its monthly summary in the format given in Table B below:

Table A - Details of applications for SBY-UIN and its grant thereof

Sl.No.	Claimant's name	Unique ID given by the Ministry of Culture	Date of receipt of application in **FORM SBY-01**	**SBY-UIN** issued in **FORM SBY-02**	Date of issue of **FORM SBY-02**
1	2	3	4	5	6

Table B –Monthly Summary of issuance of SBY-UIN

(For the month of ____)

No. of applications received in **FORM SBY-01**		No. of **SBY-UIN** issued in **FORM SBY-02**	
For the month	Upto the month	For the month	Upto the month
1	2	3	4

5.2 The details of all the applications for reimbursement of the said taxes received in FORM SBY-03 and its processing shall be recorded in the format given in Table C below along with its monthly summary in the format given in Table D below:

Table C - Details of claims for financial assistance under SevaBhoj Yojna received and processed

(Rs. in Lakhs)

Sl. No.	Claimant's name	SBY-UIN	Date of receipt of application in **FORM SBY-03**	Date of issue of acknowledgement in **FORM SBY-04**	Date of issue of deficiency memo, if any	Period to which the claim pertains	Amount claimed	Date of issue of order in **FORM SBY-05**	Amount sanctioned	Amount rejected	Date of issue of Payment advice in **FORM SBY-06**
1	2	3	4	5	6	7	8	9	10	12	13

Table D–Monthly summary of Financial Assistance under Seva Bhoj Yojna

(For the month of .....)

(Rs. in Lakhs)

Opening balance		**Details of claims received**				**Details of claims sanctioned**				**Details of claims rejected**				**Closing balance**	
		Number		**Amount**		**Number**		**Amount**		**Number**		**Amount**			
No.	*Amt.*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*No.*	*Amt.*
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

5.3 The nodal officers shall send a monthly statement in Tables B and D to the Additional Director General, DGGST by the 10th of the following month.

5.4 DGGST shall thereafter compile the information on an all-India basis, and communicate the same to the Under Secretary, S&F Section, Ministry of Culture, with a copy to the Commissioner (GST) in the Board, by the 15th of the following month.

11.3.2.2 Departmental Clarifications - Clarification on refund related issues- Circular No. 79/53/2018-GST dated 31st December, 2018

Various representations have been received seeking clarification on various issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the

provisions of law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

Physical submission of refund claims with jurisdictional proper officer:

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

a) All documents/undertaking/statements to be submitted along with the claim for refund in FORM GST RFD-01A shall be uploaded on the common portal at the time of filing of the refund application. Circular No. 59/33/2018-GST dated 04.09.2018 specified that instead of providing copies of all invoices, a statement of invoices needs to be submitted in a prescribed format and copies of only those invoices need to be submitted the details of which are not found in FORM GSTR-2A for the relevant period. It is now clarified that the said statement and these invoices, instead of being submitted physically, shall be electronically uploaded on the common portal at the time of filing the claim of refund in FORM GST RFD-01A. Neither the application in FORM GST RFD-01A, nor any of the supporting documents, shall be required to be submitted physically in the office of the jurisdictional proper officer.

b) However, the taxpayer will still have the option to physically submit the refund application to the jurisdictional proper officer in FORM GST RFD-01A, along with supporting documents, if he so chooses. A taxpayer who still remains unallocated to the Central or State Tax Authority will necessarily have to submit the refund application physically. They can choose to do so before the jurisdictional proper officer of either the State or the Central tax authority, as was earlier clarified vide Circular No. 17/17/2017 - GST dated 15.11.2017.

c) The ARN will be generated only after the claimant has completed the process of filing the refund application in FORM GST RFD-01A, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

d) As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under rule 90(2) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement shall be counted from that date. This will obviate the need for a claimant to visit the jurisdictional tax office for the submission of the refund application. Accordingly, the acknowledgement for the complete application or deficiency memo, as the case may be, would be issued by the jurisdictional tax officer based on the documents so received electronically from the common portal. However, the said acknowledgement or deficiency memo shall continue to be issued manually for the time being.

e) If a refund application is electronically transferred to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically within a period of three days.

