

J P Chawla & Co. LLP
Chartered Accountants

Refund Under GST

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Introduction

Timely refund mechanism is essential in tax administration, as it facilitates trade through release of blocked funds for working capital, expansion and modernization of existing business.

The provisions pertaining to refund contained in the GST law aim to streamline and standardize the refund procedures under GST regime. Thus, under the GST regime there is a standardized form for making any claim for refunds. The claim and sanctioning procedure is completely online and time bound which is a marked departure from the earlier time consuming and cumbersome procedure.

Types of GST Refund

Refund under GST broadly classified into two categories:

- Refund of Input Tax Credit
- Refund of Output Tax paid

Refund of Input Tax Credit

Zero Rated Supply without payment of Tax

Inverted Rated Duty Structure

Refund of Output Tax paid

Zero Rated Supply with payment of Tax

Excess Balance of Electronic Cash Ledger

On account of Finalization of Assessment /Appeal etc.

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)

Tax paid on an intra State supply which is subsequently held to be inter State supply and vice versa (change of POS)

Excess Payment of Tax

Any Other Refund

Meaning of Refund

Definition of refund was provided in explanation (1) of Section 54 of Central Goods and Service Tax Act 2017 which is an inclusive definition of refund. The simplified form of such definition is as follows:

“Refund” includes refund of tax paid on:

- zero-rated supplies of goods or services or both or
- on inputs or input services used in making such zero-rated supplies, or
- refund of tax on the supply of goods regarded as deemed exports, or
- refund of the unutilized input tax credit as provided under sub-section (3) [Inverted duty Refund]

Provisions of the Act which gives right to the taxpayer for claiming GST Refund

The section 16 of Integrated Goods and Service Tax Act 2017 and section 54 of Central Goods and Service Tax Act 2017 gives right to the taxpayer for claiming refund under GST.

Refunds under Zero Rated Supplies

Section 16 sub section 3 of Integrated Goods and Service Tax Act 2017 states that a registered person making zero rated supplies shall be eligible to claim refund under either of the following two conditions:

- Refund of output tax (integrated tax) paid on zero rated supplies made with payment of tax.
- Refund of unutilized input tax credit availed for supply of goods or services or both under Letter of Undertaking or bond, without payment of integrated tax.

**Zero Rated Supplies: means export of goods or services or both out of India or supplies of goods or services or both to SEZ developer or SEZ unit.



Refund of balance in Electronic Cash Ledger

Section 49 sub section 6 of Central Goods and Service Tax Act 2017 provides that a registered person is eligible to claim refund of balance held in electronic cash ledger or electronic credit ledger after making payment of tax, interest, penalty, fees or any other liability payable under the act.

Transfer of balances in Electronic Cash Ledger

Section 49 sub section 10 of Central Goods and Service Tax Act 2017 states that any transfer of amount from electronic cash ledger of IGST or CGST or SGST to the electronic cash ledger of IGST or CGST or SGST through PMT-09 shall be considered as refund application.

Refund of Input Tax Credit

Section 54 sub section 3 of Central Goods and Service Tax Act 2017 states that a registered person may claim refund of unutilized input tax credit under following two categories:

- Zero Rated supplies made without payment of integrated tax.
- Accumulation of input tax credit on account of inverted duty structure

However, refund of input tax credit under following conditions are not allowed:

- Goods exported out of India are subject to export Duty.
- If the supplier avails drawback of central tax or claims refund of integrated tax paid on such supplies.

**Inverted Duty Structure: Where rate of tax on inward supplies was higher than the rate of tax on outward supplies.

Refund by notified category of persons

Section 55 of Central Goods and Service Tax Act 2017 specifies that the following class of person are entitled to claim refund of taxes paid on notified supplies of goods and services or both received by them:

- Any specialized agency of the United Nations Organization or
- Any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947
- Consulate or Embassy of foreign countries and
- Any other person or class of persons as may be specified in this behalf.

Refund as a consequence of Assessment

Section 60 sub section 5 of Central Goods and Service Tax Act 2017 provides that a taxpayer is entitle for the refund if the proper officer pass a final assessment order after taking into account such information as may be required for finalizing the assessment.

Refund of excess payment of Tax

Section 77 of Central Goods and Service Tax Act 2017 and section 19 of Integrated Goods and Service Tax Act 2017, provides that a registered taxpayer is eligible to claim refund if he erroneously paid tax under wrong head considering interstate supplies as intrastate supplies or vice versa.

Section 76 sub section 10 of Central Goods and Service Tax Act 2017 states that if any person wrongfully collect excess tax amount and paid the said amount to the government then such person who has borne incidence of tax shall be eligible for refund for surplus amount left after adjustment of tax if any.

Procedure of Refund

Section 54 sub section 1 of Central Goods and Service Tax Act 2017 provides that any person claiming refund of

- » any tax or interest or any other amount
- » is required to make application of refund on the common portal
- » within the time period of two years from the relevant date.
- » No time limit for refund application for Excess Balance in cash ledger

Section 54 sub section 2 of Central Goods and Service Tax Act 2017 states that following persons are eligible to claim refund of input tax credit subject to submission of refund application within six months from the quarter in which such supplies were received:

- » A specialized agency of the United Nations Organization or
- » Any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947
- » Consulate or Embassy of foreign countries or
- » Any other person or class of persons, as notified under section 55.

Relevant Date

Explanation 2 of Section 54 of Central Goods and Service Tax Act 2017 provides the relevant date under different scenario.

Nature of Refund	Condition	Relevant Date
Export of Goods: <ul style="list-style-type: none"> • Refund of tax paid or • ITC of inputs or input services used in such goods 	If Goods are exported by Sea or Air	Date on which ship or aircraft in which such goods are loaded leaves India
	If Goods are exported by Road	Date on which goods pass the frontier.
	If Goods are exported by Post	Date of Dispatch
Deemed Export of Goods		Date on which return relating to such deemed export is furnished
Export of Services: <ul style="list-style-type: none"> • Refund of tax paid or • ITC of inputs or input services used in such services 	Where Supply of Services completed prior to receipt of Payment	Date of receipt of Convertible Foreign Exchange
	Where payment received in advance	Date of issue of Invoice

Nature of Refund	Condition	Relevant Date
Refund as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court		Date of communication of such judgment, decree, order or direction
Refund of Input tax credit of inverted duty structure		Due date for furnishing of return under section 39 for the period in which such claim for refund arises

Some Important Case Laws

- Madras High Court cancels order of rejecting refund application without granting reasonable hearing opportunity in the case of World Home Textiles INC vs. The Additional Commissioner, The Assistant Commissioner of GST and Central Excise.
- Madras High Court set aside the order of Appellate Authority for denying refund claim of the assessee who claims refund under section 54(3) of CGST Act after claiming duty drawback under Custom Act, and holds that an option has been extended to an assessee engaged in zero-rated sale to either claim benefit of duty-drawback or refund of ITC. The said order of Appellate Authority shall be set aside on the ground that circular cannot stand in way of a benefit under a statutory scheme for “Paragraph 2.5 of the circular, in so far as it is contrary to the statutory provisions of Section 54(3) is bad in law” in the case of Chaizup Beverages LLP vs. Assistant Commissioner, Additional Commissioner of GST and Central Excise Appeals.
- Madras HC sets-aside orders rejecting exporter’s refund claim of CGST and IGST stating that assessee cannot be denied an eligible refund on ground of technical glitches and error having occurred due to auto-population in the case of Tvl. Mehar Tex vs. Commissioner of CGST and Central Excise.

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