

**FREQUENTLY ASKED QUESTIONS ON EXPORTS, REFUNDS AND OTHER MATTERS**  
*(February, 2018)*

**CA G.Srikanth & CMA R.Vignesh**

**1. What are the types of Exports under GST?**

Exports can be of the following types:

- a. Export of goods or services from India to outside India
- b. Deemed Export of goods from India to specified persons in India for Exports

**2. What are the routes under which one can make Exports for claiming refund?**

An exporter shall be eligible to claim refund under either of the two routes:

- a. Under Bond / Letter of Undertaking
- b. By payment of Integrated Tax

**3. What is the quantum of refund that one can apply under the above routes?**

Where an exporter supplies under Bond / LUT, he can apply for a refund of the Input Tax Credit (IGST, CGST and SGST) available for the month after setting of the GST liability.

Where an exporter supplies on payment of Integrated Tax, he can apply for refund of the integrated taxes so paid.

**4. Can an exporter alternate between these two forms of exports?**

There is nothing in the Act that prevents alternating between these two forms of exports. For instance, if an exporter has been supplying by payment of Integrated Tax and his input tax credits have been completely used-up in making the payment, he should be able to switch over to LUT route.

**5. What are the forms prescribed for application of refund under LUT Route?**

The following requirements shall be satisfied:

- a. Filing of GSTR 3B
- b. Filing of Form RFD 01 A electronically
- c. Download and Print Acknowledgement Receipt Number (ARN) from the Website
- d. Download and Print the RFD 01A
- e. Prepare a statement containing details of invoices and its corresponding shipping bills

- f. Approach Jurisdictional GST Officer and submit the RFD 01A, statement containing details of invoices and shipping bills and ARN.

**6. What are the forms prescribed for application of refund under IGST paid route?**

Generally, the Shipping Bill along with GSTR 1 is deemed to be an application for refund. The following requirements shall be noted:

- a. Filing of GSTR 3B
- b. Filing of GSTR 1 ( including 6A)

No other documents are required to be filed nor is there any manual interfacing required.

**7. What are the other precautions to be exercised to become eligible for refund?**

- a. Ensure details and amounts in Shipping Bill matches with GSTR forms.
- b. Ensure that the Export General Manifest is duly filed by Steamer Agent and details are matching with shipping bill.
- c. The above matching can be verified by logging on to [www.icegate.gov.in](http://www.icegate.gov.in) under GSTN Enquiry Menu.

**8. Which of the two routes is more beneficial to the exporter?**

It may be appreciated that in both cases, the refund cannot exceed the quantum of input tax credit lying in books on the date of claim. However, the IGST paid route seems more beneficial for the following reasons:

- a. The refund applied is the IGST paid with the help of the underlying ITC. Thus, if the IGT applicable is 18%, then the refund can be claimed for the entire 18%. In other words, the refund is not restricted to the ITC used to manufacture and export the subject products.
- b. The refund under IGST route does not involve any manual intervention and is supposed to be processed automatically.
- c. Even under the law, refund of ITC is granted upto 90% by the 7<sup>th</sup> day of getting the acknowledgement of RFD 01 and the balance within 60 days of application. Under IGST route, the entire amount will be credited once matching between GSTR, SB and EGM takes place.
- d. Refund of ITC on capital goods and transitional credits, are not possible under the LUT route, whereas the same can be used to pay IGST on exports.

**9. What is the quantum of unutilized input tax refund that can be claimed if the exporter chooses the LUT route?**

If the exporter applies for refund of ITC in respect of an export done under LUT, he can claim refund of ITC lying in credit in proportion of Export Sales to Local Sales. However, the form restricts the claim of refund only to the ITC earned for that particular month and does not permit claim of refund of previous month's ITC. This appears to be a technical glitch, which has to be set right. Further, there is also a view (as per Circular No.17 dated 15 Nov 2017) that the refund is available only in relation to the zero rated supplies. This is not in line with the provisions of the Act, though such a view is likely to be upheld so that disproportionate refunds are not issued.

