II Shri Ganpatay Namah II
II Shri Mahaviray Namah II

Insights Education
Exceptional Education. Exceptional Value.

FINAL – Nov 2020

[As per Revised Syllabus – Old & New Scheme]

GST (Vol 2) & Customs

Prof Jimit Doshi
(CA, LLB, BCom)

हनुमान चालीसा

॥ दोहा ॥

श्री गुरु चरन सरोज रज, निज मन मुकुर सुधारि ।
बरनऊं रघुबर विमल जसु, जो दायक फल चारि ॥ १ ॥
बुद्धिहीन तनु जानिके, सुमिरौ पवन - कुमार ॥
बल बुद्धि विधा देहु मोहिं, हरहु क्लेश विकार ॥ २ ॥

॥ चौपाई ॥

जय हनुमान ज्ञान गुन सागर, जय कपीस तिहुँ लोक उजागर ॥ १ ॥
रामदुत अतुलित बल धामा, अंजनि -पुत्र पवनसुत नामा ॥ २ ॥
महावीर विक्रम बजरंगी, कुमति निवार सुमति के संगी ॥ ३ ॥
कंचन बरन बिराज सुबेसा, कानन कुंडल कुंचित केसा ॥ ४ ॥
हाथ वज्र और ध्वजा विराजै, काँधे मूंज जनेऊ साजै ॥ ५ ॥
शंकर सुवन केसरी नन्दन, तेज प्रताप महा जग वन्दन ॥ ६ ॥
विधावान गुनी अति चातुर, राम काज करिबे को आतुर ॥ ७ ॥
प्रभु चरित्र सुनिबे को रसिया, राम लखन सीता मन बसिया ॥ ८ ॥

सूक्ष्म रुप धरि सियहिं दिखावा , विकट रुप धरि लंक जरावा ॥ ९ ॥
भीम रुप धरि असुर संहारे , रामचन्द्र के काज संवारे ॥ १० ॥
लाय सजीवन लखन जियाये , श्री रधुबीर हरषि उर लाये ॥ ११ ॥
रधुपति कीन्ही बहुत बड़ाई , तुम मम प्रिय भरत सम भाई ॥ १२ ॥
सहस बदन तुम्हरो यस गावैं , अस कहि श्रीपति कंठ लगावैं ॥ १३ ॥
सनकादिक ब्रह्मादि मुनीसा , नारद सारद सहीत अहीसा ॥ १४ ॥
यम कुबेर दिगपाल जहाँ ते , कवि कोबिद कहि सके कहाँ ते ॥ १५ ॥
तुम उपकार सुग्रीवहिं कीन्हा , राम मिलाय राज पद दीन्हा ॥ १६ ॥

तुम्हरो मन्त्र विभीषन माना , लंकेश्वर भये सब जग जाना ॥ १७ ॥
जुग सहस्त्र जोजन पर भानू , लील्यो ताहि मधुर फल जानू ॥ १८ ॥
प्रभु मुद्रिका मेलि मुख माहीं , जलधि लांघि गए अचरज नाहीं ॥ १९ ॥
दुर्गम काज जगत के जेते , सुगम अनुग्रह तुम्हरे तेते ॥ २० ॥
राम दुआरे तुम रखवारे , होत न आज्ञा बिनु पैसारे ॥ २१ ॥
सब सुख लहै तुम्हारी सरना , तुम रक्षक काहू को डरना ॥ २२ ॥
आपन तेज सम्हारो आपै , तीनो लोक हाँक ते काँपै ॥ २३ ॥
भूत पिशाच निकट नहीं आवै , महावीर जब नाम सुनावैं ॥ २४ ॥

नासै रोग हरे सब पीरा , जपत निंरतर हनुमत बीरा ॥ २५ ॥
संकट से हनुमान छुड़ावै , मन क्रम बचन ध्यान जो लावै ॥ २६ ॥
सब पर राम तपस्वी राजा , तिनके काज सकल तुम साजा ॥ २७ ॥
और मनोरथ जो कोई लावै , सोई अमित जीवन फल पावै ॥ २८ ॥
चारों युग परताप तुम्हारा , है परसिद्ध जगत उजियारा ॥ २९ ॥
साधु सन्त के तुम रखवारे , असुर निकंदन राम दुलारे ॥ ३० ॥
अष्ट सिद्धि नौ निधि के दाता, अस वर दीन जानकी माता ॥ ३१ ॥
राम रसायन तुम्हरे पासा, सदा रहो रघुपति के दासा ॥ ३२ ॥

तुम्हरे भजन राम को भावै, जनम जनम के दु:ख बिसरावै ॥ ३३ ॥
अन्त काल रघुपति पुर जाई , जहाँ जन्म हरि - भक्त कहाई ॥ ३४ ॥
और देवता चित न धरई , हनुमत सेइ सर्व सुख करई ॥ ३५ ॥
संकट हरै मिटे सब पीरा, जो सुमिरै हनुमत बलबीरा ॥ ३६ ॥
जै जै जै हनुमान गोसाई , कृपा करहु गुरुदेव की नाई ॥ ३७ ॥
यह सत बार पाठ कर सोई , छुटहिं बंदि महासुख होई ॥ ३८ ॥
जो यह पढ़ैं हनुमान चलीसा , होय सिद्धि साखी गौरीसा ॥ ३९ ॥
तुलसीदास सदा हरि चेरा , कीजै नाथ हृदय महं डेरा ॥ ४० ॥

॥ दोहा ॥

पवनतनय संकट हरन ,
मंगल मूरति रुप ।
राम लखन सीता सहित ,
हृदय बसहु सुर भूप ॥


INDIRECT TAX LAWS
GST, CUSTOMS & FTP
(For CA/CS/CMA Final)
Volume I
Version 2.0
"Summary + Question Manual"
Features
- Tabular summary of provisions with pictorial charts linked with questions
- Amendments covered upto 30 April, 2020
- More than 600+ questions covering past exam questions, RTP and MTP
- Indeed, making GST, a good & simple tax for students
By Prof. Jimit Doshi
(CA, LLB)
November 2020
INDIRECT TAX LAWS
GST, CUSTOMS & FTP
(For CA/CS/CMA Final)
Volume II
Version 2.0
"Summary + Question Manual"
Features
- Tabular summary of provisions with pictorial charts linked with questions
- Amendments covered upto 30 April, 2020
- More than 600+ questions covering past exam questions, RTP and MTP
- Indeed, making GST, a good & simple tax for students
By Prof. Jimit Doshi
(CA, LLB)
November 2020

Law stated in this book is as amended upto 30th April, 2020

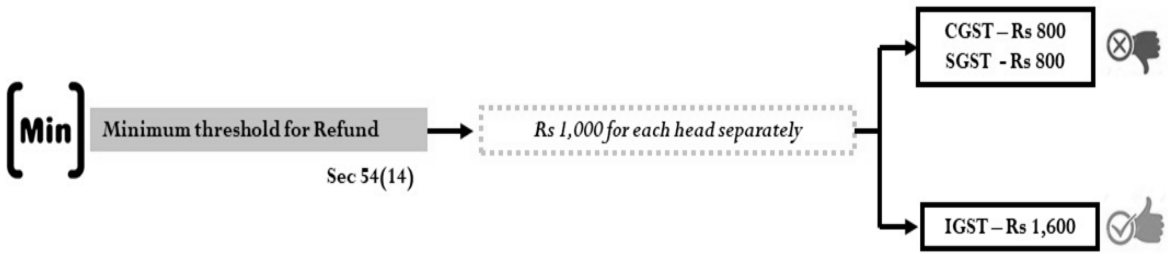
Chapter 33 – Refund [Section 54 – 58]

Section	Sub-Section	Particulars
54	(1)	Refund Procedure and limitation period to apply for refund
	(2)	Refund in regard of UNO etc.. persons notified under section 55
	(3)	Mention type of persons who can claim refund of any unutilised input tax credit
	(4)	Documents prescribed to be accompanied with Refund Application
	(5)	Order for Refund and credited to the Fund referred to in section 57
	(6)	Provisional Refund on refund application on account of zero-rated supply of goods or services or both
	(7)	Limitation period of 60 days to make an order for refund
	(8)	List of refund which shall be paid to Applicant instead of being credited to the Fund
	(8A)	Disburse the refund of the State Tax
	(9)	Refund shall be made only in accordance of the provisions of the sub-section 8. No other matter whatsoever shall be considered.
	(10)	Withhold payment of Refund
	(11)	Withhold the Refund
	(12)	Entitlement of interest on payment of Refund
	(13)	Withholding of Refund in regard of CTP or Non-Resident Taxable Person
	(14)	Non-Payment of Refund if amount of refund less than Rs.1000/=
	Explanation	Meaning of Refund and of Relevant Date
55		Notify persons such as UNO etc.. for entitlement for claim of refund subject to conditions prescribed
56		Interest on Delayed Refunds
57		Consumer Welfare Fund
58		Utilisation of fund

Unjust Enrichment & Refunds

Sec. 49(9)	***Statutory presumption that burden transferred to recipient:*** Every person who has paid the "tax" on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to recipient of such goods/services/both.
	Effect – Principle of unjust enrichment: Since the burden of tax is presumed to have been passed on, hence, as per principle of unjust enrichment, supplier cannot get refund as supplier cannot be enriched unjustly by collecting tax from recipient and also getting it back as refund. **Credit to "Fund" viz. Consumer Welfare Fund:** Therefore, refund must be granted to the person who has borne the tax; and if the person who has borne the tax cannot be identified, the refund is credited to "Consumer Welfare Fund", which will use such monies for welfare of consumers.
Meaning of word 'refund' [Section 54, Expl. (1)]	"Refund" ***includes***: ⦿ Refund of tax paid on zero-rated supplies of goods or services or both or on inputs or 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 ITC as provided u/s 54(3).

No refund if below 1,000 [Section 54(14)]	No refund shall be paid to an applicant, if amount is less than Rs 1,000. ***<u>Instruction F. No. 349/54/2017-GST, dated 8-5-2018:</u>*** ***Refund below 1,000 is blocked & No acknowledgement to be issued – E-cash/ credit ledger not to be debited*** ***<u>Circular No.59/33/2018-GST, dated 4-9-2018 & Instruction F. No. 349/54/2017-GST, dated 1-6-2018</u>*** ⦿ ***Limit of Rs.1,000 to CGST / SGST / IGST / Cess separately: Limit of Rs.1,000 is applied for each tax head separately and not cumulatively. For example, if CGST Rs.800 and SGST Rs.800 is refund, then, since each tax head is less than Rs.1,000, refund would be rejected. But, if IGST Rs.1,600 is claimed as refund, it will be allowed.*** ⦿ ***Limit does not apply to refund from e-cash ledger*** ⦿ ***Rejected refund of input credit is to be re-credited.***



⦿ Limit does not apply to <u>refund from e-cash ledger</u>

<u>Situations leading to refund claims</u>

A claim for refund may arise in the following situations:

<u>Export/supply to SEZ developer/unit on payment of IGST</u>

1) Export of goods / services on payment of IGST,
2) Supply of goods / services to an SEZ developer/unit, on payment of IGST

[refund of such IGST paid on goods / services supplied is available as per Sec 16(3)(b) of IGST Act]

<u>Refund of unutilized ITC</u>

3) Export of goods / services under Bond / Letter of Undertaking (LUT), without payment of IGST
4) Supply of goods / services to SEZ developer/unit under Bond / LUT, without payment of IGST or
5) Refund of accumulated ITC on account of inverted duty structure

<u>Deemed exports</u>

6) Refund of tax paid on the supply of goods regarded as deemed exports [Sec 147].

<u>Refund to International Tourist</u>

7) Refund of IGST paid by International tourist leaving India i.r.o goods taken out of India by him [Section 15 IGST Act].

<u>Balance in E – Cash Ledger</u>

8) Refund of any excess balance in the electronic cash ledger [Section 49(6)].

<u>Refund of tax paid on advance, but no supply made</u>

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

<u>Wrong collection of GST</u>

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

As a result of appeal order

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

On finalization of provisional assessment

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

Refund to UIN Holder

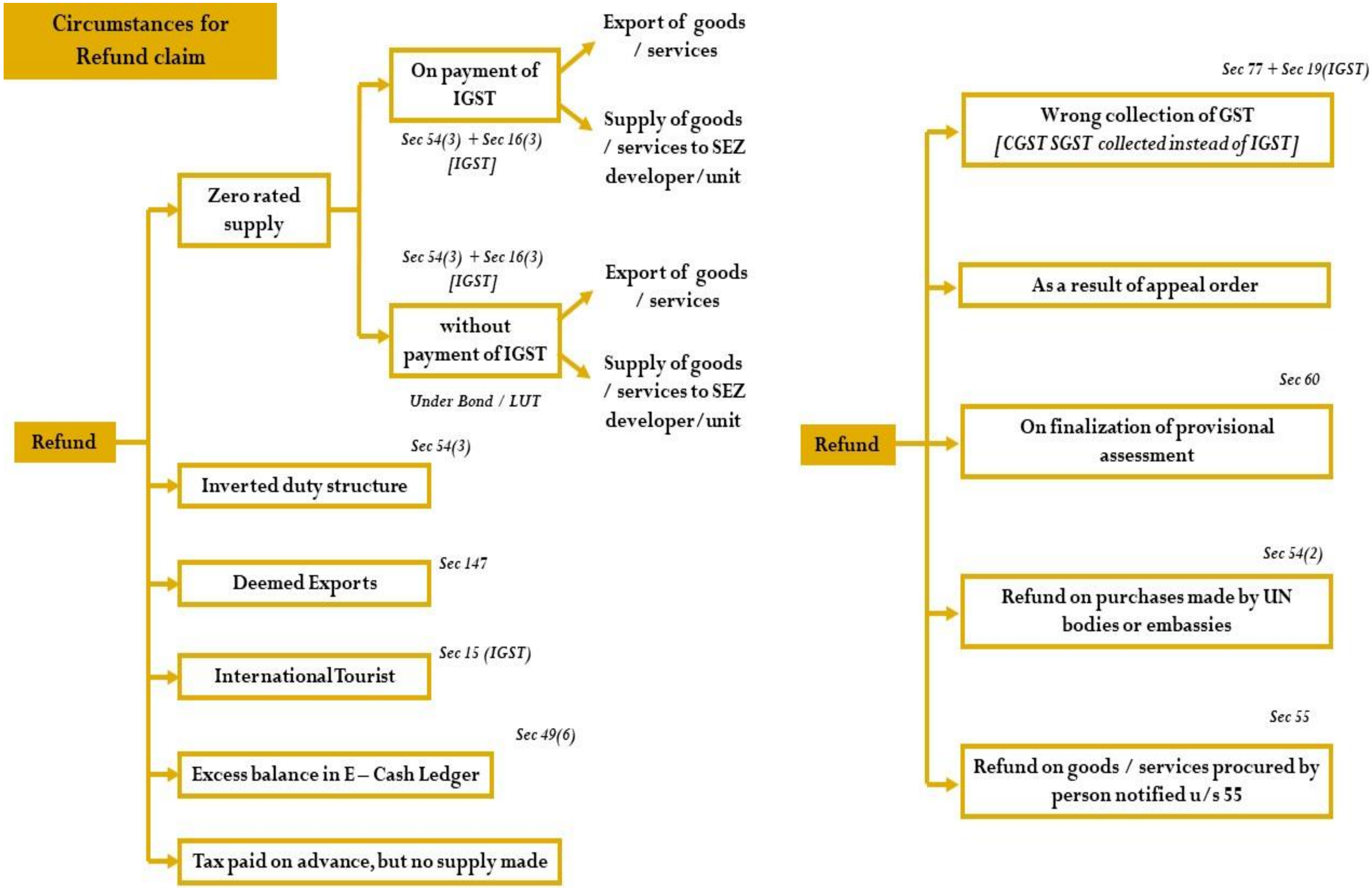
13) Refund of taxes on purchases made by UN bodies or embassies etc. [Section 54(2)].
14) Refund of taxes paid on inward supplies (goods / services) procured by person notified u/s 55 [Refund to CSD Canteens / Refund to Retail outlets located at departure area of International Airport which procures GST paid goods for supply to outgoing International passengers]