In such cases, the application shall be deemed to have been filed under rule 90(2) of the CGST Rules only after it has been so reassigned. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction. Where the facility of electronic re-assignment is not available, the present arrangement shall continue.

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

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

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

4. Representations have been received stating that while processing the refund of unutilized ITC on account of inverted tax structure, the departmental officers are denying the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

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

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with help of the following example:

i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).

ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.

iii. Further assume that the claimant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the claimant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.

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

v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of Rs. 385/-.

vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

Disbursal of refund amounts after sanction:

5. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the claimant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the claimant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the claimant. Accordingly, all tax authorities are advised to issue the final sanction orders in FORM GST RFD-06 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days by both Central and State Tax Authorities for CGST / IGST / UTGST / Compensation Cess and SGST respectively.

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

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

a) All refund applications in which the amount claimed is less than the statutory limit of Rs. 1,000/- should be rejected and the amount re-credited to the electronic credit ledger of the applicant through the issuance of FORM GST RFD-01B.

b) For all applications wherein an amount greater than Rs. 1000/- has been claimed, a list of applications which have not been received in the jurisdictional tax office within a period of 60 days starting from the date of generation of ARN may be compiled. A communication may be sent to all such claimants on their registered email ids, informing that the application needs to be physical submitted to the jurisdictional tax office within 15 days of the date of the email. The contact details and the address of the jurisdictional officer may also be provided in the said communication. The claimant may be further informed that if he/she fails to physically submit the application within 15 days of the date of the email, the application shall be

summarily rejected and the debited amount, if any, shall be re-credited to the electronic credit ledger.

7. For the applications generated on the common portal before the issuance of this Circular in relation to refund of excess balance from the electronic cash ledger which have not yet been received in the jurisdictional office, the amount debited in the electronic cash ledger in such applications may be re-credited through FORM GST RFD-01B provided that there are no liabilities in the electronic liability register. The said amount shall be re-credited even though the return in FORM GSTR-3B, as the case may be for the relevant period has not been filed.

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

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

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

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

Clarification: In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of CGST/SGST/UTGST/IGST was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. Further, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of IGST. This process would be applicable for application for refund of compensation cess (not claimed earlier) in respect of the past period.

b) Issue: A registered person uses coal for the captive generation of electricity which is further used for the manufacture of goods (say aluminium) which are exported under Bond/Letter of

Undertaking without payment of duty. Refund claim is filed for accumulated Input Tax Credit of compensation cess paid on coal. Can the said refund claim be rejected on the ground that coal is used for the generation of electricity which is an intermediate product and not the final product which is exported and since electricity is exempt from GST, the ITC of the tax paid on coal for generation of electricity is not available?

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

c) Issue: A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e. Rs. 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the FORM GSTR-3B filed for the month as a result of which an amount of Rs. 50/- only is credited in the electronic credit ledger. The reversed amount (Rs. 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares Rs. 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be Rs. 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the balance in the electronic credit ledger at the time of filing the refund claim is Rs. 50/- (assuming that no other debits/credits have happened), the system will proceed to debit Rs. 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction Rs. 50/- as the refund amount or Rs. 25/- (i.e. half of the ITC availed after adjusting for reversals)?

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

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

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

11. In this regard, it is clarified that „Net ITC" as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been „availed" when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in FORM GSTR-3B. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2017, „availed" in September, 2017 cannot be excluded from the calculation of the refund amount for the month of September, 2017.

Misinterpretation of the meaning of the term "inputs":

12. It has been represented that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the claimant.

13. In relation to the above, it is clarified that the input tax credit of the GST paid on inputs shall be available to a registered person as long as he/she uses or intends to use such inputs for the purposes of his/her business and there is no specific restriction on the availment of such ITC anywhere else in the GST Act. The GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

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

14. Section 54(3) of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, section 2(59) of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. Accordingly, in order to align the CGST Rules with the CGST Act, notification No. 26/2018-Central Tax dated 13.06.2018 was issued wherein it was stated that the term Net ITC, as used in the formula for calculating the maximum refund amount under rule 89(5) of the CGST Rules, shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both. In view of the above, it is clarified that both the law and the related rules clearly prevent the refund of tax

paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted duty structure.

