2017

Refund in GST Law

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3/8/2017

REFUND IN GST LAW

Procedure of Refund in GST is time bound and if not paid in time will be subject to interest. It seems to be simple . Circumstances are defined under which tax payer shall be eligible to file for refund and same shall be process a per the prescribed law. Refund of GST is prescribed in Section- 48 of the Revised GST Law.

Applicability and Procedure

- ✓ Any person may make an application to the proper officer of IGST/CGST/SGST for refund of Tax and Interest, if any amount paid by him before the expiry of two years from the relevant date. But any taxable person , claiming any refund of any balance in electronic cash ledger u/s 44[6], may claim the same in return filed u/s 34.

- ✓ Any specialized agency of United Nation Organisation , consulate or embassy of foreign countries or any multilateral Financial Institution or Organization or any person or class of person notified under u/s 49, may claim refund of IGST/ SGST/CGST paid on inward supply before the expiry of six months from the last day of the month in which supply was received.

- ✓ Taxable person may claim unutilized input tax credit at the end of any tax period. But this can be claimed by

  - only export unit including Zero rated supply .
  - where the rate of input tax credit is higher than the output tax.
  - No refund of input tax credit can be taken, if the export is on the payment of export duty.
  - No refund of ITC shall be allowed if supplier of goods or services has claimed refund of output tax paid under IGST.

- ✓ The application on Form-GST RFD -1 shall be filed along with ;

  - Documentary evidence to substantiate the refund
  - Reference number and copy of the order passed by competent authority
  - In case refund is on account of export of goods / supply to SEZ/ deemed export – statement containing the number and date of shipping bills or bills of export and number and date of relevant export invoice.
  - In case of export of services, bank realization certificate or copy of FIRC.
  - Documentary or such other evidence to substantiate that such tax and interest has not been passed on to any other person.
  - A statement in Annexure -1 of Form -GST RFD-1 containing the no.

and date on invoices received and issued during tax period in case where the claim is for refund of any unutilized ITC u/s 48[3].

It is further provided that if the refund claim is less than Rs.. 5 lacs, the above documentary evidences are not necessary. In that case, applicants by his own self declaration that incidence of tax and interest thereon has not been passed on to any other person. In case refund claim is Rs. 5 lacs or more, Annexure -2 of the Form -GST RFD-1 shall be signed by Chartered Accountant or Cost Accountant to the effect that such tax and interest has not been passed on to any other person.

- ✓ On receipt of application , the proper officer if satisfy, may pass the order for credit of whole or part of the refund and the amount may be credited to fund.

- ✓ The proper office shall issue the order u/s 48[5] within 60 days from the receipt of application. Application here means complete application containing all information.

- ✓ Irrespective of provision of section 48[5& 6] , the refund may be paid to applicant instead of credit to fund under following circumstances.

    - ➢ Export of goods or services
    - ➢ Refund of unutilized credit
    - ➢ Refund on supply not provided wholly or partially for which invoice has not been issued.
    - ➢ Refund in accordance with section -70 i.e. wrong deposit of tax under CGST/SGST instead of IGST.

- ✓ Where refund is subject matter of appeal, proper officer may withheld the refund.

- ✓ Where refund is withheld, applicant shall be eligible for interest, if he won the case in appeal.

- ✓ Advance tax deposited by casual Taxable Person and Non resident taxable person will not refunded unless certificate granted to them remain in force and all return furnished by them.

- ✓ No refund shall be process, if the amount is less than Rs. 1000.

- ✓ Where the claim pertains to refund from Electronic cash ledger ,the proper officer shall provide the Form- GST RFD-2 to the applicant as acknowledgement on the common portal.

- ✓ Claims other than electronic cash ledger, application shall be forward to proper officer who will examine the correctness of the application within 15 days of filing and acknowledge the same on Form-GST RFD -2 clearly stating the date of filing the application.

- ✓ Where any deficiency is noticed, the proper officer shall intimate the same on Form- GST RFD-3 to the applicant.

- ✓ to avoid the holding of capital of exporters, it has been provided to refund the 90% of the claim with in 7 days of the acknowledgment of claim. And will pass Order on Form –GST RFD-4 to the effect [This has been approved by GST Council on March 4,2017 as well.

- ✓ The proper officer shall issue Form –GST RFD -8 mentioned the amount to be credited to applicant Bank.

"Relevant Date" as mentioned above

- ✓ In case of export of goods out of India.

  - ➢ In case of goods exported by sea or aircraft, the date on which the sea or aircraft leaves India.
  - ➢ In case goods exported by land , the date on which goods pass the frontier.
  - ➢ In case goods exported by post , the date of dispatch by post office to place outside India.

- ✓ In case of supply of goods treated as deemed export, the date of filing of return relating to such deemed export.
- ✓ In case of export of services;

  - ➢ The receipt of foreign exchange where the services have been completed before the receipt of payment.
  - ➢ Issue of invoice where the payment of services received in advance.

- ✓ Where tax becomes refundable on any court order, date of communication of order.

- ✓ In case of refund of unutilized credit , end of financial year in which claim arises

- ✓ In any other case, date of payment of tax.

Interest on delayed refunds

- ✓ If the refund is not paid within 60 days as mentioned above , interest as may be prescribed shall be paid from the expiry of 60 days.

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