

CHALLANENGES FACED BY EXPORTERS

(June, 2018)

1) Primer:

After introduction of GST from July 2018, exporters were facing lots of challenges more specifically on the compliances and the refund of taxes. Though compliances were toned down through various measures such as reducing the number of returns, no tax on advances received for supply of goods, granting exemption from payment under Reverse charge for procurements from unregistered dealers up to 30th of June 2018, etc. mode of getting refunds for exports were not available in the portal till the mid of October 2017.

Even after delayed availability, there were lot of technical glitches that forced the department to issue another circular for availing refunds of ITC under a manual route as an intermediate measure.

However exporters continue to face challenges. While the intention of the government was improve ease of obtaining refunds, this has not been appreciated as field formations continue to insist on needless documentation, most of which are anyway accessible online!!

2. Manual application or Hybrid?

Though the department may call it as manual route of refund, it is perhaps appropriate to call it 'hybrid' as it required the exporters to file refund electronically and manually:

- 1) File GST RFD 01A form online – where in the maximum permissible refund for a month is computed by the system (*This itself has some limitations discussed in the article*) and acknowledgment copy is generated
- 2) Take print out of acknowledgment copy, print out online RFD 01A form and again prepare a manual RFD 01A form and file everything with the jurisdictional officer along with required documents (*Documents?? – not notified initially*)

It is in the context of this 'Hybrid' route of refund that this Article is written highlighting the continuing difficulties and challenges faced by the exporters.

3. Refund of ITC – Difficulties owing to Portal deficiencies:

Exporters who had exports, but no ITC, or who had ITC but no exports in a particular tax period could not apply for refund for such tax periods. To overcome this difficulty, the Circular 37 proposed an option of filing refund for a quarter or by clubbing successive calendar months / quarters. This was to match the inputs of one tax period to its corresponding exports happening in the subsequent tax period or periods. **However the application on the common portal has not been updated to accept filing of refunds for successive months/quarters.**

4. Alternative to refund of ITC - Allow IGST paid route together with the Inverted duty structure route for Exporters of Leather:

Exporters, **predominantly of finished leather** are constrained to opt for refund of ITC rather than refund of IGST paid. This is because the output liability falls short of the Input Tax Credit i.e., when exporters of leather go and claim GST under rebate route, they are eligible to get refunds to the extent of output tax rate of exports only. Because of this the ITC involved on a particular export transaction is not refunded fully.

Further on the other hand, the process of obtaining refund of ITC under the Zero Rated Exports route, is not only time consuming, but tedious and saddled with very many documentary requirements.

In this regard, we would like to make the following suggestion:

- a) These exporters should apply for refund of the IGST paid.
- b) They shall also be permitted to apply for refund of left-over credit under the Inverted Duty Structure route.
- c) In other words, instead of opting for refund of ITC under Zero Rated Exports, the refund would be applied under 2 routes – IGST paid and Inverted Duty Structure.
- d) This comes with the following advantages:

- (i) Getting within few days, the amount of refund processed under automatic route
- (ii) Submission of documents for claiming refund under inverted duty structure is not so heavy as compared to the ITC refund on exports. Further the refund officer is also ensured that the refunds processed under this manual route are already tested transactions under the automated route of processing refunds.

Hence the author is of the view that this suggestion is not restricted /prohibited by the Act or Rules.

The Author request the Department to issue a clarification in this regard to help remove any apprehensions.

5. 180 day condition for ITC – Need for relaxation:

As per the ITC provisions under GST law, an assessee claiming Input tax credit is liable to make payment to the suppliers of inputs/input services and capital goods within 180 days. If he fails to comply, the input tax credit availed should be reversed along with interest.

The refund officer in its deficiency memo seeks details of payments made to suppliers in order check whether the exporter has complied with this condition. It is common knowledge that all exporters were reeling under severe working capital difficulties owing to non-receipt of refund.

It would be in the fitness of things to waive the condition of 180 days for ITC availed up to December 2017.

6. Processing of ITC refund - Additional documents called for :

Circular 37 clearly instructed field formations that the no documents other than the one listed therein should be insisted upon during processing of refunds. However the departmental officials continue to seek additional documents (please refer table below) and reject the refund application through deficiency memo. This causes avoidable delays in receipt of refund. This needs to be addressed.

Additional documents called for	Why not relevant?
Print outs of Electronic credit ledger	The same is accessible by department and is available in their records
BRC/FIRC for <i>Export of Goods</i>	FIRC/BRC is applicable only for Export of services and not goods as per GST law, rules and circular
Details of payments made to suppliers of input goods and input services	As discussed in point no 3 of this note
Chartered Accountant certificate certifying that the incidents of tax is not passed on to the customer	This is specifically excluded by GST rules for Export refund cases
Copy of Electronic General Manifesto	The same is accessible by department in ICEGATE records
Insisting reversal of entire CGST and IGST along with interest for the tax period where the exporter has applied for Full DBK	This claim by Proper Officer is not correct, as the law requires only reversal of such credit that got consumed on exports for which full DBK is claimed

7. Inability to reverse only CGST – Software problem

The Exporters who have availed the option of Full DBK during the extended period between July 17 to Sep 17 are not eligible to avail credit on CGST and IGST to the extent of inputs consumed for exports. An exporter is therefore required to reverse the CGST and IGST credit in its GSTR 3B.

Presently once an entry is made in the reversal of ITC column of CGST, the Return format automatically reverses an equal amount under SGST column also. There is no way the exporter can avoid this since it is automatically reversed. Therefore, to avoid reversal of SGST credit, the exporter is forced to abstain from reversing CGST credit also.

This software issue creates difficulties in compliance and needs to be immediately fixed as exporters may be saddled with interest and penalty for non-reversal.

8. Conclusion:

It is hoped that before the first anniversary of GST is celebrated, these irritants are removed.