15. All previous Circulars/Instructions issued on the subject stand modified accordingly.

11.3.2.3 Departmental Clarifications - Standard Operating Procedure (SOP) to be followed by exporters - Circular No.131/1/2020-GST dated 23rd January, 2020

As you are aware, several cases of monetisation of credit fraudulently obtained or ineligible credit through refund of Integrated Goods & Service Tax (IGST) on exports of goods have been detected in past few months. On verification, several such exporters were found to be non-existent in a number of cases. In all these cases it has been found that the Input Tax Credit (ITC) was taken by the exporters on the basis of fake invoices and IGST on exports was paid using such ITC.

2. To mitigate the risk, the Board has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification. Overall, in a broader time frame the percentage of such exporters selected for verification is a small fraction of the total number of exporters claiming refunds. The refund scrolls in such cases are kept in abeyance till the verification report in respect of such cases is received from the field formations. Further, the export consignments/shipments of concerned exporters are subjected to 100 % examination at the customs port.

3. While the verifications are caused to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context it is advised that exporters whose scrolls have been kept in abeyance for verification would be informed at the earliest possible either by the jurisdictional CGST or by Customs. To expedite the verification, the exporters on being informed in this regard or on their own volition should fill in information in the format attached as **Annexure 'A'** to this Circular and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information for verification. However, the jurisdictional authorities must adhere to timelines prescribed for verification.

3.1 Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter. If the verification is not completed within this period, the jurisdiction officer will bring it the notice of a nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner Office.

3.2 After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax by sending an email to the Chief Commissioner concerned (email IDs of jurisdictional Chief Commissioners are in **Annexure B**).

3.3 The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.

4. In case, any refund remains pending for more than one month, the exporter may register his grievance at www.cbic.gov.in/issue by giving all relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been

submitted etc. All such grievances shall be examined by a Committee headed by Member GST, CBIC for resolution of the issue.

11.3.2.4 Departmental Clarifications - Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws- Circular No. 137/07/2020-GST dated 13th April, 2020

Circular No.136/06/2020-GST, dated 03.04.2020 had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). It has been brought to the notice of the Board that certain challenges are being faced by taxpayers in adhering to the compliance requirements under various other provisions of the CGST Act which also need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies as under:

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 of the CGST Act. 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 of the CGST Act. 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	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) of the CGST Act, he is required to issue a "refund voucher" in terms of section

	required to adjust his tax liability in his returns?	31(3)(*e*) of the CGST Act read with rule 51 of the CGST Rules. 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".
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 of the CGST Act. 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 of the CGST Act. 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.
4.	Letter of Undertaking (LUT) furnished for the purposes of zerorated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST ?	Notification No. 37/2017-Central Tax, dated 04.10.2017, requires LUT to be furnished for a financial year. However, in terms of notification No. 35/2020 Central Tax dated 03.04.2020, where the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during between the period from 20.03.2020 to 29.06.2020, has been extended till 30.06.2020. Therefore, in terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.
5.	While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i.e. Tax Deducted at Source (TDS). Whether the date of deposit of such payment has also	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till

	been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?	30.06.2020. Accordingly, the due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.
6.	As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.

11.4 Consumer Welfare Fund. [Section 57]

Section 57	01.07.2017 to till date	**Constitution of Consumer Welfare Fund** The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,— (a) the amount referred to in sub-section (5) of section 54; (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.

11.5 Utilisation of Fund. [Section 58]

Section 58(1)	01.07.2017 to till date	**Utilisation of Consumer Welfare Fund for the welfare of the consumers** All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed[$]. **$ Consumer Welfare Fund made available to Board under Rule 97(7A) of the CGST Rules, 2017 (Management & Administration)**
Section 58(2)	01.07.2017 to till date	**Maintenance of proper and separate account and other relevant records in relation to the Consumer Welfare Fund and preparation of an annual statement of accounts.**

		The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.