Refund of ITC on Account of Exports without Payment of GST

CA Chetna Gandhi

Disclaimer

- This presentation has been prepared for informational purposes only, and is not intended to provide, and should not be relied on for, tax, legal or accounting advice. You should consult your own tax, legal and accounting advisors before engaging in any transaction. The author assumes no responsibility or liability for any errors or omissions in the content of this presentation.

Definition of Export of good

- Export of goods means taking goods out of India to a place outside of India.

FPO (Foreign Post office)

- The facility for import and export of goods by Post Parcels is provided by the Postal Department at its Foreign Post Offices and sub-Foreign Post Offices. Customs facilities for examination, assessment, clearance etc. are available at these Post Offices

For the case of handling, identification and weight of the parcel, the postal department has following categories of parcels at FPO, Chennai

Sl. No.	Import	Export
1.	Document / letter/mail	Document / letter/mail
2.	Speed Post	Speed Post
3.	Registered Packets/Letters less than 02 Kg.	Registered Packets/Letters less than 02 Kg.
4.	Registered Parcel between 02 Kg to 20 Kg	Registered Parcel between 02 Kg to 20 Kg
5.	Unregistered (Normal) Packets/Letters	Unregistered (Normal) Packets/Letters

CBIC notifies automated system for postal exports; exporters need not visit foreign post office

Current Manual System

- For exporting a parcel through the postal route, an exporter or his agent is required to file the export declaration at any of the 28 FPOs and hand over his consignment for export
- For export where the Postal Bill of Export (PEB) is prepared manually by the Post office officials. The Postal Bill of Export is the Shipping Bill which demonstrates export.
- After the export of the parcel, PBE is stamped by customs officers confirming the export and a corresponding Shipping Bill Number and EGM (Export General Manifest) number is stamped manually on PBE.
- Thereafter, the exporter is required to physically collect such stamped PBE from the post office and such PBEs are submitted with government officers for claiming export-related refunds.
- Like other shipping bills, GST officials also do not have any window to check the Shipping Bill Number and EGM on government portal

New Automated System

1. The exporter will not be required to visit an FPO. He would be able to get the Postal Bill of Exports (PBE) online https://dnk.cept.gov.in/customers.web from home/office and deposit the export parcel in a nearby post office. The export parcel so deposited by the exporter will be moved by the Department of Post (DoP) to an FPO for customs clearance.
2. The regulations also prescribe for retention of records of 5 years pertaining to postal exports by the exporter or his agent