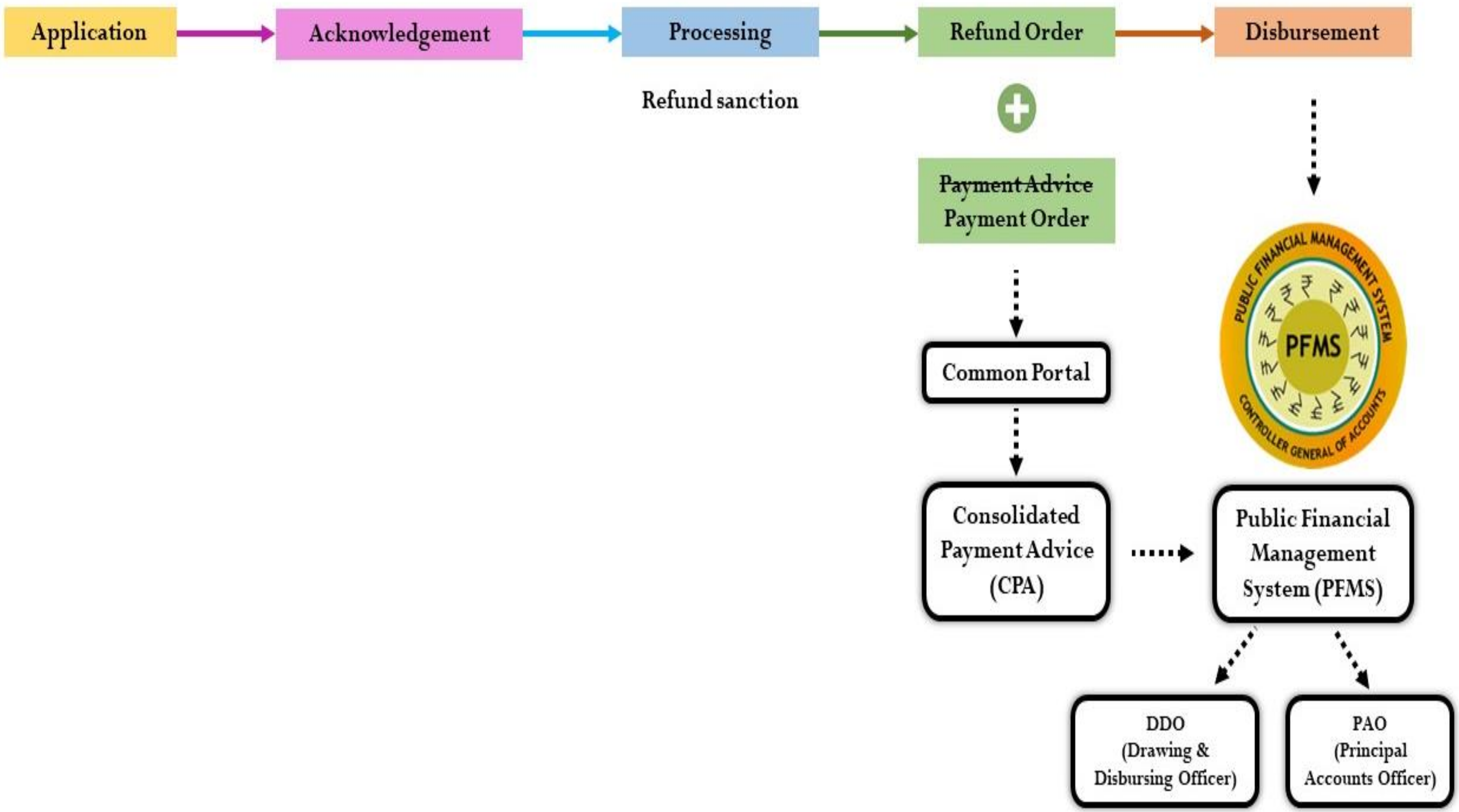
The list is only indicative and not exhaustive.

Manner of claiming Refund

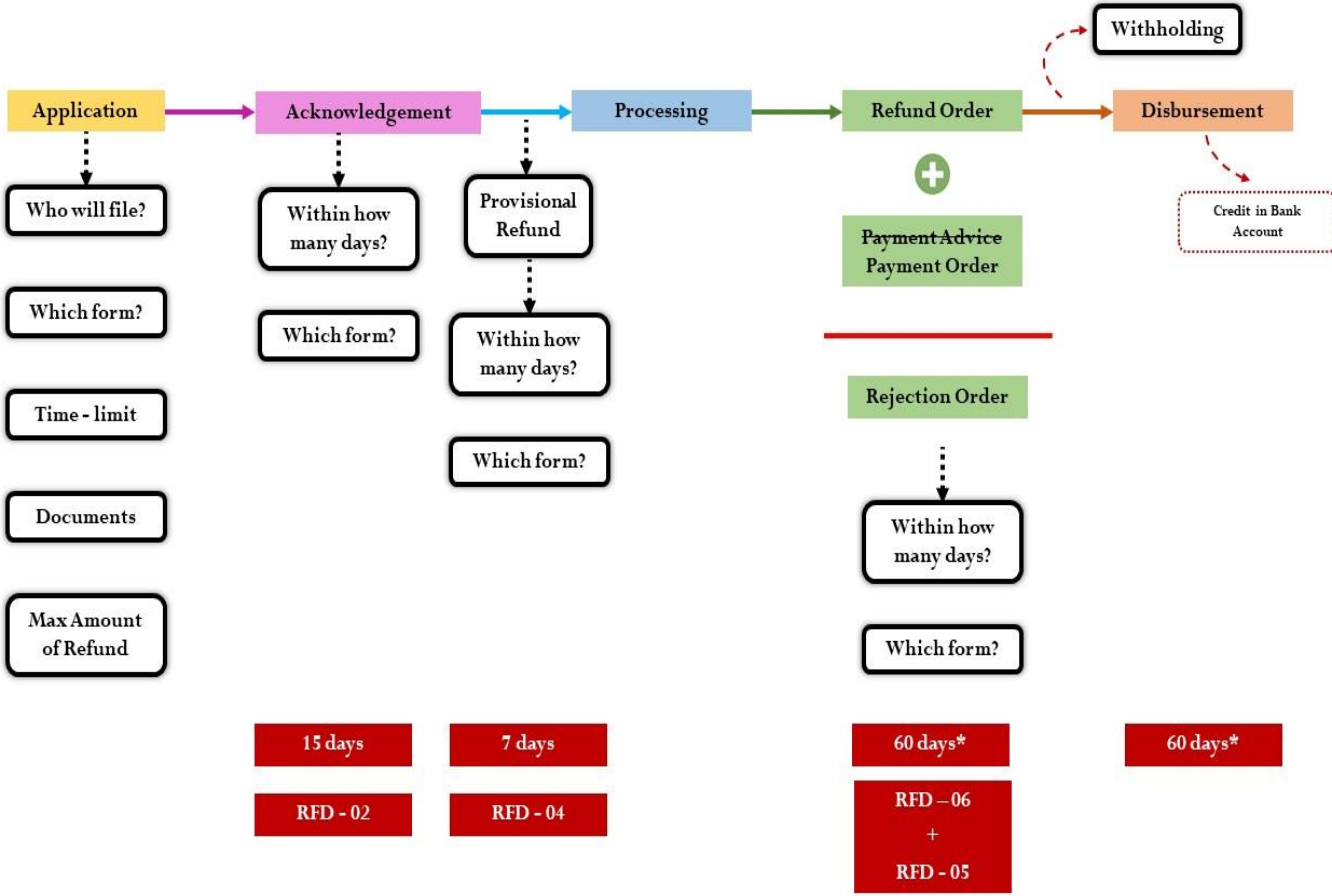
<table>
<tr><td>Application for refund of T / I / P or any other amount [Rule 89 - CGST Rules]</td><td>• Form: File an application electronically in FORM GST RFD-01
• Where: on common portal</td></tr>
<tr><td>Refund of IGST paid on goods exported out of India [Rule 96 – CGST Rules]</td><td>Shipping bill filed by the exporter is itself treated as a refund claim</td></tr>
<tr><td>Refund of balance in the electronic cash ledger</td><td>Can claim refund through return furnished for the relevant tax period u/s 39 in Form GSTR - 3B / Form GSTR – 4 / Form GSTR – 7</td></tr>
<tr><td>Supplies to SEZ:</td><td>Application for refund shall be filed by Supplier of goods / services along with proof of receipt of goods / services by SEZ for authorized operations as endorsed by the specified officer of SEZ
In addition, a declaration to the effect that tax has not been collected from the SEZ unit/ SEZ developer is also required to be furnished.</td></tr>
<tr><td>Deemed Exports – Refund claim by Supplier / Recipient:</td><td>Either recipient or supplier are allowed to file the refund application.

Supplier can seek refund only if
(a) Recipient does not avail ITC on such supplies and
(b) Recipient furnishes an undertaking that the supplier may claim the refund</td></tr>
<tr><td>Supplies by CTP / NRTP</td><td><table>
<tr><td>Claimed in</td><td>Last return</td></tr>
<tr><td>Refund of</td><td>Refund of any amount will be given only after adjusting the tax payable out of the advance tax deposited by him under section 27 at the time of registration</td></tr>
<tr><td>Condition [Sec 54(13)]</td><td>Only if all the returns required u/s 39 [GSTR – 3B / GSTR – 5] has been filed during his registration period</td></tr>
</table></td></tr>
<tr><td>Credit balance to be reduced:</td><td>Where application relates to refund of ITC, electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed.
Common Portal shall generate proof of debit (ARN – Acknowledgement Receipt Number) which would be mentioned in GST RFD – 01.</td></tr>
<tr><td colspan="2">Manual filing and processing of refund also permitted [Rule 97A, w.e.f. 15-11-2017]
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.</td></tr>
</table>


Circumstances for Refund claim
Refund
Zero rated supply
On payment of IGST
Sec 54(3) + Sec 16(3) [IGST]
Export of goods / services
Supply of goods / services to SEZ developer/unit
Sec 54(3) + Sec 16(3) [IGST]
without payment of IGST
Under Bond / LUT
Export of goods / services
Supply of goods / services to SEZ developer/unit
Sec 54(3)
Inverted duty structure
Sec 147
Deemed Exports
Sec 15 (IGST)
International Tourist
Sec 49(6)
Excess balance in E – Cash Ledger
Tax paid on advance, but no supply made
Refund
Sec 77 + Sec 19(IGST)
Wrong collection of GST
[CGST SGST collected instead of IGST]
As a result of appeal order
Sec 60
On finalization of provisional assessment
Sec 54(2)
Refund on purchases made by UN bodies or embassies
Sec 55
Refund on goods / services procured by person notified u/s 55



PFMS means the Public Financial Management System which is used by government agencies to make payments directly into the recipient's bank account.


Withholding
Application
Acknowledgement
Processing
Refund Order
Disbursement
Who will file?
Which form?
Time - limit
Documents
Max Amount of Refund
Within how many days?
Which form?
Provisional Refund
Within how many days?
Which form?
~~Payment Advice~~
Payment Order
Rejection Order
Within how many days?
Which form?
Credit in Bank Account
15 days
RFD - 02
7 days
RFD - 04
60 days*
RFD – 06
+
RFD - 05
60 days*

Manner of claiming Refund

Application → Acknowledgement → Processing → Refund Order → Disbursement

Application → RFD - 01 (General)

Refund of IGST paid on goods exported out of India → Refund claim = Shipping bill [Rule 96] [Refund to be provided by Customs Officer]

Refund of any balance in the electronic cash ledger → Claim refund through Return furnished for the relevant tax period u/s 39 in Form GSTR-3B / Form GSTR-4 / Form GSTR-7

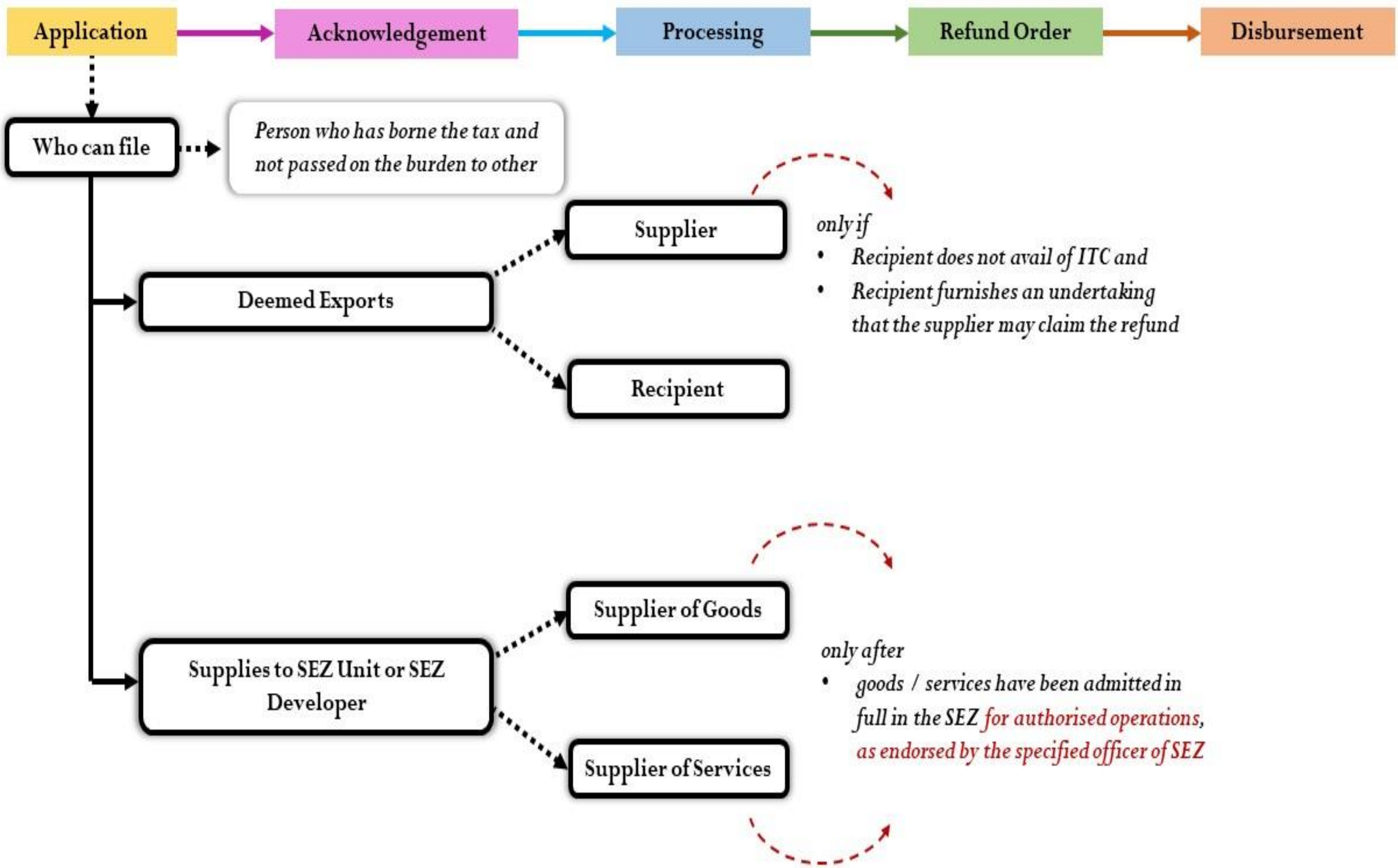
Refund of any balance in the electronic cash ledger → Presently – filed in Form GST RFD-01A
Select the reason of refund as 'Refund on account of excess balance in cash ledger'

Balance amount available in Electronic Cash Ledger is auto-populated in said refund application. The applicant enters the amount of refund to be claimed and Electronic Cash Ledger is debited for the amount claimed as refund.

