Refund of Taxes under GST

Related Sections	Section 54 to Section 58 of CGST Act
Related Rules	Rule 89 to Rule 97
Related Notification	16/2017,15/2017
Related Forms	GST RFD - 01 to GST RFD - 11

Introduction

Under the GST laws refund claim and sanctioning procedures are simplified and made transparent *via* online electronic request, which is a major transformation from earlier time consuming and cumbersome procedure.

Situations which will lead to Refund Claim under GST Law

The situations which will lead to refund claim under GST Law are embodied in ***Section 54 of CGST Act***, ***2017***, There are twelve such situation which are listed below.

Twelve Situations

1.	*Export of goods or services*
2.	*Supplies to SEZs units and developers*
3.	*Deemed exports*
4.	*Refund of taxes on purchase made by UN or embassies etc*
5.	*Refund arising on account of judgment, decree order or direction of the Appellate Authority, Appellate Tribunal or any court*
6.	*Refund of accumulated Input Tax credit on account of inverted duty structure*
7.	*Finalization of provision assessment*
8.	*Refund of Pre-deposit*
9.	*Excess payment due to mistake*
10.	*Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India*
11.	*Refund on account of issuance of refund vouchers for taxes paid on advances against which goods or services have not been supplied*
12.	*Refund of CGST & SGST paid by treating the supply as intra-state supply which is subsequently held as inter-state supply and vice versa*

How to claim Refund and Time limit for claiming Refund Due??

Persons other than those who are covered under notification issued under section 55 of CGST Act, 2017 and person who are claiming refund relating to balances in electronic cash ledger shall claim refund of any tax, interest, penalty , fees or any other payment made by him, other than refund of integrated tax paid on goods exported outside India shall apply in ***Form GST RFD-01*** directly through online or through Facilitation center notified by Government, before expiry of two years from relevant date.

In case of persons covered under notification issued under section 55 of CGST Act,2017 are eligible to claim a refund of taxes paid on the notified supplies of goods or service or both received by them in **Form GST RFD-10** before the expiry of six months from the last day of the quarter in which such supply was received.

If a registered taxable person, claiming refund of any balance in the electronic cash ledger may claim such refund through the return furnished for the relevant tax period in **FORM GSTR-3 or FORM GSTR-4 or FORM GSTR-7.**

Refund of unutilized input tax credit

As per section 54(3) Registered person may claim refund of any **unutilized input tax credit available** at the end of any tax period for exports of goods/ or services out of India on which export duty is not payable; or Zero rates supplies (Without payment of tax) or if rate of tax on inputs is higher than the rate of tax on outputs.

Tax period is being defined under section 2(106) of CGST Act,2017 means the period for which the return is required to be furnished.

Documentary evidence establishing refund claim

As per section 54(4) of CGST Act, 2017 application of refund shall be accompanied by documentary evidence in ***Annexure -1 of Form GST RFD-01*** as prescribed below to establish that a refund is due to the applicant and a certificate from Chartered Accountant in ***Annexure-2 of Form GST RFD-01*** to establish that the amount of tax and interest, if any was paid by him and the incidence of such tax and interest had not been passed on to any other person.

As per Proviso to Section 54(4) if the amount of refund claimed is less than **Two Lakh** there is no requirement of documentary evidence or certificate from Chartered accountant, instead declaration may be filed.

	Documentary evidences prescribed in Rule 89(2) are listed below
A.	*the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund.*
B.	*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, in a case where the refund is on account of export of goods;*
C.	*A statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the*

	refund is on account of the export of services
D.	*a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to 58 sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;*
E.	*a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorized operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;*
F.	*a declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a Special Economic Zone unit or a Special Economic Zone developer;*
G.	*a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports;*
H.	*a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilized input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;*
I.	*the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalization of provisional assessment;*
J.	*a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;*
K.	*a statement showing the details of the amount of claim on account of excess payment of tax;*
L.	*a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:*

Acknowledgment & Sanction of refund to the claimed

On receipt of application for refund proper officer shall within a period of fifteen days of filling of the said application, scrutinize the application and if found to complete an acknowledgment in **Form GST RFD-02** will be issued through the common portal electronically, In case of any deficiencies the proper officer shall communicate the deficiencies to the applicant in **FORM GST RFD-03** .

If upon examination of the application, the proper officer is satisfied, then he will make an order within sixty days from the date of receipt of application in **FORM GST RFD-06** sanctioning the amount of refund and issue a payment advice in **Form GST RFD-05**, if refund is completely adjusted or withhold against outstanding due then proper officer shall issue order in **Form GST RFD-07 .**

As per section 54(5) of the GST Act,2017 refund amount determined by the proper officer will be credited to the consumer welfare fund constituted by the Government, but under the below mentioned cases refund will be paid to the applicant.

