

Refund related amendments in GST Rules vide Notification 16/2020 – dated 23/03/2020.

Dear Sir/ Madam,

The CBIC vide Notification No 16/2020 – dated 23/03/2020 has amended/inserted the GST Rules governing the Refund procedures. The said rules which aim to further regulate certain refund provisions in the act are hereby mentioned below.

1. Rule 86 of CGST Rules 2017, which governs maintenance of Electronic Credit Ledger is hereby amended by insertion of sub rule 4A after sub rule 4 which states that any tax wrongly paid or paid in excess by debiting or utilizing the Electronic Credit Ledger can be claimed as Refund by the Taxpayer, and the amount so claimed if found admissible shall be re credited to the said Credit Ledger by the proper officer by an order made in FORM PMT-03.
2. Further Rule 89(4) visualises provisions grant of ITC refund in case of zero-rated supply of goods or services or both. Clause C in Rule 89(4) of CGST Rules 2017, has been amended to amend the definition of “Turnover of zero-rated supply of Goods” which is an element of the Refund Formula in case of Exports.

According to Clause C the definition of Turnover of zero-rated supplies of Goods shall mean;

- (a) “Value of zero-rated supplies of goods during the relevant period made in the relevant period without payment of taxes under a bond / LUT or;
- (b) “Value equal to 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 From (a) and (b).

The Result of this definition could have a decreasing effect on the numerator which may reduce the refund amount as a result of the formula explained below;

$$\frac{(T/O \text{ of zero- rated supplies of Goods} + T/O \text{ of zero- rated supplies of Services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

3. Rule 92 of CGST Rules, 2017 which deals with sanction of refund claim is hereby amended by insertion of sub-rule (1A) after sub-rule (1) which states that, any amount for which an application of refund has been made by the taxpayer, other than refund for Exports/Deemed Exports, which has been admitted by the proper officer after examination shall by order made in FORM RFD-06, be paid in cash to the extent which was debited in cash out of the said total amount and the balance shall be credited in Electronic Credit Ledger to the extent earlier paid by debiting the Credit Ledger by an order passed in FORM GST PMT 03.
4. Rule 96B of CGST Rules, 2017 has been inserted which states that any refund of unutilized ITC or IGST paid on account of export of goods provided to the Registered person shall be deposited back by such person along with interest if, the sale proceeds [i.e. export proceedings] have not been realised in part or full as the case may be within stipulated time or such extended time as permitted under Foreign Exchange Management Act (FEMA), 1999.

The amount of refund so claimed shall be deposited back to the extent of non-realisation of sale proceeds within 30 days from the expiry of the time permitted under FEMA, failing which the said amount shall be recovered as per procedure u/s 73 or 74 and shall be treated as recovery of erroneous refund claimed. No recovery shall be made if the Reserve Bank of India writes off the requirement of realisation of the sale proceeds on merits.

After the recovery of the refund, if the Sale proceeds are subsequently realised and the registered person produces the evidence of the same within 3 months of such realisation, the recovered amount shall be refunded to the

registered person to the extent of realisation of sale proceeds within such time as may be permitted by RBI.

Kindly go through the same and take necessary steps to ensure the above is complied with.

**Regards,
Vinay S. Sejpal
Advocate**

[IN the above newsletter some sections and important terms are used and referred and you are requested to refer the relevant provisions in complete together fore interpretation.]

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