Casual taxable person (CTP) / Non-resident taxable person (NRTP) → Refund to be claimed in the LAST RETURN required to be furnished by CTP / NRTP

Refund only after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration

Who can claim Refund – Special cases



Time limit within which refund claim can be filed

Refund application to be filed before the expiry of 2 years from the 'Relevant Date'

Meaning of 'Relevant date' [Section 54, Expl. (2)] **Time-limit to file refund claim starts from 'relevant date' "Relevant date" means-**	
Case	**Relevant date**
a) GOODS exported out of India - Export by Sea / Air - Export by Land - Export by Post	Date of export • Date of ship / aircraft leaving India, • Date of goods crossing Indian land • Date of dispatch by Post
b) SERVICES exported out of India	1) Date of receipt of payment in convertible foreign exchange or in India rupees wherever permitted by the Reserve Bank of India 2) In case of advance payment, date of issue of invoice
c) DEEMED exports	Date of filing return relating to such deemed exports
d) Tax refundable due to judgment, decree, order or direction of Appellate Authority / Court	Date of communication of such judgment, decree, order or direction;
e) Refund of unutilised ITC due to inverted-tax structure	Due date for furnishing of return u/s 39 for the period in which such claim for refund arises
f) provisional payment of tax	Date of adjustment of tax after final assessment thereof;
g) in case of a person, other than the supplier,	Date of receipt of goods or services or both by such person
h) in any other case	Date of payment of tax

Documentary evidences for filing refund claim [Sec 54(4) + Rule 89(2)]

Documents [Section 54(4)]	The application shall be accompanied by - a) Documents showing that refund is actually due b) Documents showing that incidence borne by self ***Small refunds upto 2 lakh – Self-declaration sufficient:*** *However, if amount claimed as refund is less than Rs 2,00,000, it shall not be necessary for applicant to furnish any documentary and other evidences but he may file a declaration, based on documentary or other evidences available with him, certifying that incidence of such tax and interest had not been passed on to any other person.*
Documentary evidence to establish that a refund is due to applicant [Rule 89(2)]	a) Copy of appellate order / reference number of pre – deposit giving rise to refund b) Details of shipping bill for export c) Bank Realization Certificate / Foreign Inward Remittance Certificates (BRC / FIRC) in case of export of services d) Statement containing number and date of invoices + Endorsement by specified officer of SEZ in case of supply of goods / services to SEZs + In addition, a declaration to the effect that tax has not been collected from the SEZ unit/ SEZ developer is also required to be furnished.

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

***Analysis:* There is no need to obtain certificate from SEZ units that they have not availed credit. A simple declaration that invoice does not show any tax amount and therefore, no tax has been collected from the SEZ units/developer would suffice.**

e) Deemed exports
- Statement containing the number and date of invoices
- Acknowledgment by jurisdictional Tax officer of the Advance Authorisation (AA) holder or Export Promotion Capital Goods (EPCG) Authorisation holder that the said deemed export supplies have been received by the said AA/EPCG Authorisation holder
- Undertaking by recipient that no ITC has been availed of by him
- Undertaking by recipient that he is not claiming refund and the supplier may claim the refund

f) Invoice details etc. for refund of unutilized ITC on account of inverted tax structure

g) Details of final assessment order giving rise to refund

h) statement of transactions where nature of supply changes [intra-state to inter-state or vice-versa]

i) Statement showing details of amount of claim on account of excess payment of tax;
</td></tr>
<tr><td>

Documentary evidence pertaining to passing of incidence of tax
{Principal of Unjust Enrichment [Section 54(8), (8A) & (9)]}
</td><td>

⊙ SELF - DECLARATION that incidence of tax not transferred, if amount is upto Rs 2,00,000

⊙ CA/CMA certificate if refund claim exceeds Rs 2,00,000

No Certificate / No declaration required in case of following –
➜ Refund of tax paid on export of goods or services
➜ Refund of unutilised ITC [zero rated supplies + inverted duty structure]
➜ Refund of tax paid on advance, but no supply made
➜ Wrong collection of GST
➜ Such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify
</td></tr>
</table>

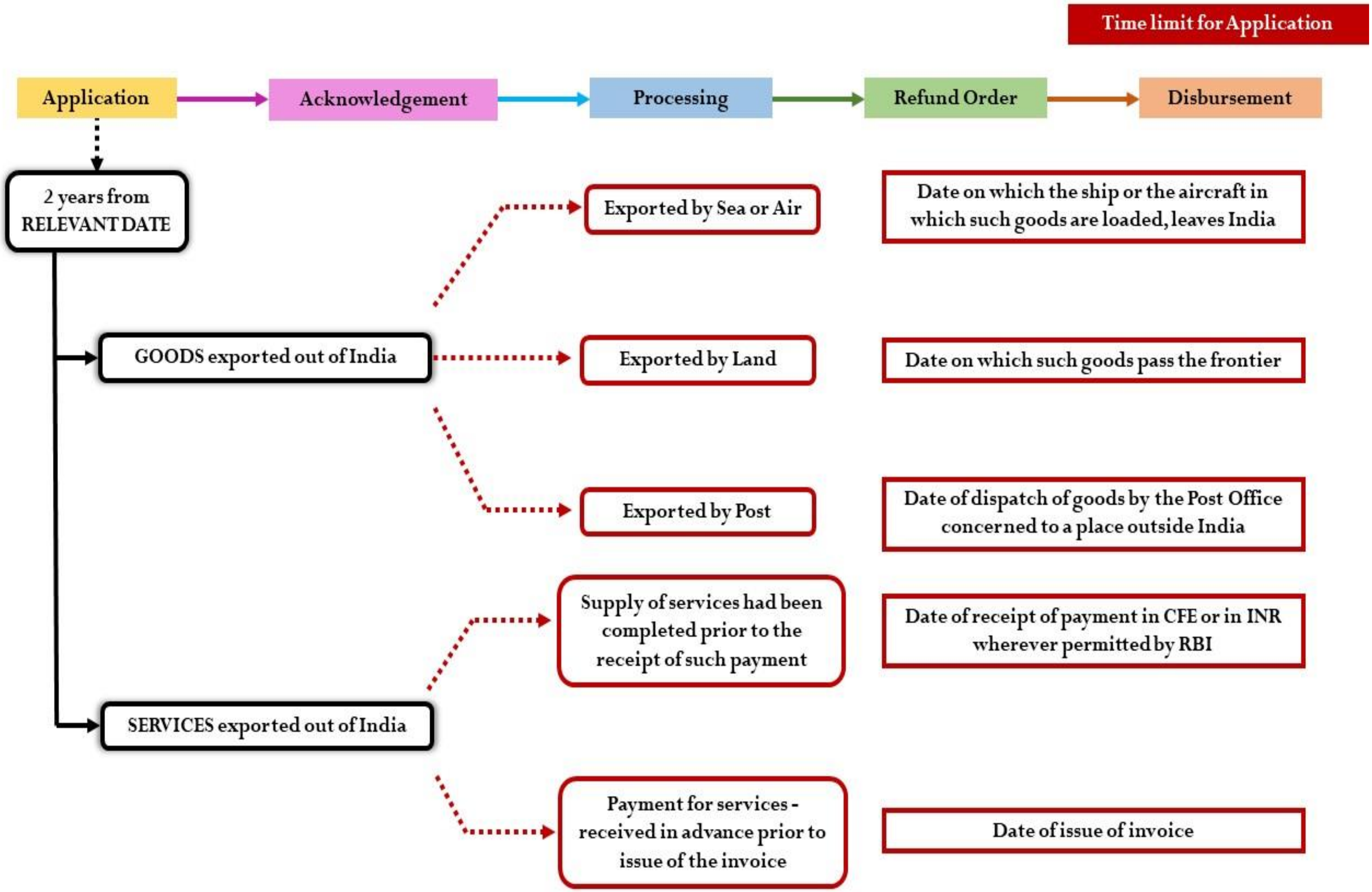
Procedure on receipt of refund claim

Claim for refund from the electronic cash ledger:	Acknowledgement in :: Form RFD – 02 Indicate :: date of filing of refund claim
Other refund claims:	Application shall be forwarded to Proper Officer. Proper officer should scrutinize the application for its completeness [Time period – 15 days] • If application is complete – issue Acknowledgement in RFD – 02 mentioning the date of filing of refund claim • If any deficiency is noticed – issue Deficiency memo in RFD – 03, requiring applicant to file a fresh refund application after rectification of such deficiencies
Refund order [Sec 54(7)]	Refund order is required to be issued within 60 days from the date of filing claim for refund as mentioned in said acknowledgment.

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

Granted to	Refund arising on account of **Zero - Rated Supplies**

Granted only if [Rule 91(1)]	☞ The person claiming refund has not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds Rs 2.5 crores during any period of 5 years immediately preceding the tax period to which the claim for refund relates.
How much	90% of the total refund claim [excluding the amount of ITC provisionally accepted]
Time	within 7 days after giving the acknowledgement
Remaining refund	Remaining 10% can be refunded later after due verification of documents furnished by the applicant.
Refund Order	After scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund is due to the applicant Proper officer shall make **REFUND ORDER** in **FORM GST RFD-04**, sanctioning the amount of refund due to the said applicant on a provisional basis
Payment order	Proper officer shall issue a **PAYMENT ORDER** in **Form GST RFD – 05** for amount sanctioned and same shall be electronically credited to any of the bank accounts of applicant mentioned in his registration particulars and as specified in the application for refund on the basis of **consolidated payment advice.** **Payment order in FORM GST RFD-05 shall be required to be revalidated where refund has not been disbursed within the same financial year in which the said payment order was issued**
Disbursement on basis of	Consolidated payment advice
Revalidation	***If Provisional refund order is passed with Payment order but actual refund is not disbursed in same financial year then -*** • ***Refund order shall not be required to be revalidated by the proper officer*** • ***Payment order in FORM GST RFD-05 shall be required to be revalidated***

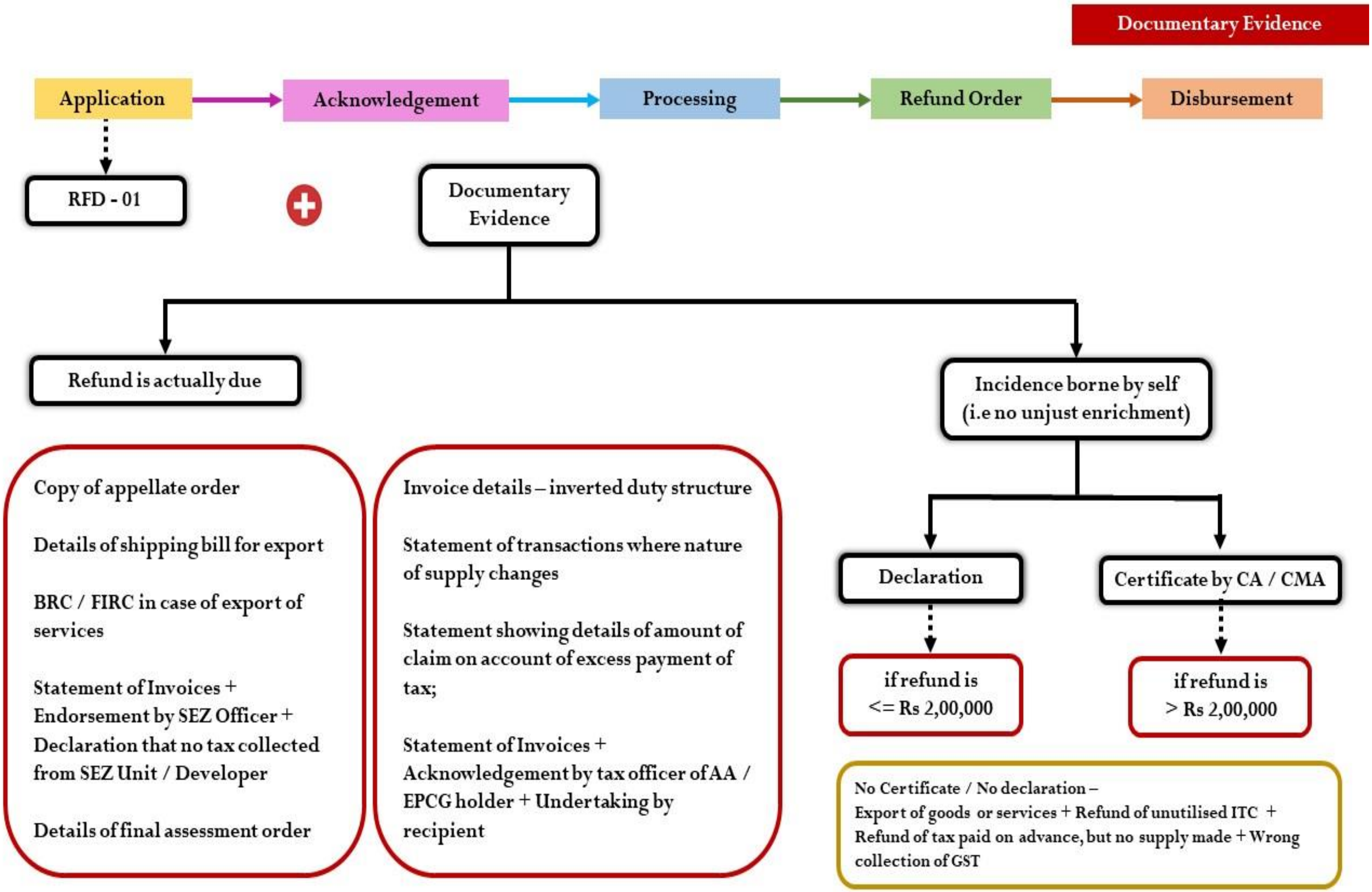

Time limit for Application
Application
Acknowledgement
Processing
Refund Order
Disbursement
2 years from RELEVANT DATE
GOODS exported out of India
Exported by Sea or Air
Date on which the ship or the aircraft in which such goods are loaded, leaves India
Exported by Land
Date on which such goods pass the frontier
Exported by Post
Date of dispatch of goods by the Post Office concerned to a place outside India
SERVICES exported out of India
Supply of services had been completed prior to the receipt of such payment
Date of receipt of payment in CFE or in INR wherever permitted by RBI
Payment for services - received in advance prior to issue of the invoice
Date of issue of invoice

Time limit for Application

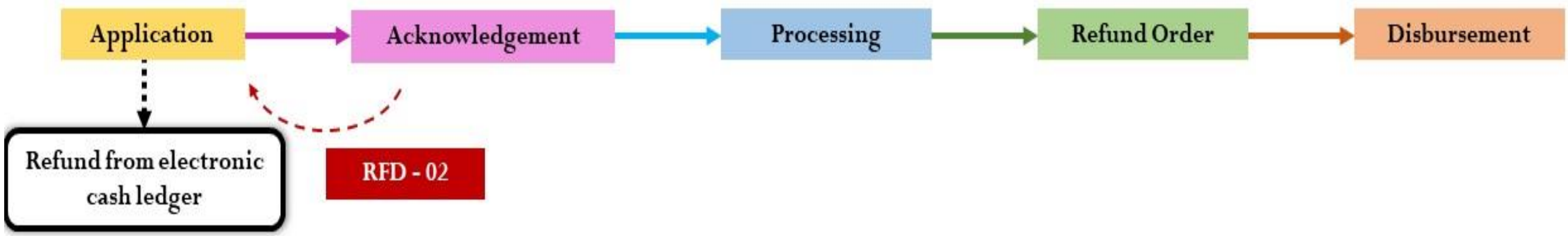
Application → Acknowledgement → Processing → Refund Order → Disbursement