- *a) refund of tax paid on zero-rated supply of goods or services or both*
- *b) refund of tax on inputs or input services used in making zero-rated supply*
- *c) refund of unutilized input tax credit*
- *d) the tax/ interest/ other amounts paid by the applicant, if he had not passed on the incidence of tax to any other person; or*

e) *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*
f) *refund of tax where registered person who has paid CGST/SGST/UTGST on a transaction considered by him as INTRA STATE supply but held as INTER-STATE supply;*
g) *the tax or interest borne by notified (by central/state government on the recommendation of the council) class of applicants.*

Cases where refund due will be withheld or deducted

In case of claim of refund of accumulated input tax credit, the refund due will be either withheld or deducted when a person defaults in furnishing any return or when a person is required to pay any tax, interest or penalty ordered, which is not stayed by Court or appellate Authority within the last date for filing an appeal under this act.

When the advance tax deposited at the time of registration by a casual taxable person or a non-resident taxable person refundable ?

The amount of advance tax deposited by a casual taxable person or a non-resident taxable person at the time of taking registration would be refunded only after completion of entire period for which the certificate of registration granted and all the returns required to be furnished under section 39 are furnished.

How to determine relevant date?

The relevant date is crucial to determine the time within which the refund claim has to be filed. If the refund claim is made after the relevant date, the refund claim would be rejected at the threshold and there is no provision in the Act to condone the delay in filing refund claim and accept delayed refund claims.

Refund of tax paid on goods exported itself or tax paid on inputs/input service	***a) If exported by sea or air -> date when the ship or the aircraft leaves India;*** ***b) If exported by land ->date when such goods pass the Customs frontier*** ***c) If exported by post ->date of dispatch of goods by concerned Post Office to a place outside India*** ***d) Deemed exports supply of goods->the date on which the return relating to such deemed exports is furnished.*** ***e) If supply of service is completed prior to the receipt of payment–>date of receipt of payment in convertible foreign exchange;*** ***f) If payment for the service received in advance prior to the date of issue of invoice –> date of issue invoice.***
g) Refund of tax as a consequence of	*h) date of communication of such*

	judgment, decree, order or direction of Appellate authority, Appellate Tribunal or any Court		*judgment/decree/order/ direction.*
i)	***Refund of unutilized input tax credit accumulated due to exports including zero rated supplies***	*j)*	*end of the financial year in which such claim for refund arises;*
k)	***Provisionally paid tax***	*l)*	*the date of adjustment of tax after the final assessment.*
m)	***In any other case***	*n)*	*the date of payment of tax*
o)	***In the case of a person, other than the supplier***	*p)*	*the date of receipt of goods or services or both by such person*

Interest on delayed refund

Interest is liable to be paid from the due date for payment of refund till the date of sanction or grant of refund as per section 56 of the CGST Act, 2017,Interest shall be paid from the date immediately after the expiry of sixty days till the date of refund at the **rate not exceeding six per cent** as may be specified in the notification issued by the Government on the recommendations of the Council. In case where refund is claimed pursuant to an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court and it 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 notified by the government .

Refund claim on account of zero rated supply of goods or service

Zero rated supply means any of the following supplies of goods or services or both, namely

- *export of goods or services or both; or*
- *supply of goods or service or both to a Special Economic Zone developer or a Special Economic Zone unit.*

On account of zero rating of supplies, the supplier will be entitled to claim input tax credit in respect of goods or services or both used for such supplies even though they might be non-taxable or even exempt supplies. Every person making claim of refund on account of zero rated supplies has two options. Either he can export under **Bond/LUT furnished in Form GST RFD-11** to the jurisdictional commissioner and claim refund of accumulated Input Tax Credit or he may export on payment of integrated tax and claim refund of thereof as per the provisions of Section 54 of CGST Act, 2017.

The proper officer may refund ninety percent of the total amount claimed (excluding input tax credit not yet finalized). This refund of 90% will be on a provisional basis, and would be paid within 7 days after giving acknowledgment. The acknowledgement of refund application is normally issued within a period of 14 days but in case of refund of integrated tax paid on zero rated supplies, the acknowledgement would be issued within a period of three days. The provisional refund would not be granted to such supplier who was, during any period of five years immediately preceding the refund period, was prosecuted.

As per the **notification no.16/2017** dated 7th July 2017 following registered person shall be eligible for submission of Letter of undertaking in place of a bond

a) a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015- 2020; or

b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,

and he has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

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