Integration of gstn in ICEGATE

With Customs

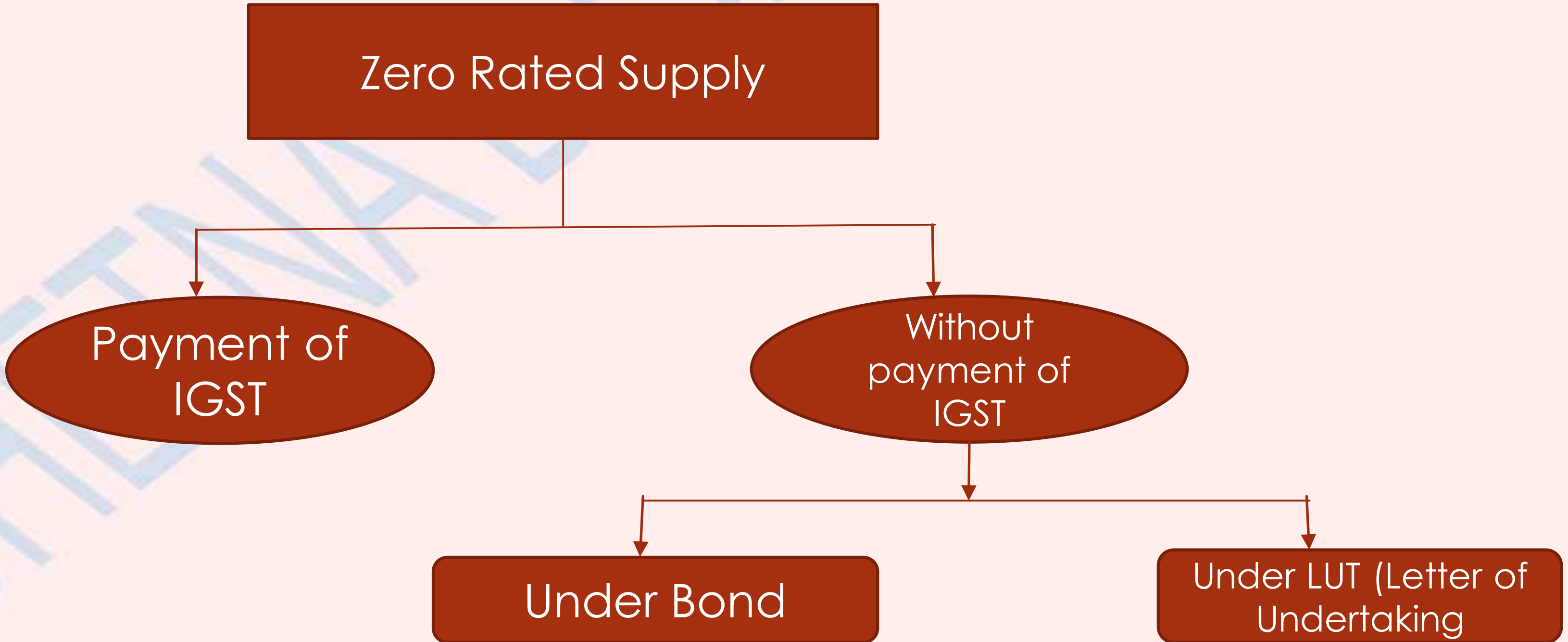
1. The GSTN integration functionality is available under ICEGATE Services on ICEGATE home page. Click on **Services >> Registration >> For Integrating GSTN to Integrate GSTIN with Custom.**
2. Enter the **GSTIN Number and Captcha and Click on Submit button**.
3. On successful submission on GSTIN number and Captcha, GSTIN will register with custom and reflect on custom after 24 hours.

For Matching IEC

1. The IEC GSTIN Mapping functionality is available under ICEGATE Services on ICEGATE home page. **Click on Services >> Registration >> For Matching IEC GSTIN link to Map IEC and GSTIN in Custom**
2. To Map the IEC and GSTIN in custom Click on highlighted link. If you have mismatch of IEC & GSTIN
3. Enter the IEC Number and GSTIN Number which needs to be map in custom. After entering IEC, GSTIN and Captcha click on Submit button.
4. On Success full submission "IEC GSTIN has been updated in System. Please wait for 24 hours to reflect" Message will appear.

Export supply

- *An export supply under the GST law is also called a zero-rated supply since the rate of tax on export supplies is intended to effectively be nil or zero. Treated as interstate supply, and not one where exemption is issued under section 6 of IGST Act. So, zero rated supply is a moniker for supplies enlisted in section 16 of IGST Act*



Export of goods under LUT

- Section 54(3)(i) of the CGST Act provides that a registered person may claim refund of unutilized input tax credit ('ITC') for zero-rated supply made without payment of tax. The refund application may be made for each tax period. The said section comes **with some of the restriction** which are enumerated below:

1. Provided further that no refund of <u>unutilised input tax credit</u> shall be allowed in cases where the goods exported out of India are <u>subjected to export duty</u>
2. Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both <u>avails of drawback</u> in respect of central tax or claims refund of the integrated tax paid on such supplies.