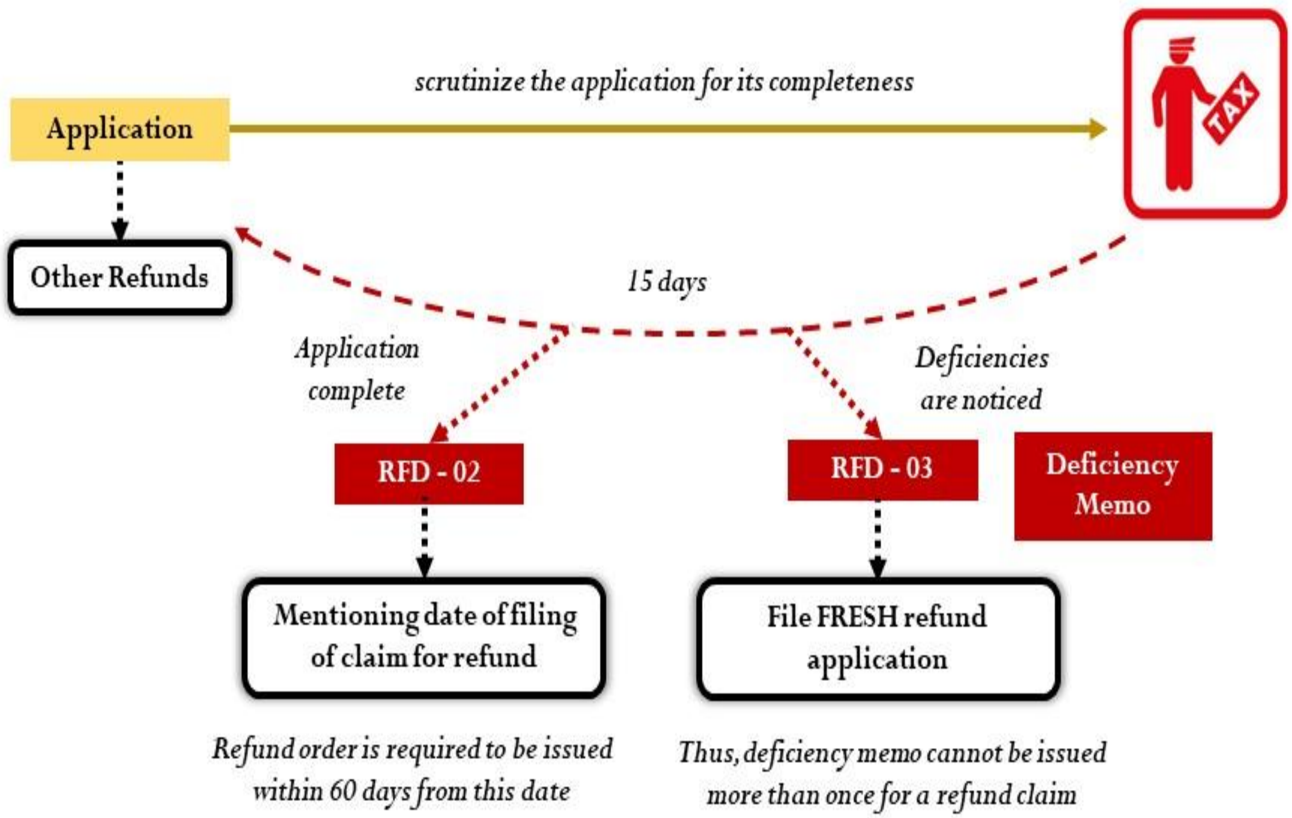
Application: **2 years from RELEVANT DATE**

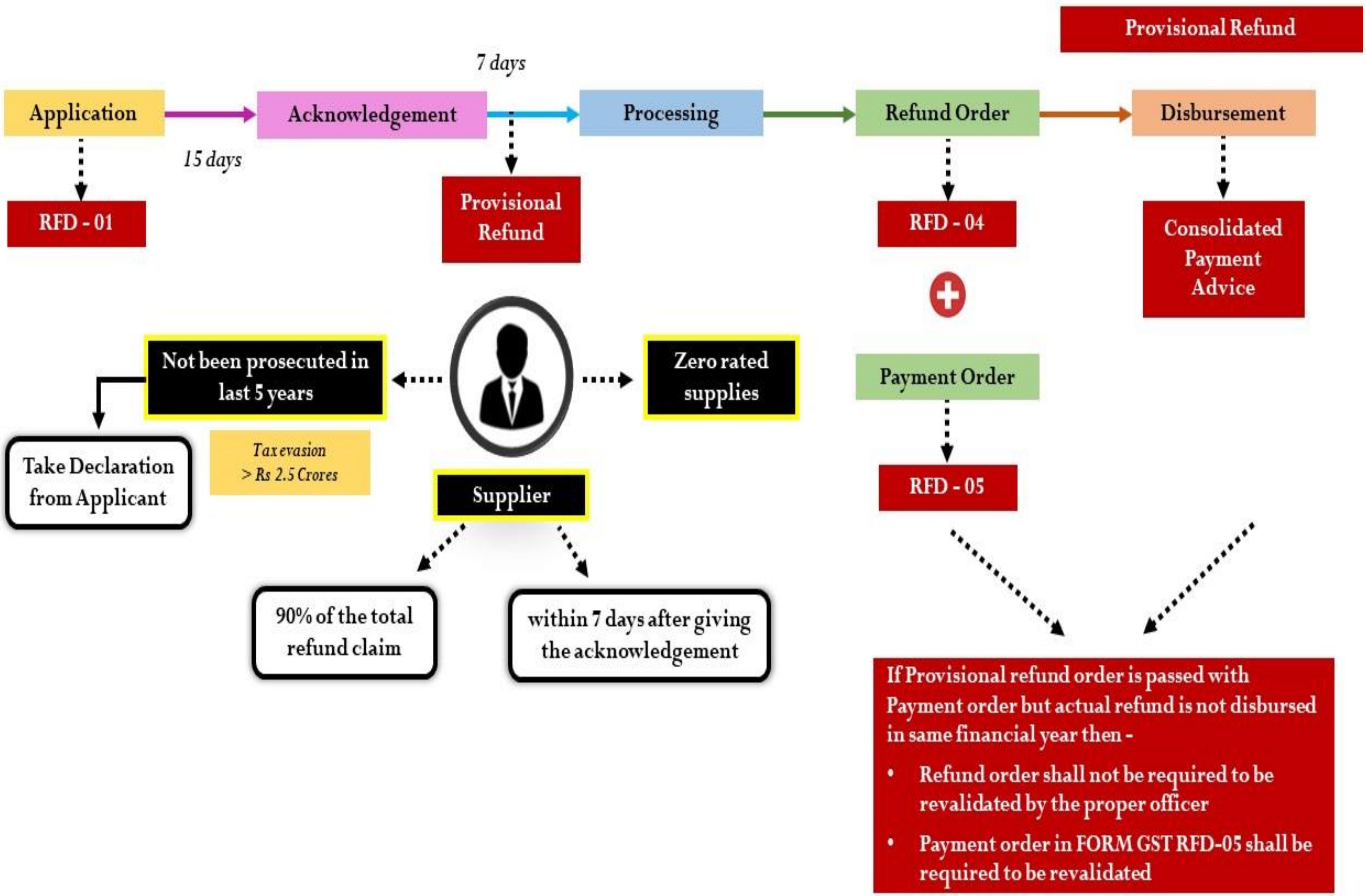
Case	Relevant Date
DEEMED EXPORTS	Date on which Return relating to such deemed exports is furnished
As a result of appeal order	Date of communication of such Order
Inverted Duty structure	Due date for furnishing of return u/s 39 for the period in which such claim for refund arises
Provisional payment of tax	Date of adjustment of tax after the final assessment thereof
In the case of a person, other than the supplier	Date of receipt of goods or services or both by such person
Any other case	Date of payment of tax


Documentary Evidence
Application
Acknowledgement
Processing
Refund Order
Disbursement
RFD - 01
Documentary Evidence
Refund is actually due
Incidence borne by self (i.e no unjust enrichment)
Copy of appellate order
Details of shipping bill for export
BRC / FIRC in case of export of services
Statement of Invoices + Endorsement by SEZ Officer + Declaration that no tax collected from SEZ Unit / Developer
Details of final assessment order
Invoice details – inverted duty structure
Statement of transactions where nature of supply changes
Statement showing details of amount of claim on account of excess payment of tax;
Statement of Invoices + Acknowledgement by tax officer of AA / EPCG holder + Undertaking by recipient
Declaration
Certificate by CA / CMA
if refund is <= Rs 2,00,000
if refund is > Rs 2,00,000
No Certificate / No declaration –
Export of goods or services + Refund of unutilised ITC +
Refund of tax paid on advance, but no supply made + Wrong
collection of GST

Procedure on receipt of claim






Provisional Refund
7 days
Application
Acknowledgement
Processing
Refund Order
Disbursement
15 days
RFD - 01
Provisional Refund
RFD - 04
Consolidated Payment Advice
Not been prosecuted in last 5 years
Zero rated supplies
Payment Order
Take Declaration from Applicant
Tax evasion > Rs 2.5 Crores
Supplier
RFD - 05
90% of the total refund claim
within 7 days after giving the acknowledgement
If Provisional refund order is passed with Payment order but actual refund is not disbursed in same financial year then -
• Refund order shall not be required to be revalidated by the proper officer
• Payment order in FORM GST RFD-05 shall be required to be revalidated

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

Refund order	If on receipt of any such application, proper officer is satisfied that whole/part of the amount claimed as refund is refundable, he may make an order sanctioning the amount of refund to which the applicant is entitled Form :: GST RFD – 06 Adjust against outstanding demand :: If refund is adjusted against outstanding demand, an order giving details of the adjustment shall be issued [RFD – 07]
Credit to	Amount of refund shall be credited to Consumer Welfare Fund (CWF) However, in certain specified circumstances [Sec 54(8)], refundable amount is to be paid to the applicant instead of being credited to CWF
Details in Refund Order	Refund order shall contain details of the following – (i) Amount, if any, refunded to him on a provisional basis, (ii) Amount adjusted against any outstanding demand and (iii) Balance amount refundable.
Excess tax paid by E-Credit Ledger – Refund will be granted in E-Credit Ledger **Excess tax paid by E-Cash Ledger – Refund will be granted in E-Cash Ledger**	**Rule 92(1A) inserted w.e.f 23rd March, 2020** ➜ **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,** ➜ **proper officer is satisfied that a refund u/s 54(5) 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** • **amount adjusted against any outstanding demand under the Act or under any existing law and** • **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.** Author's Note: ✪ At present, the amount of admissible refund, is paid in cash even when such payment of tax or any part thereof, has been made through ITC. This leads to allowing unintended encashment of credit balances. ✪ The combined effect of the Rule 86(4A) and 92(1A) is that refund of tax paid on supplies (other than zero rated supplies) will now be admissible proportionately in the respective original mode of payment. ✪ 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 shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax. ✪ Refund amount shall be accordingly paid by issuance of order in ➜ Form GST PMT-03 for re-crediting amount as ITC in electronic credit ledger and ➜ Form GST RFD -06 for amount refundable in Cash
Payment order	Where the proper officer is satisfied that the amount refundable is payable to the applicant, proper officer shall issue a **PAYMENT ORDER** in **Form GST RFD – 05** for the amount of refund.

	… and same shall be electronically credited to any of the bank accounts of applicant mentioned in his registration particulars and as specified in the application for refund on the basis of **consolidated payment advice.** **Payment order in FORM GST RFD-05 shall be required to be revalidated where refund has not been disbursed within the same financial year in which the said payment order was issued**
Revalidation	***If Provisional refund order is passed with Payment order but actual refund is not disbursed in same financial year then -*** • ***Refund order shall not be required to be revalidated by the proper officer*** • ***Payment order in FORM GST RFD-05 shall be required to be revalidated***
Who will disburse	Central Government shall disburse the refund based on the consolidated payment advice
Refund amount to CWF	If proper officer is satisfied that the amount refundable is not payable to the applicant under section 54(8) then - make an order in FORM GST RFD-06 and issue a payment order in FORM GST RFD-05
Time Limit [Sec 54(7)]	Refund order shall be issued by proper officer within 60 days from the date of receipt of application complete in all respects 60 days to be counted from - date of filing claim for refund as mentioned in the acknowledgment received for refund claim

Principal of Unjust Enrichment [Section 54(8), (8A) & (9)]

Theory of unjust enrichment

- **Theory of unjust enrichment, under GST, postulates that only the person who has NOT passed incidence of tax will be eligible to claim the refund. Where amount of tax has been recovered from the recipient, it shall be deemed that 'THE INCIDENCE OF TAX HAS BEEN PASSED ON TO THE ULTIMATE CONSUMER'. [Explanation (ii) to rule 89]**
- **Under unjust enrichment, a presumption is always drawn that the businessman will shift the incidence of tax to the final consumer. This is because GST is an indirect tax whose incidence is to be borne by the consumer.**
- **It is for this reason that every refund claim if sanctioned is first transferred to the Consumer Welfare Fund.**
- **If the claim of refund (barring specified exceptions) passes the test of unjust enrichment, it is paid to the applicant.**

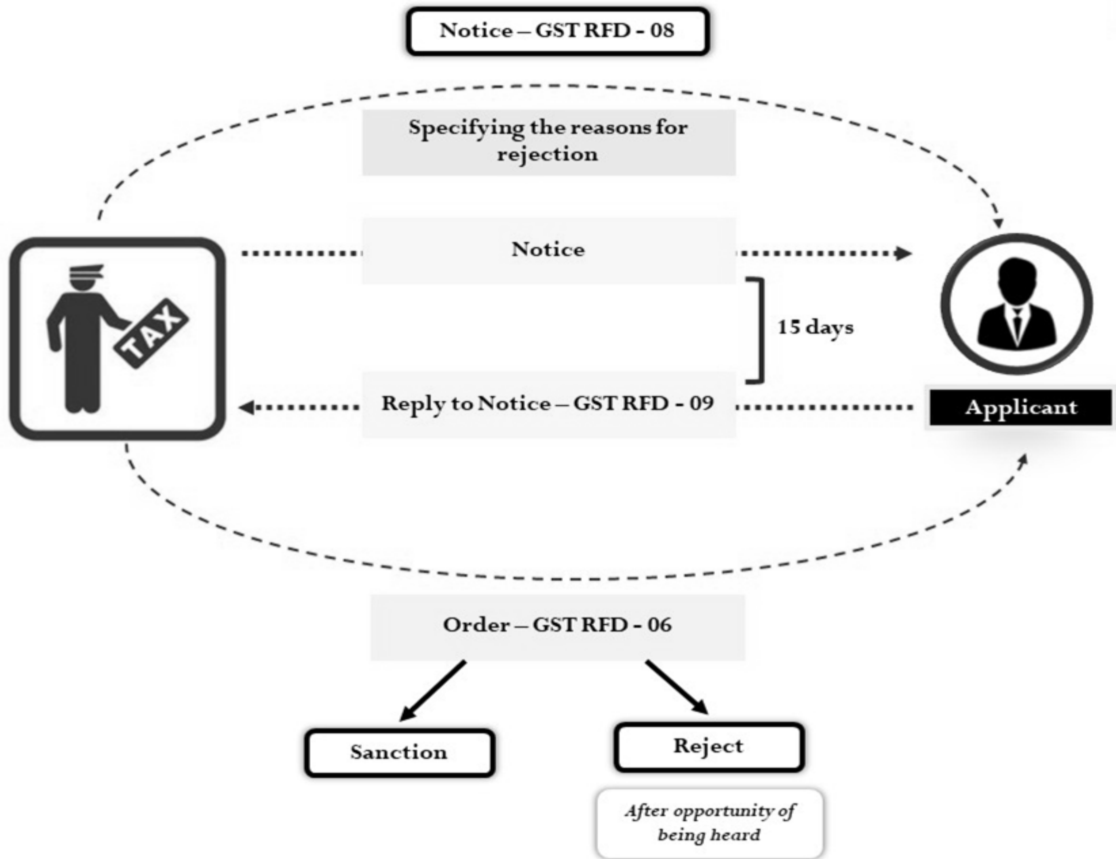
The GST law makes this test inapplicable in case of Sec 54(8) -

→ Refund of tax paid on export of goods or services
→ Refund of unutilised ITC [zero rated supplies + inverted duty structure]
→ Refund of tax paid on advance, but no supply made
→ Wrong collection of GST
→ Such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify

⊙ Central Government may disburse the refund of the State tax in such manner as may be prescribed [Section 54(8A)]
This provision empowers Central Govt to disburse refund of SGST and similar amendment has been made in SGST Act to empower State Govt to disburse refund of CGST.