- 10. An exporter has certain stock of materials as of 30 Jun e2017 which carries CENVAT/VAT element. This was not consumed for exports during the extended full DBK period upto 30 Sept and both the stock as well as the input tax credits remained in books. Can this credit be used to pay IGST on exports post 30 Sept 2017?**

As long as the materials which are represented by the transitional credits have not been used for exports under Full DBK, such transitional credits can be used in the form of CGST/SGST to pay IGST on exports.

## **DEEMED EXPORTS**

- 11. What is deemed exports?**

Where a domestic supplier supplies goods to any of the specified categories of exporters, such supply is a 'deemed exports'. As such, the domestic supplier need not export the goods directly outside India.

- 12. What are the categories of exporters referred above?**

They are:

- a. Holders of Advance Authorisation License;
- b. Holder of EPCG License
- c. Export Oriented Units
- d. Supply of gold by PSU or Bank to AA holder.

- 13. Is deemed exports exempt from GST, or zero rated?**

Deemed Exports is neither exempt from GST nor zero rated. Such supplies are subject to GST at appropriate rates.

- 14. What is the benefit of Deemed Exports? How will either party claim refund?**

Under Deemed Exports, either the supplier of Deemed Exports can collect GST from the Exporter, or he can supply upon payment of GST directly to the Government. In the first case, the Exporter may apply for refund under a special category of 'RECIPIENT OF DEEMED EXPORTS' in RFD 01 A and he will be entitled to refund of the input tax paid by him on such supply. It is to be noted that the refund is specific to that particular transaction and does not fall under 'refund under Zero Rated supplies'. Further, an undertaking from the supplier of deemed exports that he shall not apply for refund also has to be filed along with the application for refund.

In the second case, the Exporter gets the benefit of NIL rate of GST. The deemed exporter can apply for refund of the GST he has paid. This is possible only if the Exporter gives an undertaking permitting the Deemed Exporter to apply for refund and that he confirms that he has not taken credit / refund of the GST on that input supply. Strangely, the Act does not contain a provision under which Deemed Exporter can claim refund.

## **MERCHANT EXPORTER**

### **15. What is the relief granted to Merchant Exporters?**

In case of supplies to merchant exporters, the domestic supplier can charge GST of 0.1% (CGST 0.05% and SGST 0.05% or IGST 0.1%) instead of the regular GST rates. This benefits the exporter as his working capital blockage in the form of GST credits is substantially relieved.

### **16. Can the domestic supplier claim refund of the lower GST rates?**

The domestic supplier can claim refund of ITC under the Inverted Tax Structure principles. Circular 24/24/2017 dated 21 Dec 2017. However, such claims shall only be made manually. The prescribed form is RFD 01A.

### **17. Can the Exporter claim refund of the lower GST paid?**

The Exporter can claim refund of the lower GST paid [Sec 89(4) (b)]. It is to be noted that in respect of that particular shipment, the Exporter cannot go for IGST paid Route [Rule 96(9)].

## **HIGH SEAS AND IN BOND SALES**

### **18. What is the GST impact on High Seas Sales:**

Where the subject goods are sold before they enter the customs frontier of India, it is known as High Seas Sales. By virtue of Circular 33/2017-Cus it has been clarified

that IGST on such High Seas Sales does not apply and the final buyer alone has to pay GST.

#### **19. What is In-Bond Sales?**

In certain circumstances, the importer does not pay the duty immediately on arrival, but transfers to a Bonded Warehouse. An Into-Bond Bill of Entry is executed for the value of goods at the time of entering the customs frontier. It is also executed upon warehousing. Subsequently, such goods may be sold to a third party in India even when the goods are in Bond. This is referred to as In-Bond Sales.

#### **20. What is the GST impact on In-Bond Sales?**

Circular No 46/2017-Cus has clarified that where a person imports goods, transfers to a customs bonded warehouse and subsequently sells to a third party when the goods are still at Bond, the following tax consequences will arise:

- a. The Third party will clear the goods from the Warehouse at which point of time he files an Ex-Bond Bill of Entry. He will pay IGST at the assessable value at the time of entering customs in India.
- b. The Importer will raise a Sales Invoice with IGST on the third party on the value agreed upon with the third party.

Thus, it is clarified that where an exporter purchases raw materials on an In-Bond basis, he will suffer IGST twice.

A writ petition has been filed in the Delhi High Court against the double taxation.

\*\*\*\*\*