LUT FILING Procedure

- In GST refund process, LUT filing is mandatory
- LUT can be filed in Form **GST RFD-11** on the common portal by accessing **Services > User Services > Furnish Letter of Undertaking (LUT).** Necessary details are filled in and uploaded along with DSC.
- In RFD-01(Refund form), tax payer has to confirm whether RFD-11 is filed

Acknowledgment for LUT

Application Reference Number (ARN)	AA220318000009V

You have filed the application successfully and the particulars of the application are given as under :

Date of filing	09/03/2018
Time of filing	18:35
Goods and Services Tax Identification Number (GSTIN)	22AJIPA1572E3ZT
Legal Name	ANGAD JASBIRSINGH ARORA
Trade Name (if available)	LTrade
Center Jurisdiction	(RAIPUR), (DIVISION-I RAIPUR),(RANGE-I)
State Jurisdiction	Raipur - 1
Filed By	ANGAD ARORA

Acknowledgement for filing of LUT will be transmitted to the concerned Tax authority online.

It is a system generated acknowledgement and does not require any signature.

ITC eligible & Not Eligible for Refund

Eligible for Refund

1. **Input** is given in sec 2(52) as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.
2. **Input service** has been given in sec 2(53) as any service used or intended to be used by a supplier in the course or furtherance of business

Not Eligible for Refund

1. **Capital goods** has been given in 2(19) as to means goods, the value of which is capitalized in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business

Time limit of Refund Application

- According to Section 54 of CGST Act, an application for claiming refund of any tax and interest can be made before the expiry of **two years from the relevant date(EGM Date).**

  The RFD-01A need to be filed on a monthly basis for refund claims in case of zero-rated supplies
- Circular No 135/05/2020-GST dated March 31, 2020, refund can claim for multiple tax period i.e. for two FY or three FY in single filing.
- **Refund claims must be filed by the applicant chronologically**. This means that an applicant, after submitting a refund application for a certain period, shall not be subsequently allowed to file a refund claim for any previous period

- **Relevant date for export of goods out of India:**
- Relevant date for refund of tax paid on the supplies of goods, the inputs or input services used in such goods is

1. Where **exported by sea or air**, the date on when the ship or the aircraft leaves India, on which the goods are loaded on such ship or the aircraft
2. Where **exported by land**, the date on which the goods pass the frontier
3. Where **exported by post**, the date of dispatch of goods by the Post office.

ELIGIBLE REFUND AMOUNT

- Refund of utilized ITC has to be computed as per the method prescribed under Rules 89(4) of the CGST Rules. The same is reproduced below:
- Refund Amount = (**Turnover of zero-rated supply of goods + Turnover of zero rated supply of services) x Net ITC ÷ Adjusted Total Turnover**
- **Impunge offending word, "or the value 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier" appearing in Rule 89(4C), vide para 8 (F.No.CBEC-20/06/04/2020-GST) dated 23.03.2020 is declared ultra vires the provision of CGST 2017, IGST,2017. same are hereby quashed**

1. **Refund amount"** means the maximum refund that is admissible;
2. **"Net ITC"** means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;
3. **"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 or letter of undertaking 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;
4. **"Adjusted Total Turnover"** means the sum total of the value of

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

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

   (i) the value of exempt supplies other than zero-rated supplies; and

   (ii) the turnover of supplies in respect of which refund is claimed under sub rule (4A) or sub-rule (4B) or both, if any, during the relevant period.'
5. **"Relevant period"** means the period for which the claim has been filed.

Example for refund calculation

Illustration	
PARTICULARS	AMOUNT (INR)
Export of good under LUT (200 qty)	200000
B2B Supply (200 qty)	100000
B2C Supply	40000
Exempt Supply	10000
Total Turnover	350000
Input (A)	18000
Input Services (B)	8000
Capital goods ©	5000
Note: It is assumed that all the B2B supplies are similar goods with same quantity as that of exports	