⊙ No refund shall be made except in accordance with the provisions of section 54(8). Instead, refundable amount shall be credited to Consumer Welfare Fund [Section 54(9)]

Rejection of refund claim



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

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

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

Scenario	where any refund is due to a registered person who … has defaulted in furnishing any return or … 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 Specified date = Last date for filing an appeal under this Act
Refund of	Unutilized ITC is due in case of zero rated supplies made without payment of tax or inverted duty structure
Power to withhold refund and till when	Proper officer may – a) withhold payment of refund due … until said person has furnished the return

[Sec 54(10)]	b) deduct from refund due, any T / I / P, 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 … until said person has paid T / I / P Withholding order – Form GST RFD-07 [inform the reasons for withholding of such refund]

Scenario	Refund Order is appealed against by Department Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in appeal or other proceedings on account of malfeasance or fraud committed
Refund of	Any refund
Power to withhold refund and till when [Sec 54(11)]	Commissioner may withhold payment of refund due … till such time as he may determine Withholding order – Form GST RFD-07 [inform the reasons for withholding of such refund]
Interest [Sec 54(12)]	Interest @ 6% p.a. payable, if refund allowed in such appeal. ***<u>Circular No. 59/33/2018-GST, dated 4-9-2018</u>*** ***Disbursing-officer cannot withhold refund sanctioned by sanctioning-officer except u/s 54(11)***

<u>Supplies by Casual taxable person (CTP) / Non-resident taxable person (NRTP) [Sec 54(13)]:</u>

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

<u>Refund of unutilized ITC [Section 54(3)]</u>

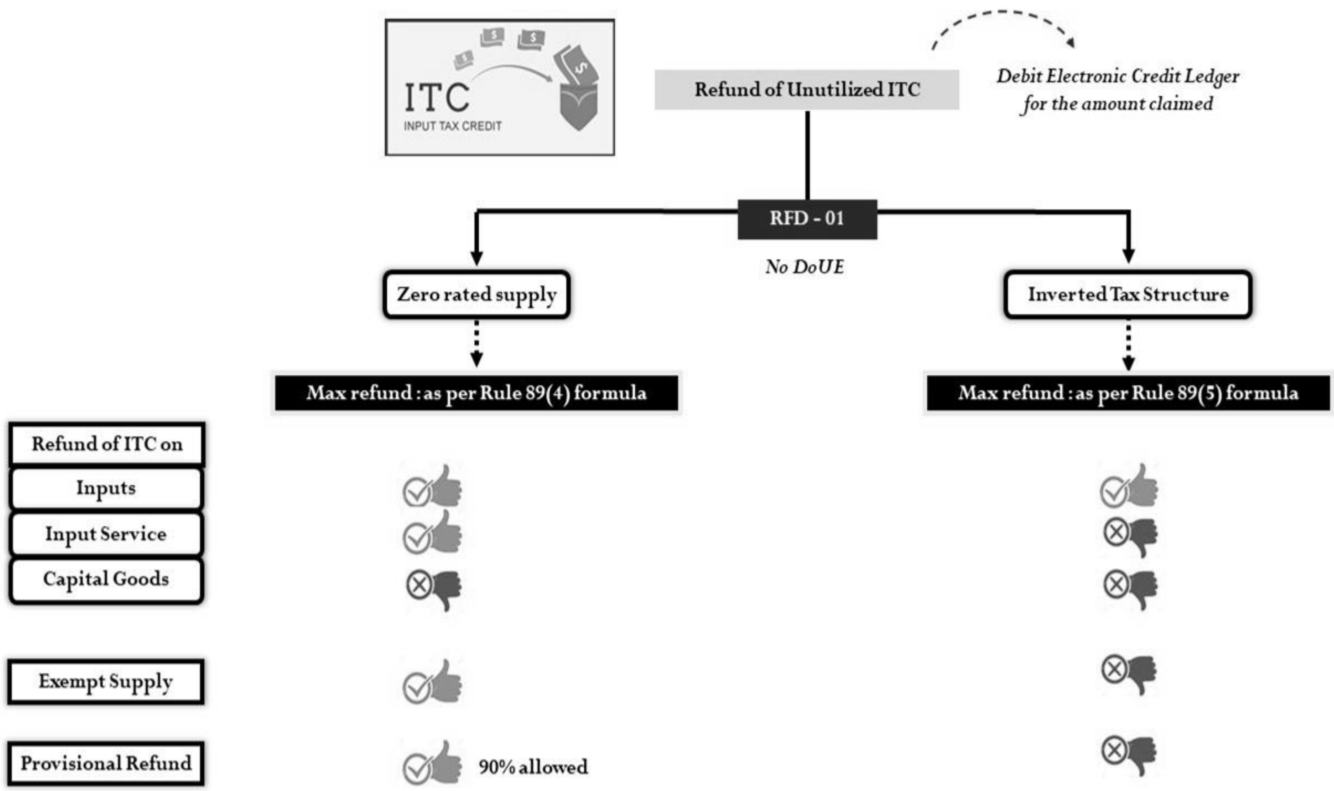
What is accumulation of ITC	Accumulation of ITC = when the tax paid on inputs is more than the output tax liability. Such accumulation will have to be carried over to the next FY till it can be utilised by registered person for payment of output tax liability.
Refund of unutilized ITC	GST Law permits **<u>refund of unutilised ITC</u> at the end of a tax period** in two scenarios: **(i) Zero rated supplies made without payment of tax;** **(ii) Inverted tax structure** **Zero rated supplies:** Supply of goods / services to an SEZ developer / unit; Export of goods and/or services under bond or Letter of Undertaking (LUT) without payment of IGST **Inverted tax structure:** Rate of tax on inputs (for eg – 18%) is higher than the rate of tax on output supplies (for eg – 12%)
Refund of unutilized ITC in case of Exempt supply	**Zero rated supplies:** Refund of unutilized ITC is eligible for ZRS irrespective whether they are taxable or exempt **Inverted tax structure:** Inverted tax structure is not applicable for nil rated or fully exempt supplies
Tax period	Tax period = period for which return is required to be furnished
Debit – El Credit Ledger	When refund of ITC is claimed, applicant should debit Electronic Credit Ledger by an amount equal to the refund so claimed [thus, no dual benefit to applicant]

<table>
<tr><td>No refund if -</td><td>
<table>
<tr><th>Zero rated supplies</th><th>Inverted tax structure</th></tr>
<tr><td>If export liable to export duty</td><td rowspan="2">Government may notify supplies of certain goods or services where no refund is allowed.

[For instance, supply of construction of complex services specified in para 5(b) of Schedule II of the CGST Act, rail locomotives powered from an external source of electricity or by electric accumulators]
Note :: This restriction is not applicable for ZRS</td></tr>
<tr><td>Supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.

[Thus, if a supplier claims refund of accumulated ITC in case of ZRS, he can avail drawback of only basic customs duty and cannot claim drawback of any of the taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax)]</td></tr>
</table>
</td></tr>
<tr><td>Refund Application</td><td>Form : RFD – 01
Time limit : 2 Years from Relevant date

Relevant date –
<table>
<tr><th>Zero rated supplies</th><th>Inverted tax structure</th></tr>
<tr><td><u>Exports of goods –</u>
Date of ship / aircraft leaving India / goods crossing custom station / dispatch by Post</td><td rowspan="3">Due date for furnishing of return u/s 39 for the period in which such claim for refund arises</td></tr>
<tr><td><u>Export of services –</u>
Date of receipt of payment or date of invoice whichever is later</td></tr>
<tr><td><u>Supply to SEZ Unit / Developer</u>
Date of payment</td></tr>
</table>
</td></tr>
<tr><td>DoUE</td><td>Doctrine of unjust enrichment is not applicable in both cases
Thus, refundable amount shall be paid to the applicant (instead of being credited to the Consumer Welfare Fund)</td></tr>
</table>



Amount to be claimed as refund

[Most Important]
Rule 89(4) - Maximum refund that is admissible;
Max Refund amount = $$\frac{\text{(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services)}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$
"Relevant period" means the period for which the claim has been filed.

"Net ITC"	
	ITC availed on inputs and input services during the relevant period
(-)	***ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both***

"Turnover of zero-rated supply of goods" **Amended vide Notification 16/2020 – dated 23rd March, 2020**	
	the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, **or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less,**
(-)	***turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both***

Author's Note –

- **Prior to this amendment, for the purpose of calculating Refund under Rule 89(4), there was no second leg to derive the Turnover of zero-rated supply of goods and the actual value of zero-rated supply of goods was treated as Turnover of zero rated supply of goods.**
- **However, post this amendment in Rule 89(4), the registered person need to make a comparison of the actual zero rated supply turnover with (1.5 x value of like goods domestically supplied by registered person himself or his fellow supplier) and in case actual zero rated supply turnover is found higher, then "Turnover of zero-rated supply of goods" for the purpose of calculating refund shall be deemed to be limited to (1.5 x value of like goods domestically supplied by registered person himself or his fellow supplier).**

"Turnover of zero-rated supply of services" =	
	Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services
+	**zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period**
(-)	**advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.**

"Adjusted Total turnover" =	
	Turnover in a State / UT excluding turnover of services;
+	**Turnover of zero-rated supply of services as computed above and non-zero-rated supply of services,**
(-)	**value of exempt supplies other than zero-rated supplies;**
(-)	**turnover of supplies in respect of which refund is claimed under sub-rule (4A) or (4B) or both, if any**

Rule 89(5) - Maximum refund that is admissible [refund on account of inverted duty structure]

Max Refund amount =

$$\frac{\text{Turnover of inverted rated supply of goods and services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

(-) Tax payable on such inverted rated supply of goods and services

"Net ITC" means ITC availed <u>on INPUTS</u> during the relevant period

➔ ***other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both***

Clarification 1: Inverted-tax – Refund will be given only of inputs – No refund of inputs services and capital goods – Circular No. 79/53/2018-GST dated 31-12-2018

Clarification - 2: If there are multiple inputs attracting different rates of tax, 'Net ITC' covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

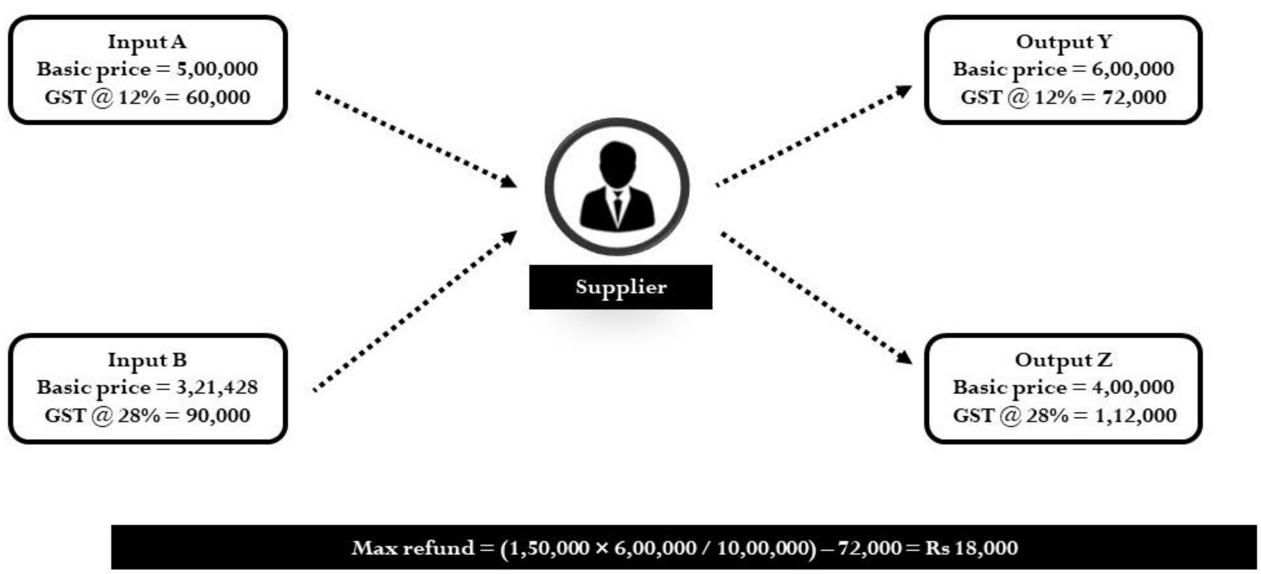
<u>Circular No. 79/53/2018-GST dated 31-12-2018</u>

Inverted-tax – refund allowed even if some inputs are taxed at rate lower than output – ITC in formula covers all inputs even if some inputs are not taxed invertedly

Example: Suppose a manufacturing process involves the use of an input A (valuing Rs. 1000 attracting 5 per cent GST) and input B (valuing Rs 4,000 attracting 18% GST) to manufacture output Y (value Rs 6,000 attracting 12% GST).

Here, -

- ***Turnover of inverted rated supply of goods and services = Rs 6,000.***
- ***Adjusted total turnover = Rs 6,000/-.***
- ***Net ITC = Rs. 770/- (Rs 50/- and Rs 720/- on Input A and Input B respectively).***
- ***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.770/-.***
- ***From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs.720/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs.50.***



Clarification 3 - 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. 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

Max refund : as per Rule 89(4) formula

$$\text{Max refund} = \left(\frac{\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC} \right) - \text{Tax paid}$$

Tax paid → 0

Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services:

Value of zero-rated supply of goods (Actual or 1.5 times value of like goods supplied in domestic market, whichever is less) + services* made during the relevant period

−

Turnover of supplies in respect of which refund is claimed under Rule 89(4A) or Rule 89(4B)

Adjusted Total Turnover:

Turnover in State of Goods
+ Turnover of Zero rated supply of Services*
+ Turnover of non – zero rated supply of service

−

a) Value of exempt supplies other than zero-rated supplies
b) Turnover of supplies in respect of which refund is claimed under Rule 89(4A) or Rule 89(4B)

Net ITC:

ITC availed on inputs and input services during the relevant period

−

ITC availed for which refund is claimed under Rule 89(4A) or Rule 89(4B)

*Value of zero-rated supply of services = Payments received during the relevant period for zero-rated supply of services
+ zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period
(-) advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

Max refund : as per Rule 89(5) formula

Max refund = (Turnover of inverted rated supply of goods and services / Adjusted Total Turnover × Net ITC) − Tax paid

Tax paid → Tax paid on outward supply

Adjusted Total Turnover:

Turnover in State of Goods
+ Turnover of Zero rated supply of Services*
+ Turnover of non – zero rated supply of service

−

a) Value of exempt supplies other than zero-rated supplies
b) Turnover of supplies in respect of which refund is claimed under Rule 89(4A) or Rule 89(4B)

Net ITC:

ITC availed on ALL INPUTS during the relevant period

−

ITC availed for which refund is claimed under Rule 89(4A) or Rule 89(4B)

*Value of zero-rated supply of services = Payments received during the relevant period for zero-rated supply of services
+ zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period
(-) advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

Interest on delayed refunds after 60 days of application [Section 56]

Interest	Refund order by Proper Officer u/s 54 but not refunded to applicant within 60 days of submission of refund application
Rate	6% p.a
From	date immediately after the expiry of 60 days from date of receipt of application
Till	date of refund of such tax *Question – date of refund of tax = date of refund order or till date of credit to assessee's bank account?* *Disbursal of refund amounts after sanction within 45 days to respect overall time-limit of 60 days [Circular No. 79/53/2018-GST]* ⦿ *Interest upto date of credit to assessee's bank account: 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 till the date on which the amount is credited to the bank account of the claimant.* ⦿ *Refund to be sanctioned within 45 days: 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 originally denied but then allowed	If refund is originally denied but allowed by appellate authority, then also, interest is allowed from 61st day after receipt of application.

Refund not granted despite expiry of 60 days of final/unchallenged appellate order granting refund	*Interest @ 9% p.a.* *… from the date immediately after the expiry of 60 days from the date of receipt of application seeking refund as per appellate order* *… till the date of refund.*

Consumer Welfare Fund and its Utilization [Sections 57 & 58 of CGST Act]

Purpose	Consumer Welfare Fund was created to promote and protect the welfare of consumer, create consumer awareness and strengthen consumer movement in the country, particularly in rural areas. Amount of refund which is not payable to the applicant is credited to the Consumer Welfare Fund.
Consumer Welfare Fund [Sec. 57]	Following sums are credit to fund = Refund order sanctioned u/s 54(5) but not granted to applicant as he has passed on the burden to recipient + Income from investment of the amount credited to Fund + Other monies received by it as per rules. However, in case of IGST, only 50% of IGST shall be deposited in the Fund. Similarly, in case of GST Compensation Cess, only 50% thereof shall be deposited in the Fund. [w.e.f. 13-6-2018]
Amount to be paid from CWF if subsequently found payable	If any amount has been credited to CWF and now it has been ordered to pay the same to any claimant … by orders of the proper officer, Appellate Authority or Appellate Tribunal or Court shall be paid from CWF
Utilisation of Fund [Sec. 58]	1) Use of money for welfare: All sums credited to Fund shall be utilized by Government for welfare of the consumers in such manner as may be prescribed.

	2) 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.

Refund of IGST paid on supply of goods to tourist leaving India [Section 15 of IGST Act]

Refund	IGST paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.
Tourist	person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.

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

Application for refund claim [Goods]	Shipping bill / bill of export filed by the exporter of goods ***Note :: tax payer is not required to file separate refund application in this case*** Further, such application shall be deemed to have been filed only when: a) the person in charge of the conveyance carrying the export goods duly files a departure manifest; or an export manifest or an export report covering the number and the date of shipping bills/bills of export; and b) the applicant has furnished a valid return in Form GSTR-3/ Form GSTR-3B.
Processing of claim	Upon the receipt of the information regarding the furnishing of a valid return, ICEGATE system designated by the Customs/ proper officer of Customs, shall process the claim of refund in respect of export of goods. An amount equal to the IGST paid in respect of each shipping bill/ bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

Application for refund claim [Services]	The application for refund of IGST paid on the services exported out of India shall be filed in Form GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89 [as discussed earlier].

Amendment in Rule 96(10)
Section 16 of IGST Act, 2017 entitles exporters to claim refund under either of the two options: 1) Export without payment of IGST under bond or LUT and claim refund of unutilized ITC or 2) Export with payment of IGST and claim refund of such IGST paid. Background: In October 2017, Government while restoring the tax-free procurements, for the EOU's, under Advance authorization/EPCG etc., restricted the second option for such exporters. That is to say, exporters who avails GST free procurements are not eligible for option of making exports with payment of IGST thereby such exporters are left with option making of exports under LUT or Bond and claiming refund of unutilized ITC. Such exporters viz., a) EOU's importing the goods without payment of Customs duty (BCD) & IGST vide Notification No. 78/2017-Customs dated 13.10.2017 as amended; b) Imports under Advance Authorization holders without payment of Customs duty (BCD) & IGST vide Notification No. 79/2017-Customs dated 13.10.2017 as amended; c) Persons availing the benefit of deemed exports vide Notification No.48/2017-CT dated 18.10.2017 as amended which exempts payment of Customs duty (BCD) & IGST when procured domestically.

d) Merchant exporters procuring the goods at concessional rate of 0.1% vide Notification No.40/2017-CT(R) dated 23.10.2017 &Notification No.41/2017-IGST(R) dated 23.10.2017.

The aforesaid restriction was challenged before HC's and pending for final decision as on date. Not being aware of the aforesaid restrictions, Certain exporters simultaneously availed the benefit of above-mentioned notifications and also has claimed refund under 2nd option. This was questioned by the department and started demanding to payback the refunds/exemptions claimed.

Many times, paying back the exemption would be advantageous due to various reasons. For example, the exporters would have availed the IGST exemption of Rs.1,00,000/- at the time of procurements and has paid IGST & claimed refund of 2,50,000/- at the time of exports. In this scenario, the paying back of exemption would be viable than losing the option of encasing the refund on output. However, unclear aspect is how the exemption has to forego i.e. mere foregoing IGST exemption would be sufficient or both IGST & BCD (becomes a cost if forego). In view of the authors, mere foregoing IGST exemption would entitle the refund under 2nd option to the exporters.

Recently, the Government vide Notification No. 16/2020-CT dated 23.03.2020 has made an amendment by inserting following explanation to Rule 96(10) of CGST Rules, 2017 as amended (with retrospective effect from 23.10.2017)
"Explanation.- For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications."

By virtue of the above amendment, the option of claiming refund under 2nd option is not restricted to the Exporters who only avails BCD exemption and pays IGST on the raw materials thereby exporters who wants to claim refund under 2nd option can switch over now. Thankfully, the amendment was made retrospectively thereby avoiding the anomaly during the intervention period and exporters who already claimed refund under 2nd option need to payback IGST along with interest and avail ITC.

Recovery of refund of unutilized input tax credit or integrated tax paid on export of goods where export proceeds not realized [Rule 96-B inserted w.e.f. 23rd March, 2020]

In case of refund of unutilized ITC on account of export of goods under LUT or of IGST paid on export of goods,
… if sale proceeds in respect of such exports have not been realized within the prescribed time limit allowed under Foreign Exchange Management Act, 1999 (FEMA)

- ***then – the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realization of sale proceeds, along with applicable interest within 30 days of the expiry of the said period.***

Exception –
Reserve Bank of India writes off the requirement of realization of sale proceeds on merits.

Rule 96B(2) provides that if the sale proceeds are realized by the applicant, in full or part, after the amount of refund has been recovered from him and the applicant produces evidence about such realization within a period of 3 months from the date of realization of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realization of sale proceeds, provided the sale proceeds have been realized within such extended period as permitted by the Reserve Bank of India

Refund to UN bodies, Embassies, etc. [Section 55 read with Section 54(2) of CGST Act]

Exemption mechanism through refund	Supplies made to UN bodies and embassies may be exempted from payment of GST as per international obligations. However, this exemption has been operationalized by way of a refund mechanism.

	So, a taxable person making supplies to such bodies would charge the tax due and remit the same to Government account. However, the UN bodies and other entities notified under section 55 of the CGST Act, 2017 can claim refund of the taxes paid by them on their purchases.
Refund to UN, etc. of tax paid on notified supplies received by them [Section 55]	UN, specified international organization, Multilateral Financial Institution and Organisation and Consulate or Embassy of foreign countries and notified person may claim refund of tax paid on inward supplies. Refund of GST Compensation Cess is also allowed – Circular No. 68/42/2018-GST
Time limit	Application may be made within 18 months from the last day of the quarter in which such supply was received.
Form and documents for filing the refund claim [Rule 95(1)]	Persons eligible to claim refund under section 55 shall submit the application for refund: • in a different prescribed form, once in every quarter • along with Statement of Inward Supplies of goods or services or both in Form GSTR-11
Conditions	Refund of tax paid by the applicant shall be available if all the following conditions are satisfied- a) the inward supplies of goods or services or both were received from a registered person against a tax invoice. b) name and GSTIN/UIN of the applicant is mentioned in the tax invoice. c) such other restrictions or conditions as may be specified in the notification are satisfied.
Foreign treaty	Foreign Treaty to prevail over CGST refund rules: Where an express provision in a treaty or other international agreements, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.

Circular No. 78/52/2018 – GST dated 31-12-2018:

India-exporter outstanding export-contract to sub-contractor/job-worker outside India – Full service is exported by India-exporter – Amount to import of services by Indian –exporter from foreign sub-contractor/ job-worker.

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 exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India.*
- *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.*
- *This is even if only 60% of the consideration is received in India and the remaining amount is directly paid by 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*

Fury Ltd. has received an order for supply of services amounting to $ 5,00,000/- from a US based client. Fury Ltd. is unable to supply the entire services from India and asks Neik Inc., Mexico (who is not an establishment of Fury Ltd.) to supply a part of the services, i.e. 40% of the total contract value to the US client. Fury Ltd. raised the invoice for entire value of $ 5,00,000 but the US client paid $ 3,00,000 to Fury Ltd. and $ 2,00,000 directly to Neik Inc., Mexico which is approved by a special order of RBI. Fury Ltd. also paid IGST@ 18% on the services imported from Neik Inc. Mexico. Assuming all the conditions of section 2(6) of the IGST Act, 2017are fulfilled, determine the value of export of services:

a) $ 3,00,000
b) $ 5,00,000 - ✓
c) $ 3,90,000
d) $ 5,90,000

Deemed Exports of Goods (Section 147 of CGST)

The following supplies of goods are notified as deemed exports,-

- Even if goods supplied do not leave India, and
- Even if payment for such supplies is received in Indian rupees or in convertible foreign exchange,
- But, if such goods are manufactured in India.

a) Supply of goods by a registered person against Advance Authorisation (AA) under FTP 2015-20
However, when export have already been made after availing ITC on inputs used in manufacture of such exports,-
   1. Goods so supplied, shall be used in manufacture and supply of taxable goods (Other than nil rated or fully exempted goods) and a certificate to this effect from a Chartered Accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of supply;
   2. No such certificate shall be required if input tax credit has not been availed on inputs used in manufactures of export goods. (w.e.f. 15-1-2019)

   Advance authorisation: "Advance Authorisation" means an authorisation issued by the Director General of Foreign Trade Under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs (* *)** for physical exports. (** Words "on pre-imports basis" omitted vide Not. No. 1/2019 –CT dated. 15-1-2019. Thus post-import basis authorization is also eligible for deemed export)

b) Supply of capital goods by a registered person against Export Promotion Capital Goods (EPCG) Authorisation under FTP 2015-20

c) Supply of goods by a registered person to:
   - Export Oriented Unit (EOU) or.
   - Electronic Hardware Technology Park Unit (EHTPU) or
   - Software Technology Park Unit (STPU) or
   - Bio-Technology Park Unit (BTPU)

d) Supply of GOLD by a bank or PSU against Advance Authorisation.

Duty Drawback Under GST (SECTION 2(42) OF CGST)

As per section 2(42), "drawback" in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods. Under GST, full drawback (BCD, GST, etc.) is allowed in case of re-export of imported goods. However, in case of manufacture of goods using duty/tax paid inputs, drawback is allowed only of customs duties and not of IGST or GST Cess paid on import. For details, refer Chapter on Drawback in Customs Portion.

Imports by SEZ

a) Imports of goods by SEZ exempt from IGST:
All goods imported by a unit or a developer in SEZ for authorised operations, are exempt from whole of IGST leviable u/s 3(7) of Customs Traffic Act, 1975.

b) Imports of services by SEZ exempt from IGST:
Central Government has exempted services imported by a unit or a developer in the Special Economic Zone for authorised operations, from the whole of the integrated tax leviable thereon u/s 5 of IGST Act, 2017.

Amendment in Rule 89

Question - - -

Axe Ltd. provides following details of May 2020 for computation of refund claim under rule 89(4) of the CGST Rules, 2017. Compute the eligible claim under the said rule assuming that other conditions are fulfilled.

Particulars	Amount (Rs)
ITC availed on inputs and input services by registered person in May 2020	Rs 5,00,000
Actual Exports turnover for May 2020	Rs 30,00,000
Actual Domestic turnover for May 2020	Rs 2,00,000
Value of Exported goods, if supplied domestically.	Rs 7,50,000

Solution - - -

As per rule 89(4) of the CGST Rules, 2017, in case of zero-rated supply of goods without payment of tax under bond/LUT, refund of ITC is granted as per the following formula:

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

"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both

Accordingly, turnover of zero rated supply of goods = Rs 30,00,000 or (1.5 × Rs 7,50,000) whichever is less;
= Rs 30,00,000 or 11,25,000, whichever is less
= Rs 11,25,000

Net ITC = Rs 5,00,000 and
Adjusted Total Turnover = Rs 32,00,000 [Rs 30,00,000 + Rs 2,00,000]

Thus, maximum refund amount under rule 89(4) = Rs 5,00,000 × Rs 11,25,000 / Rs 32,00,000 = Rs 1,75,781

CA Final – May 2019

Question - - -

Wye Ltd. provides the following details of September 20XX for computation of refund claim under rule 89(4) of the CGST Rules, 2017. Compute the eligible claim under the said rule assuming that other conditions are fulfilled.

Particulars	**Amount (Rs)**
Opening balance of ITC	5,00,000
ITC availed during the period, which includes the claim for refund made of Rs 5,00,000 eligible under rule 89(4A)/89(4B) of the CGST Rules, 2007	25,00,000
Zero rated supply of goods made during the period without payment of tax under bond/LUT, which include the supply of Rs 1,00,00,000 for which refund claim is made under rule 89(4A)/89(4B) of the CGST Rules, 2017 (Value of like goods domestically supplied [other than Rule 89(4A)/(4B)] is Rs 4,00,00,000)	6,00,00,000
Supply of goods other than zero rated supply	3,00,00,000

Solution - - -

As per rule 89(4) of the CGST Rules, 2017, in case of zero-rated supply of goods without payment of tax under bond/LUT, refund of ITC is granted as per the following formula:

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

Net ITC excludes ITC availed for which refund is claimed under rule 89(4A)/(4B) of the CGST Rules, 2017.
Further, turnover of zero-rated supply of goods and adjusted total turnover exclude turnover of supplies in respect of which refund is claimed under 89 (4A)/(4B). Turnover of ZRS = Actual value or 1.5 times value of like goods domestically supplied, whichever is less.

- ➜ Turnover of ZRS of goods = Rs 5,00,00,000 [Rs 6,00,00,000 – Rs 1,00,00,000] or [1.5 × Rs 4,00,00,000] whichever is less
  Accordingly, turnover of zero rated supply of goods = Rs 5,00,00,000
- ➜ Net ITC = Rs 20,00,000 [Rs 25,00,000 – Rs 5,00,000] and
- ➜ Adjusted Total Turnover = Rs 8,00,00,000 [Rs 6,00,00,000 + Rs 3,00,00,000 – Rs 1,00,00,000]

Thus, maximum refund amount under rule 89(4) = Rs 20,00,000 × Rs 5,00,00,000 / Rs 8,00,00,000 = Rs 12,50,000.

CA Final - RTP - Nov 2018

Question - - -

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

Products	Turnover (before GST) (Rs.)	Output GST Rates	ITC availed (Rs.)	Input GST Rates
A	500,000	5%	54,000	18%
B	350,000	5%	54,000	18%
C	100,000	18%	10,000	18%

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii) of the CGST Act, 2017 provided that Product B is notified as a product, in respect of which no refund of unutilised input tax credit shall be allowed under said section

Solution - - -

Section 54(3)(ii) of the CGST Act, 2017 allows refund of unutilized input tax credit (ITC) at the end of any tax period to a registered person where the credit has accumulated on account of inverted duty structure i.e. rate of tax on inputs being higher than 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 Government on the recommendations of the Council.

In this case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3) (ii) of the CGST Act, 2017. Therefore, only Product A is eligible for refund under section 54(3)(ii). Further, rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula–

Maximum Refund Amount = [Turnover of inverted rated supply of goods/services x Net ITC ÷ Adjusted Total Turnover] – Tax payable on such inverted rated supply of goods

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

- ➢ Tax payable on inverted rated supply of Product A = Rs 5,00,000 x 5% = Rs 25,000
- ➢ Net ITC = Rs 1,18,000 [Rs 54,000 + Rs 54,000 + Rs 10,000) [Net ITC availed during relevant period is considered irrespective of whether ITC pertains to inputs eligible for refund of inverted rated supply of goods or not]
- ➢ Adjusted Total Turnover = Rs.9,50,000 [Rs 5,00,000 + Rs 3,50,000 + Rs 1,00,000]
- ➢ Turnover of inverted rated supply of Product A = Rs.5,00,000

Maximum refund amount for Super Engineering Works is as follows :
= [(Rs 5,00,000 x Rs 1,18,000) / Rs 9,50,000] – Rs 25,000 = Rs 37,105 (rounded off)

Interest on delayed refund

Question - - -

M/s RLL Ltd. filed an application for refund of tax amounting Rs.5,00,000 on 1-10-20XX. Proper officer granted acknowledgement of application regarding completeness of claim on 15-10-20XX. Refund order was granted on 20-

12-20XX and amount was credited to applicant's bank account on 25-12-20XX. Complete the amount of interest, if any payable to RLL Ltd as provisions of Section 56 of the CGST Act, 2017.