Solution	
Particulars	Amount
Turnover of export of goods- INR 200000 Or 1.5 times value of like goods supplied in domestic market100000 x 1.5 – INR 150000 Whichever is lower (1)	1,50,000
Adjusted Total Turnover (2) (200000+100000+40000)	3,40,000
Net Input tax credit (A+B) (3)	26,000
Refund Amount (1/2) x 3	11,470
Tonbo Imaging India Pvt Ltd Vs Union Of India (Karnataka High Court) Rule 89(4)(c) is 'ultra-vires' to the provisions of GST law and held 'unconstitutional' dated 16/02/2023 Turnover of export of good will be Rs 200000	

Mandates to claim refund

1. Details of goods exported as to be reported in Table 6A of Form GSTR-1
2. Summary details of goods exported are to be reported in Table 3.1(b) of Form GSTR-3B.
3. The amount disclosed in GSTR-3B should not be less than the same shown in GSTR-1
4. All return is filed (Gstr1, Gstr 3b) which is due as on date of filing RFD-01
5. Aadhaar authentication or uploading E-KYC document in non core field of GST of authorized person
6. Complete details of invoice submitted in Gstr1 & 3B like SB/port details etc then only export invoice transfer to ICEGATE
7. CBIC vide Notification No 16/2020-Central Tax dated March 23, 2020 has inserted Rule 96B in the CGST Rules which provides the sale proceed in respect of export of goods have to be realised within the time period (9 month from the date of export) allowed FEMA, 1999. Require to submit proof that the sale proceeds are realised within the prescribed time limit.

MANNER OF PAYMENT OF EXPORT VALUE OF GOODS

- Unless otherwise authorised by the Reserve Bank, the amount representing the full value of the goods exported shall be paid through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000 as amended from time to time

- **Advance Payment of Export**

1. Shipment of goods is made within one year from the date of receipt of advance payment is received.
2. & ROI should not exceed 100 basis points above the LIBOR or other applicable benchmark as may be directed by the RBI

Statements/declarations/undertakings/certificates and other supporting documents in refund application without payment of tax

Declaration/Statement/Undertaking/ Certificates to be filled online	Supporting documents to be additionally uploaded
1. Declaration under second and third proviso to section 54(3) 2. Undertaking in relation to sections 16(2)(c) and section 42(2) 3. Statement 3 under rule 89(2)(b) and rule 89(2)(c) 4. Statement 3A under rule 89(4)	1. Copy of GSTR-2A of the relevant period 2. Statement of invoices (Annexure-B) 3. Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period 4. BRC/FIRC in case of export of services and shipping bill (only in case of exports made through non-EDI ports) in case of goods

Declaration under second and third proviso to section 54(3)

- DECLARATION [second proviso to section 54(3)]
- I hereby declare that the goods exported are not subject to any export duty. I also declare that I have not availed any drawback on goods or services or both and that I have not claimed refund of the integrated tax paid on supplies in respect of which refund is claimed.
- Signature Name –
- Designation / Status
- DECLARATION [section 54(3)(ii)]
- I hereby declare that the refund of input tax credit claimed in the application does not include input tax credit availed on goods or services used for making nil rated or fully exempt supplies.
- Signature Name –
- Designation or Status
- Both declaration on letter head of company

Undertaking in relation to sections 16(2)(c) and section 42(2)

- Under the GST law, the refund of the unutilized input tax credit of input and input services is available in case of zero-rated supplies made without payment of tax and inverted duty structure scenario. The refund would be available subject to furnishing of the undertaking that if tax has not been paid by the supplier, the recipient would repay the refund amount along with interest.