Solution - - -

If any tax ordered to be refunded is not refunded within 60 from the date of receipt of application under section 54(1), interest at a @ 6% p.a. shall be payable in respect of such and from the date immediately after the expiry of 60 days from the date of application till the date of such tax. Interest is as follows (Rs) –

Amount of refund	[A]	5,00,000
Date of making application	[B]	01-10-20XX
60 days period from the date of application expires on [C] =	[B]+60 days	30-11-20XX
Date of making refund	[D]	25-12-20XX
No. of days for which interest to be granted	[E]=[D]-[C]	25
Interest on refund @ 6% =[A] x [E] x 6% ÷ 365	[5,00,000 × 6% × 25/365]	2,055

CA Final - RTP - May 2019

Question - - -

Kailash Global (P) Ltd. Supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017. The company has made the following supplies during a tax period:

No.	Particulars	(Rs.)
(i)	Export of product 'A' to UK for $10,000. Assessable value under customs in Indian rupees. [Export duty is levied on product 'A' at the time of exports]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @ 18%] *not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii) of the CGST Act, 2017	10,00,000
(iii)	Supply of goods to Export Oriented Unit [excluding tax @ 18%) [ITC has been claimed by the recipient]	5,00,000
(iv)	Export of exempt supplies of goods	6,00,000

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

No.	Particulars	(Rs.)
(i)	On inputs (including Rs.50,000 on export of exempt supplies)	3,50,000
(ii)	On capital goods	1,20,000
(iii)	On input services (including Rs.18,000 on outdoor catering)	2,00,000

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

Solution - - -

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

Particulars		**(Rs.)**
1) Exports of product 'A' to UK [second proviso to section 54(3) lays down that refund of utilized ITC is not allowed if the goods exported out of India are subjected to export duty]		-
2) Domestic supplies of taxable product 'B' during the period:		75,000
• Since input is chargeable to duty at 18% and output is taxable at 5% and output product B is not notified as ineligible, hence, it is eligible for the refund of inverted duty structure u/s 54	Eligible for inverted duty refund	
• "Net ITC" = ITC availed on inputs other than the ITC availed for which refund is claimed under sub-rules 89(4A) or (4B) or both	Rs 3,50,000	

• "Adjusted total turnover" [Rs.7,00,000 + Rs.10,00,000 + Rs.5,00,000 + Rs.6,00,000]	Rs 28,00,000	
• Turnover of inverted rated supply of goods	Rs 10,00,000	
• Tax payable on inverted rated supply of goods = Rs.10,00,000 x 5%	Rs 50,000	
• Maximum refund amount under rule 89(5) = [(Rs.10,00,000 x Rs.3,50,000) ÷ Rs. 28,00,000] – Rs.50,000	Rs 75,000	
3) Supply of goods to Export Oriented Unit • Supplies to EOU is notified as deemed export under section 147 • In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed exports, supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund. • Therefore, since in the given case, the recipient is claiming ITC, Kailash Global (P) Ltd. (Supplier of deemed exports) cannot claim refund of ITC.]		Nil
4) Export of exempt supplies		
• Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.	Credit allowed	1,14,000
• Section 54(3) of the CGST Act, 2017 read with rule 89 allows of ITC in the case of zero rated supply made without payment of tax	Refund allowed	
• "Net ITC" = ITC availed on inputs and input services other than the ITC availed for which refund is claimed under sub-rules 89(4A) or (4B) or both [Rs.3,50,000 inputs + 2,00,000 input services – 18,000 Outdoor catering services which are ineligible u/s 17(5)]	Rs 5,32,000	
• "Adjusted total turnover" [Rs.7,00,000 + Rs.10,00,000 + Rs.5,00,000 + Rs.6,00,000]	Rs 28,00,000	
• Zero-rated supply	Rs 6,00,000	
• Maximum refund = [Rs.6,00,000 x Rs.5,32,000] ÷ Rs.28,00,000]	Rs 1,14,000	
Total refund claim admissible		1,89,000

CA Final - RTP – May 2020

Question - - -

Skylark Pvt. Ltd., Noida (Uttar Pradesh) is engaged in various kinds of commercial activities. It manufactures taxable goods as also provides certain services. The company has branch office in New Delhi. The Head office at Noida and the branch office in New Delhi are registered under GST. The branch office at New Delhi is eligible for full input tax credit.

The company has reported a total turnover of Rs 256 crore (exclusive of GST) for the month of August 20XX. The following information is provided by the company in relation to such turnover:

(i) The turnover includes Rs 45 crore from sale of securities which were purchased for Rs 30 crore in the month of January last year.

(ii) The company supplied goods worth Rs 50 crore to ABC Ltd. in UK under a letter of undertaking (LUT). The total export proceeds are received in the month of August 20XX itself; Rs 30 crore in foreign currency and balance Rs 20 crore in Indian rupees.

(iii) The company provided consulting services to Sherpa & Sons in Nepal for Rs 30 crore under a LUT. The entire consideration is received in Indian rupees in the month of August 20XX itself, with the permission of RBI.

(iv) The turnover includes supply of goods worth Rs 10 crore to Shanghai Jianguo Trading Company Ltd., a company based in China. As per the sale contract, the goods were to be assembled at Shanghai Jianguo Trading Company

Ltd.'s office in Gurugram, Haryana. The payment of the goods is received in convertible foreign exchange in the month of August 20XX itself.

(v) Goods worth Rs 20 crore are supplied under a LUT to DEF Pvt. Ltd. located in a SEZ in the State of Uttar Pradesh.

(vi) Goods worth Rs 40 lakh were being procured from a vendor in Japan. While the goods were in transit, the company secured an order for the said goods for Rs 50 lakh from a buyer in Thailand. Thus, the goods were directly sent to Thailand without entering India.

(vii) The company owns three immovable properties in Noida. The first building is let out for running a printing press at Rs 10 lakh per month. The second building is let out for residential purpose at Rs 5 lakh per month. The third building is let out to a Cold Storage operator at Rs 5 lakh per month. The cold storage operator sub-lets the building as a warehouse to store potatoes.

(viii) The remaining turnover comprised of taxable goods sold within the State and outside the State in the ratio of 3:2.

Total turnover of Rs 256 crore includes the turnover referred to in points (i) to (vii) above.

In addition to above –

a) The company transferred its stock (taxable goods) from Noida to Delhi branch without any consideration; the value declared in the invoice is Rs 4.5 crore (exclusive of GST). The cost of production of such goods is Rs 10 crore. Such stock is sold to independent buyers at Rs 15 crore (exclusive of GST).

b) The company had sent goods worth Rs 12 crore (exclusive of GST) to M/s Sharma Traders in Haryana on approval basis on 15th January, 20XX, 15th February 20XX & 15th March 20XX (Rs 4 crore each month). Goods sent during all the three months are approved in the month of September 20XX.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Skylark Pvt. Ltd., Noida for the month of August 20XX. Make suitable assumptions wherever required.

Assume the rates of taxes to be as under:

	CGST	SGST	IGST
Goods	6%	6%	12%
Services	9%	9%	18%

Solution - - -

Computation of GST liability of Skylark Pvt. Ltd. for the month of August 20XX

Goods					**(Rs in crores)**
S. No.	**Particulars**	**Value**	**CGST @ 6%**	**SGST @ 6%**	**IGST @ 12%**
(i)	Export of goods to ABC Ltd. in UK under a letter of undertaking (LUT) [Note 1]	50	-	-	Nil
(ii)	Supply of goods to Shanghai Jianguo Trading Company Ltd. [Note 2]	10	-	-	1.2
(iii)	Goods supplied to DEF Pvt. Ltd. located in SEZ [Note 3]	20	-	-	Nil
(iv)	Sale within the State [Note 4]	60.18	3.6108	3.6108	-
(v)	Sale outside the State [Note 4]	40.12			4.8144
(vi)	Stock transfer from Noida to Delhi [Note 5]	4.5			0.54
(vii)	Goods sent for sale on approval basis on 15th February, 20XX [Note 6]	4			0.48
	Total tax liability on goods [A]		**3.6108**	**3.6108**	**7.0344**

Services					**(Rs in crores)**
S. No.	**Particulars**	**Value**	**CGST @ 9%**	**SGST @ 9%**	**IGST @ 18%**
(i)	Export of services to Nepal under a LUT [Note 7]	30			Nil

(ii)	Receipts from renting of buildings [Note 8]	0.15	0.0135	0.0135	
	Total tax liability on services [B]		**0.0135**	**0.0135**	**-**

Neither goods nor services / Schedule III					**(Rs in crores)**
S. No.	**Particulars**	**Value**	**CGST @ 9%**	**SGST @ 9%**	**IGST @ 18%**
(i)	Sale of securities [Note 9]	45	Nil	Nil	Nil
(ii)	Goods procured from vendor in Japan and supplied to buyer in Thailand [Note 10]	0.50	Nil	Nil	Nil

Particulars		**CGST (Rs in crores)**	**SGST (Rs in crores)**	**IGST (Rs in crores)**
Total tax liability on goods and services [(A) + (B)]		**3.6243**	**3.6243**	**7.0344**

Notes:

1) Export of goods = Taking goods out of India to a place outside India [Receipt of consideration in foreign exchange is not a pre-requisite for export of goods]
Export of goods = Zero rated supply [Sec 16(1)(a) of IGST Act].
One of the mode of Zero rated supply is supply without payment of tax under a LUT [Sec 16(3)(a) of IGST Act]

2) Export of goods = taking goods out of India to a place outside India. Since, in the given case, the goods are being assembled in India (Gurugram, Haryana), the same are not exported.
Hence, place of supply thereof will be governed by section 10 of the IGST Act, 2017 which prescribes the provisions for determining the place of supply of goods other than supply of goods imported into or exported from India.
As per section 10(1)(d) of IGST Act, 2017, where goods are assembled or installed at site, place of supply shall be place of such installation or assembly. Therefore, in the given case, the place of supply will be Gurugram, Haryana. Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017]

3) Supply of goods and/or services to SEZ unit = Inter-State Supply [Sec 7(5)(b) of IGST Act, 2017]. Therefore, supply of goods to a SEZ unit located within the same State shall be liable to IGST [Section 5(1) of IGST Act, 2017]. Supply of goods and/or services to a SEZ unit is a zero rated supply in terms of section 16(1)(b) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

4) Remaining turnover will be calculated as under
Rs 256 crore – (Rs 45 crore + Rs 50 crore + Rs 30 crore + Rs 10 crore + Rs 20 crore + Rs 0.50 crore + Rs 0.10 crore + Rs 0.05 crore + Rs 0.05 crore) = Rs 100.30 crore
Supply within the State - Rs 100.30 crore x 3/5 = Rs 60.18
Supply outside the State - Rs 100.30 crore x 2/5 = Rs 40.12

5) Branch in Noida and Branch in Delhi = Deemed distinct person [Sec 25]
Supply of goods and/or services between Deemed distinct persons, when made in the course or furtherance of business is one such activity included in Schedule I under para 2 [activities to be treated as supply even if made without consideration]
Stock transfer by Noida office to Delhi branch is an inter-State supply as the location of the supplier (Noida, UP) and the place of supply (Delhi – Sec 10(1)(a)] are in two different States [Section 7(1)(a) of IGST Act, 2017]
Rule 28 of the CGST Rules, 2017 prescribes the provisions to determine the value of supply of goods or services or both between distinct or related persons, other than through an agent. Second proviso to the said rule lays down that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Therefore, the value of supply in this case will be Rs 4.5 crore and open market value and cost of production of the goods will be irrelevant.

6) Invoicing for goods being sent on approval = Before or at the time of supply or 6 months from the date of removal, whichever is earlier [Sec 31(7) of the CGST Act, 2017]

- In the given case, the time period of 6 months for goods sent on 15th February, 20XX expires on 15.08.20XX. Therefore, the invoice shall be issued on 15.08.20XX. Thus, time of supply would be 15.08.20XX [Sec 12(2)(a) of CGST Act, 2017 read with Notf No. 66/2017].
- Thus, such goods will be liable to tax in the month of August 20XX.
- Goods sent in the month of January would have been taxed in the month of July.
- Goods sent in the month of March would be taxed in the month of September.

Here,
LoS = Noida (Uttar Pradesh); and
PoS = Haryana (Location of the goods at the time at which the movement thereof terminates for delivery to the recipient – Sec 10(1)(a) of the IGST Act, 2017).
Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) read with section 5(1) of the IGST Act, 2017].

7) The given case is an export of service as per section 2(6) of the IGST Act, 2017, as-

Sr No	Condition	In our case
1	Supplier of service = India	Noida
2	Recipient of service = Outside India	Nepal
3	Place of supply of service = Outside India	Nepal *[Place of supply of consulting service will be the location of recipient, i.e. Nepal]*
4	Payment has been received in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India	Receipt of export consideration in Indian rupees is permitted by RBI in the given case
5	Supplier and recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.	Not distinct person as per Sec 8

Export of services is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

8) Services by way of renting of residential dwelling for use as residence is exempt from tax
Therefore, rent of Rs 10 lakh received from letting out of building for printing press will be liable to tax and rent of Rs 5 lakh received from letting out of building for residential purposes will be exempt from tax.
Further, services by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt from tax [Notification No. 12/2017]. However, in the given case, the Cold Storage Operator and not Skylark Pvt. Ltd. is engaged in warehousing of agricultural produce. Therefore, the Cold Storage Operator providing warehousing services for potatoes, being an agricultural produce, will be eligible for such exemption and services provided by Skylark Pvt. Ltd., being services of renting of immovable property (Rs 5 lakh), will be liable to tax.
In case of letting out of first and third buildings,
LoS = Noida (Uttar Pradesh); and
PoS = Noida [Location of immovable property – Sec 12(3)(a) of the IGST Act, 2017]
Since the location of the supplier (Uttar Pradesh) and the place of supply (Noida) are in the same State, the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST.

9) GST is leviable on supply of goods and/or services [Section 9(1) - CGST Act, 2017]. Securities are specifically excluded from the definition of "goods" and "services". Therefore, sale of securities will not be liable to GST.

10) Para 7 of the Schedule III to CGST Act, 2017 provides that supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further,

since such goods do not enter India at any point of time, customs duty and IGST leviable on imported goods will also not be leviable on such goods.

CA Final - Nov 2018

Question - - -

Y Ltd. exported service valued at US $ 1,00,000. Supply of service was completed on 15th November 20XX. Payment for this service was received on 30th December 20XX. Refund claim was filed by Y Ltd. in respect of tax paid on inputs and inputs services for Rs 6,00,000 on 31st January, 20XY. The refund claim was sanctioned on 30th April, 20XY. What is the amount of refund Y Ltd. will get as per law? What is the relevant date and rate of interest as per GST law?

Solution - - -

- As per clause (i) of first proviso to section 54(3) of the CGST Act, 2017, refund claim admissible to Y Ltd. on account of export of services being a zero-rated supply, is the unutilized ITC of Rs 6,00,000.
- Where supply of services had been completed prior to receipt of payment, relevant date is date of receipt of payment in convertible foreign exchange, i.e. 30th December, 20XX [Explanation to section 54 of CGST Act, 2017.
- As per section 56 of the CGST Act, 2017, where any tax ordered to be refunded to any applicant is not refunded within 60 days from the date of receipt of application, interest shall be payable @ 6% p.a. from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund of such tax.
- Since in the given case, tax ordered to be refunded is not refunded within 60 days from the date of receipt of application, viz., 31st January, 20XY, interest @ 6% p.a. is payable.

CA Final – Nov 2019 (5 Marks)

Question - - -

The following particulars are furnished by Delight Exporters, Karnataka, which is duly registered under the GST law. Entity has also filed bond/LUT in order to export goods without payment of any taxes. You are required to calculate refund amount in respect of ITC on inputs and input services relating to goods exported in the relevant tax period.

SI. No.	Particulars of supply	Value of supply in Rs
1.	Turnover - excluding supply of services, but includes exempt supplies of Rs 8,00,000 and inward supplies of Rs 2,00,000	76,00,000
2.	Zero-rated supply of goods under bond/LUT	12,00,000
3.	Export services under bond/LUT	48,00,000
4.	Non zero-rated supply of services	10,00,000
5.	Payments received towards zero-rated supply, which includes Rs 12,00,000 against which services are yet to be supplied.	48,00,000
6.	Advance received in the past, against which zero-rated supplies of services have been made in the current tax period	14,00,000
7.	Turnover on which suppliers have claimed refund under rule 89(4A) and rule 89(4B) - Goods - Services	 6,00,000 6,00,000
8.	ITC on inputs and input services during the tax period including those under rule 89(4A) and rule 89(4B)	12,00,000
9.	ITC relating to rule 89(4A) and rule 89(4B)	2,40,000

Solution - - -

As per rule 89(4) of the CGST Rules, 2017, in case of zero-rated supply of goods and services without payment of tax under bond/LUT, refund of ITC is granted as per the following formula:

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

Net ITC excludes ITC availed for which refund is claimed under rule 89(4A)/(4B) of the CGST Rules, 2017.

Further, turnover of zero-rated supply of goods and adjusted total turnover exclude turnover of supplies in respect of which refund is claimed under 89 (4A)/(4B). Accordingly, the amount of refund shall be computed as follows:

Particulars	Rs
Net ITC excluding ITC availed for which refund is claimed under rule 89(4A) and 89(4B) (Rs 12,00,000 - Rs 2,40,000)	9,60,000
Turnover of zero-rated supply of goods excluding turnover of supplies in respect of which refund is claimed under 89(4A) and 89(4B)	6,00,000
Turnover of zero rated supply of services [Aggregate of payments received during the relevant period and services where supply has been completed for which payment had been received in advance in any prior period reduced by advances received for which supply of services has not been completed during the relevant period] [Rs 48 lakh + 14 lakh - Rs 12 lakh]	50,00,000
Adjusted total turnover = Turnover in a State excluding turnover of services + Turnover of zero-rated supply of services determined as above + Non-zero-rated supply of services – [Exempt supplies other than zero-rated supplies + Turnover of supplies in respect of which refund is claimed under 89(4A) and 89(4B)] [Rs 76 lakh - Rs 2 lakh + Rs 50 lakh + Rs 10 lakh – (Rs 8 lakh + Rs 6 lakh + Rs 6 lakh)]	1,14,00,000
Refund of ITC for zero rated supply of goods and zero rated supply of services [Rs 9,60,000 x (Rs 56,00,000/ Rs 1,14,00,000)]	4,71,579 (rounded off)

Assumption ::

(i) Turnover at Sl. No. 1 [Rs 76 lakh] includes T/O of zero rated supply of goods given at Sl. No. 2 [Rs 12 lakh].

(ii) Turnover of zero rated supply of goods given at Sl No. 2 [Rs 12 lakh] includes turnover of supplies of goods in respect of which refund has been claimed under rule 89(4A) and 89(4B) [Rs 6 lakh]

(iii) Turnover of zero rated supply of services computed as per rule 89(4)(D) [Rs 50 lakh] includes the turnover of supplies of services in respect of which the refund is claimed under rule 89(4A) and 89(4B) [Rs 6 lakh].

However, the above question can also be answered on the basis of alternate assumptions e.g., the turnover of zero rated supply of goods given at Sl. No. 2 [Rs 12 lakh] excludes turnover of supplies of goods in respect of which refund has been claimed under rule 89(4A) and 89(4B) [Rs 6 lakh] or the turnover at Sl. No. 1 [Rs 76 lakh] does not include the turnover of zero rated supply of goods given at Sl. No. 2 [Rs 12 lakh] and turnover of supplies of goods in respect of which refund has been claimed under rule 89(4A) and 89 (4B) [Rs 6 lakh].

CA Final - RTP - May 2020

Question - - -

An international trade exhibition is going to be held in United States of America in January. Aayaat Niryat Export House (ANEH) has participated in it. It intends to send 100 units of taxable goods manufactured by it to USA for display in the said exhibition. ANEH is of the view that the activity of sending the goods out of India for exhibition is a zero-rated supply. However, its tax advisor does not concur with its view. Examine whether the view of ANEH is correct.

Solution - - -

- No, the view of ANEH that the activity of sending the goods out of India for exhibition is a zero-rated supply, is not correct. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely it should be (i) for a consideration by a person; and (ii) in the course or furtherance of business.
- 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, section 2(21) of 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.
- Section 16 [IGST Act] defines "zero rated supply" as any of the following supplies of goods or services or both:
  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.
- In view of the above provisions, Circular No. 108/27/2019 GST clarified that 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, 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.

CA Final - RTP - May 2020

Question - - -

Assuming that ANEH could not sell any goods at the exhibition and brings back entire 100 units to India (i) in February, (ii) in August, Discuss the requirement to issue invoice, if any, in each of the above independent cases.

Solution - - -

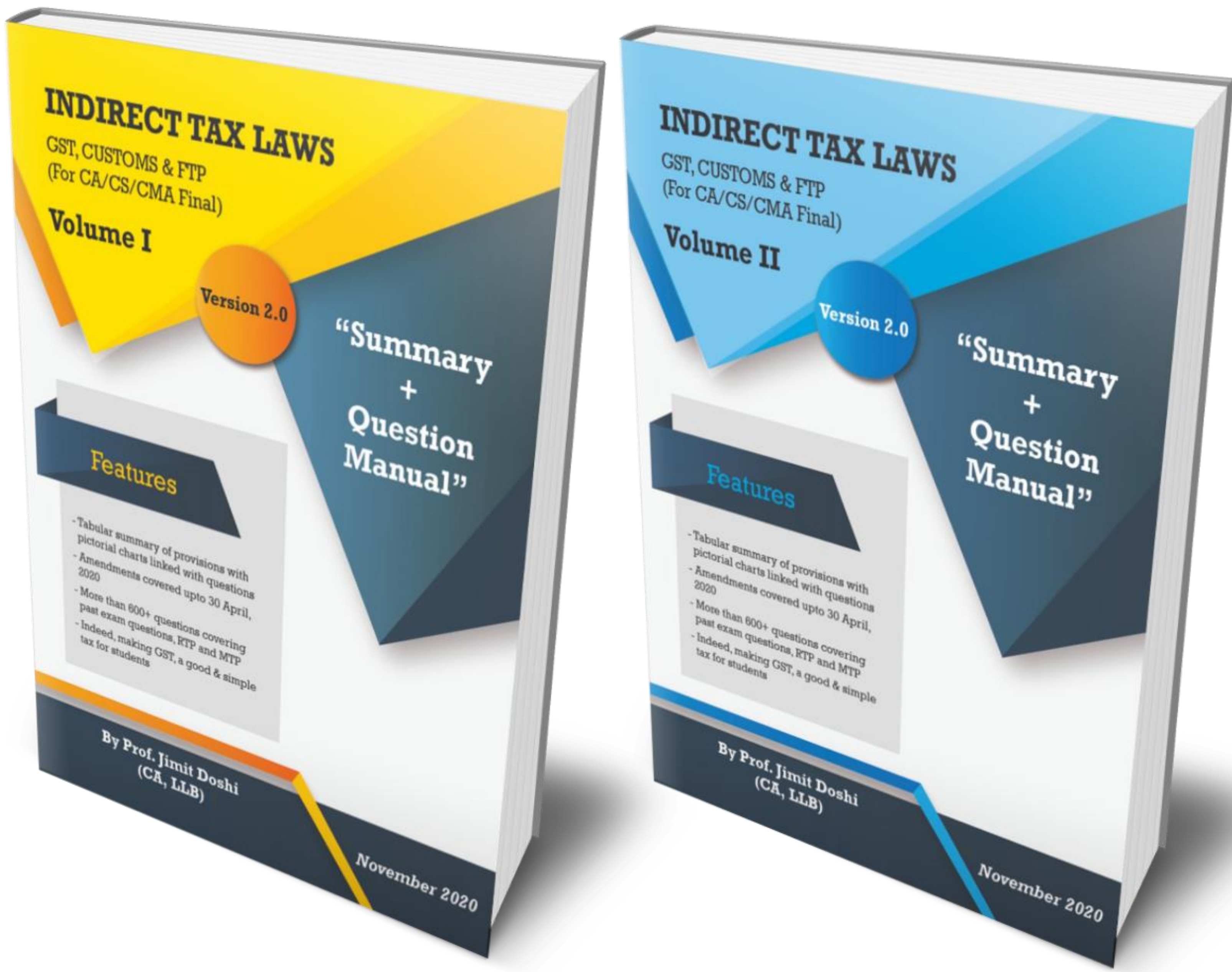
- The said circular further clarified that the activity of sending/taking goods out of India for exhibition is in the nature of "sale on approval basis" wherein the goods are sent/ taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place.
- Activity of sending/ taking specified goods is covered under the provisions of Sec 31(7) of CGST Act, 2017 read with rule 55 of CGST Rules, 2017. As per said provisions, in case of the goods being sent or taken on approval for sale, the invoice shall be issued before/at the time of supply or 6 months from the date of removal, whichever is earlier. The goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan.
- In view of the said provisions, ANEH is not required to issue invoice at the time of taking the goods out of India since the activity of merely sending/ taking the taxable goods out of India is not a supply. However, the goods shall be accompanied with a delivery challan. Further,
  (i) In case the entire quantity of goods (100 units) sent to USA is not sold but brought back by ANEH in February, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.
  (ii) In case, the entire quantity of goods (100 units) sent to USA is not sold and brought back by ANEH in August, i.e. after 6 months from the date of removal, a tax invoice is required to be issued for entire 100 units of taxable goods in accordance with the provisions contained in section 12 [determining time of supply of goods] and section 31 [tax invoice] of the CGST Act, 2017 read with rule 46 [tax invoice] of the CGST Rules, 2017 within the time period stipulated under section 31(7) of the CGST Act, 2017.

Question - - -

Would your answer be different if ANEH sells an aggregate of 65 units of the taxable goods in USA exhibition on different dates in January and remaining 35 units are brought back on 31st January. The tax advisor of ANEH advises ANEH that the export of 65 units qualify as zero-rated supply and it should apply for refund of the unutilized ITC in respect of the same. Examine the technical veracity of the tax advisor's advice.

Solution - - -

- However, if an aggregate of 65 units of the goods are sold in USA exhibition by ANEH on different dates in January (i.e. within the stipulated period of 6 months), a tax invoice would be required to be issued for these units, at the time of each of these sales, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. When the goods are sold in exhibition, actual supply from the exporter in India to the importer located abroad takes place and this supply qualifies as export. Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017.
- If the remaining 35 units are brought back on 31st January, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.
- Further, tax advisor's advice is technically correct. Since activity of sending / taking specified goods out of India is not a zero-rated supply, execution of a bond/ LUT, as required u/s 16 of the IGST Act, is not required.
- However, sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond/LUT, if he is otherwise eligible for refund as per the provisions contained in section 54(3) of the CGST Act, 2017 read with rule 89(4) of the CGST Rules, 2017 in respect of zero-rated supply of 65 units.

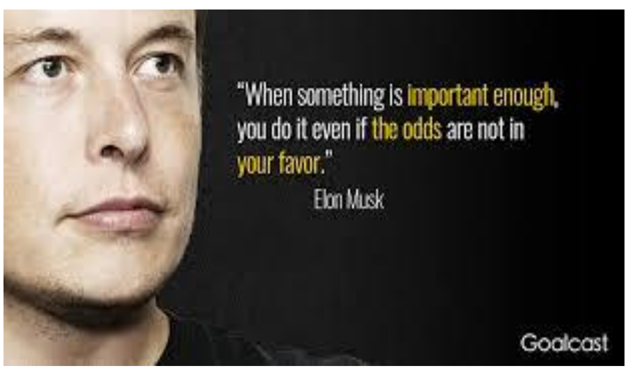

INDIRECT TAX LAWS
GST, CUSTOMS & FTP
(For CA/CS/CMA Final)
Volume I
Version 2.0
"Summary + Question Manual"
Features
- Tabular summary of provisions with pictorial charts linked with questions
- Amendments covered upto 30 April, 2020
- More than 600+ questions covering past exam questions, RTP and MTP
- Indeed, making GST, a good & simple tax for students
By Prof. Jimit Doshi (CA, LLB)
November 2020
INDIRECT TAX LAWS
GST, CUSTOMS & FTP
(For CA/CS/CMA Final)
Volume II
Version 2.0
"Summary + Question Manual"
Features
- Tabular summary of provisions with pictorial charts linked with questions
- Amendments covered upto 30 April, 2020
- More than 600+ questions covering past exam questions, RTP and MTP
- Indeed, making GST, a good & simple tax for students
By Prof. Jimit Doshi (CA, LLB)
November 2020


"YOUR FUTURE IS CREATED BY WHAT
YOU DO { TODAY }
~~NOT~~ ~~TOMORROW~~"

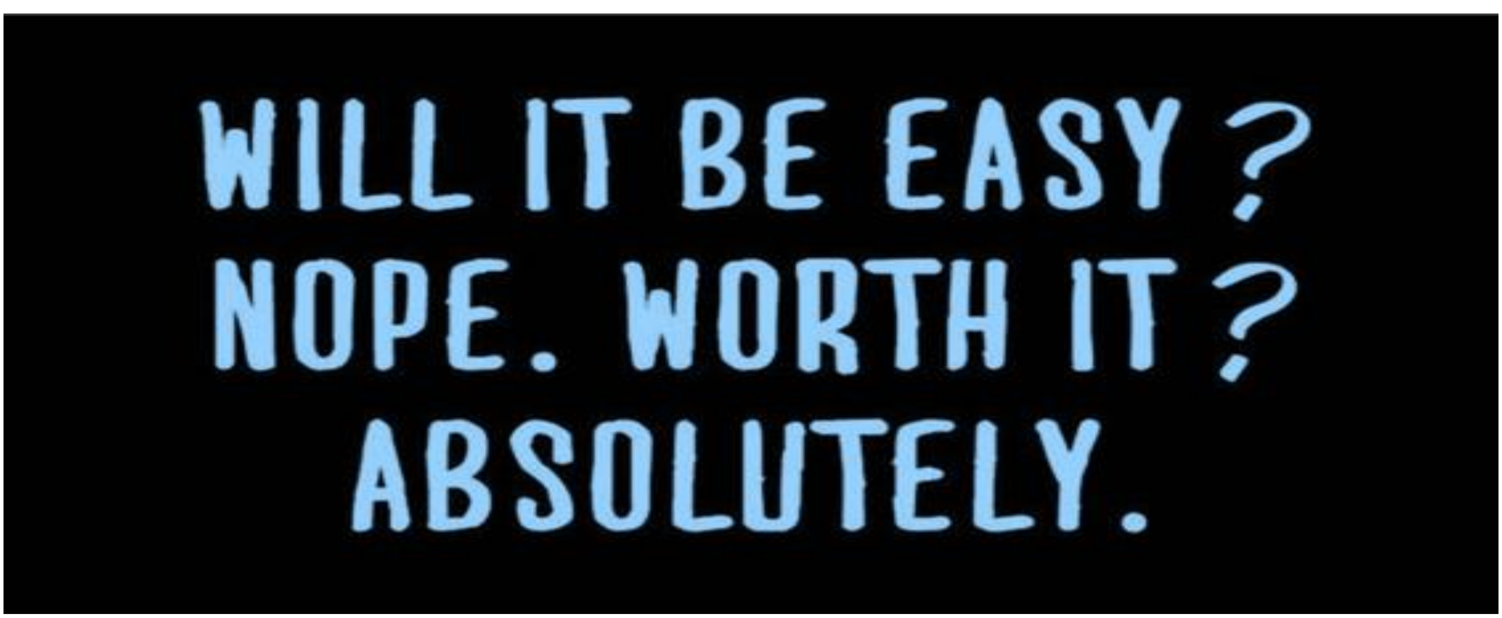

STAY
Positive
WORK HARD
Make It
HAPPEN


We are what we do.
Excellence, therefore
is not an act, but
a habit.
Aristotle


WORK HARD
IN SILENCE;
LET SUCCESS
MAKE THE NOISE


"When something is important enough,
you do it even if the odds are not in
your favor."
Elon Musk
Goalcast


Do something
today that your
future self will
thank you for


WILL IT BE EASY?
NOPE. WORTH IT?
ABSOLUTELY.