- Under the letterhead of the company

Statement 3 under rule 89(2)(b) and rule 89(2)(c) Detail of export in relevant period without payment of tax

GSTIN	
From reporting period	mm-yyyy
to reporting period	mm-yyyy

Sr. No.	Document details				Goods/ Services (G/S)	Shipping bill/ Bill of export/ Endorsed of Invoice				EGM Details		BRC/FIRC			Error
	Type of document	No.	Date dd-mm-yyyy	Value		Port code	No.	Date dd-mm-yyyy	FOB Value	Ref No.	Date dd-mm-yyyy	No.	Date dd-mm-yyyy	Value	
	(Invoice, credit note or debit note)														
1															
2															

Notes for Statement 3 under rule 89(2)(b) and rule 89(2)(c)

S.no.	Particulars
1	EGM details are mandatory in case of goods. BRC/FIRC details must be provided in case of services. You need to enter Unique BRC/FIRC details, as separate rows in Statement 3.
2	Port Code can be 6 digits alphanumeric only. Shipping Bill No can be 3 to 7 numeric digits.
3	EGM length can be between 1 to 20 characters.
4	BRC/FIRC length can be between 3 to 30 alphanumeric characters.
5	The date of BRC/ FIRC for export of services in the Statement 3 to be uploaded can be before/ on/ after the date of document.
6	One document can have multiple BRC/FIRC numbers. User can enter multiple BRC/FIRC numbers in Statement 3.
7	Document Date cannot be prior to 1st July 2017. Document date can be on or after 1st July 2017.
8	EGM date can be prior to 1st July 2017. There is no linking of EGM date with Shipping Bill date.
9	BRC/FIRC date can be prior to 1st July 2017.
10	Shipping Bill Number is mandatory, on selection of "Goods" option.

Statement 3A under rule 89(4)

Refund Type: Export without payment of tax (accumulated ITC) –: calculation of refund amount			
	Turnover of zero rated supply of good and service for relevant period	**Adjusted Annual Turnover***	**Net ITC =Turnover of zero rated supply of good and service for relevant period less itc on capital good**
IGST			
SGST			
CGST			
CESS			
Total			
*	Adjusted Annual Turnover: means the sum total of the value of:		
Add	(a)	Total turnover of good	
Add	(b)	Total turnover of service	
Less		Exempt supplies(nil rated, exempt and not taxable)	

Statement of invoices (Annexure-B)

Annexure-B

Statement of Invoices to be Submitted With Application for Refund of unutilized ITC For Relevant Period

S. No.	GSTIN of the supplier	Name of the Supplier	Invoice Details			Type		Central tax	State tax/Union Territory tax	Integrated tax	Cess	Eligible for ITC	Amount of eligible ITC	Whether Invoices Included in GSTR2A Y/N
			Invoice No.	Date	Value	Inputs/ input services/ capital goods	HSN/SAC					Yes/No /Partially		
1														
2														

Supporting documents to be additionally uploaded

1. Copy of GSTR-2A of the relevant period: Will be download from GST Portal
2. Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period : not relevant as on date: The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent
3. BRC/FIRC in case of export of services and shipping bill (only in case of exports made through non-EDI ports) in case of goods: Postal export come under category of Non-EDI port, hence shipping bill to be upload

Gst rfd-01 Tutorial guide

- **How can I file application for refund of ITC on account of Exports without payment of Tax on the GST Portal?**
- https://tutorial.gst.gov.in/userguide/refund/Refund_of_ITC_paid_on_Exports_of_Goods_and_Services.htm

Time limit for sanctioning refund

- Refund has to be sanctioned within 60 days from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest at the rate notified not exceeding 6% will have to be paid in accordance with section 56 of the CGST/SGST Act.
- However, in case where provisional refund to the extent of 90% of the amount claimed is refundable in respect of zero-rated supplies made by certain categories of registered persons in terms of sub-section (6) of section 54of the CGST/SGST Act, the provisional refund has to be given within 7 days from the date of acknowledgement of the claim of refund. Rule 91 also prescribe that the provisional refund will not be granted if the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, been prosecuted for any offence under the Act or under an earlier law where the amount of tax evaded exceeds two hundred and fifty lakh rupee

Thank you

- CA Chetna Deepesh Gandhi, ACA
- 7999345260
- chetna_rathi@rediffmail.com