

## REFUND FOR EXPORTERS IN THE GST REGIME – A GAME CHANGER

G. Srikanth, FCA

GSV Associates

Chartered Accountants

### 1. Introduction:

In line with its policy of making Indian exports competitive in the global market, the Government of India has been implementing various schemes to relieve the exporters of duties and taxes paid on the inputs used in manufacturing and exporting goods and services. In this context, Duty Drawback (DBK) *inter alia* has been the mainstay of exporters of goods (after the DEPB scheme was shelved) and has been working reasonably efficiently, ensuring that exporters receive the reimbursements of duties and taxes as a percentage of the FOB value of Exports.

In the GST regime, the Government has decided to offer the reimbursements only through the refund route, and Duty Drawback has become a thing of the past. Mercifully, to enable Exporters to migrate smoothly into the GST regime, the All India rates of Duty Drawback has been extended for exports up to 30 Sept 2017 and thereafter, the Refund route will take over.

The big question in every Exporter's mind is whether the refund route will be atleast as efficient as the Drawback route and if the refunds will come on time. The apprehension is more pronounced when it comes to refund of State GST, as going by experience, obtaining VAT refund on exports has taken years to materialize, given the worsening financial position of many States.

### 2. Refund under the GST Regime:

#### 2.1. Refund of Input Taxes:

Exporters may opt for refund of the entire input taxes paid in relation to the exported goods. Under this mechanism, Exporters will need to adhere to the following procedures during exports:

- a. Execute a Bond or a Letter of Undertaking (LUT)<sup>1</sup> in GST RFD 11 prior to Exports and submit to jurisdictional Asst/Dy Commissioner of GST;
- b. Endorse on the Invoice “ **Supply meant for Exports under Bond or Letter of Undertaking without payment of Integrated Tax**”
- c. Tick the appropriate choice in the Shipping Bill to denote **export under Bond/LUT and no full rate of DBK is claimed.**

The choice between Bond and LUT itself depends on whether the Exporter satisfies the following conditions:

- a. He has received foreign inward remittances of atleast 10% of the export turnover of the previous year, which shall not be less than Rs. 1 crores; or
- b. He is a Status Holder in terms of Para 5 of FTP; and
- c. He has not been prosecuted for any offence under CGST/SGST or Old Act for an amount in excess of Rs. 2.50 lacs.

If the Exporter satisfies these conditions, he may execute an LUT instead of a Bond. On the contrary if the Exporter does not satisfy these conditions, he shall execute a Bond backed by a Bank Guarantee which shall not, in any case, exceed 15% of the Bond Value. The Bond can be a running Bond ( and not on a consignment to consignment basis) and is to be replenished every time it is exhausted. The LUT can be given for a maximum period of 12 months, without having to open one for each consignment.

Post exports, the Exporter has to apply for refund of input taxes in form GST RFD 01 giving in Statement 3 of the Annexure:

- Statement containing number and date of Shipping Bills / Bill of Exports
- Statement containing number and date of Export Invoices

---

<sup>1</sup> To pay the taxes and interest if exports does not take place within 3 months of raising the invoice; or to pay the taxes and interests in no foreign exchange realization takes place within 12 months of exports. Such taxes and interest is to be paid within 15 days of the aforesaid dates.

According to Rule 96A of the CGST Rules, 2017,:

- The details of Export Invoices filed in GSTR 1 ( Return of Outward Supplies) will be electronically transmitted to the Customs Portal for verifications of exports and a suitable confirmation will be sent from the Customs Portal to the GSTN Portal.
- The application for refund is processed by the department and an acknowledgement in GST RFD 02 is electronically sent to the Exporter.
- Assuming the claim is in order in all respects, a Provisional Refund of 90% is sanctioned by way of GST RFD 04 within 7 days of the acknowledgement. A payment advice in GST RFD 05 is issued towards and provisional refund and the electronic credit into the designated bank account is done.
- However, it has to be noted that where the Exporter has been prosecuted for any offence of the tax impact of more than 2.50 lacs in the previous 5 years, he may not be eligible for provisional refund.
- Within 60 days of the application, the balance of 10% is finally issued after necessary verification.

One understands from the above scheme, that the acknowledgement of refund application will be issued electronically only when the GSTR -1 and Customs Portal handshake and the fact of export is confirmed. Thus the 7-day period for provisional refund would count from date of receipt of acknowledgement which itself may be received only after monthly GSTR 1 is filed. If this is so, then the time lines for refund of input taxes get extended.

## **2.2. Refund of IGST paid on Exports:**

The alternative route for claiming refund is to pay the IGST on Exports at the appropriate rate of tax and claim refund of the IGST thus paid. The payment of the IGST can be made using the input tax credits available with the Exporter. Therefore, subject to availability of sufficient credits, the payment would not require any cash outflow. This route does not involve execution of Bond / LUT since taxes are paid, but the Export Invoice shall bear the

**endorsement “ Supply meant for export on payment of Integrated Tax”. The Shipping Bill shall also be suitably marked to show that full rate of DBK is not claimed and**

The Refund in this case shall require the Exporter to ensure the following:

File Shipping Bill + Export General Manifest + GSTR 3 ( Monthly Return).
--------------------------------------------------------------------------

In other words, GST RFD 01 is not relevant when the Exporter applies for refund of IGST paid. A Valid application is deemed to have been filed if the Shipping Bill and Export Manifest is filed and the monthly return in GSTR 3 or 3B ( for July and Aug 2017) is also filed.

Just as in the case of refund under Bond/LUT route, the export invoices as per GSTR 1 shall be electronically transmitted to the Customs Portal and a confirmation is sent to the GSTN Portal about the fact of exports. Thereafter, upon receipt of information that GSTR 3 has been filed, the Customs Portal would process the claim of refund for each Shipping Bill and the same shall be credited electronically to the designated bank account of the Exporter.

The time lines show that within 3 days of a valid application ( refer above), the acknowledgement will be electronically sent and within 7 days thereof ( CGST Rule 91), the provisional refund of 90% will be done based on confirmation of exports from the Customs Portal as mentioned hereinabove. The balance 10% would be issued within 60 days of the valid application.

Thus, it is gathered that the refund under this route would also require monthly returns to be filed so that the Customs and GSTN portals are able to validate the exports. Processing of refund would commence only post GSTR -3.

### **2.3. Exports under Duty Drawback:**

As mentioned earlier, Exporters have been given a breather till 30 Sept 2017 during which time, exports can be done under full rate of Duty Drawback. As per the Customs Guide to Imports and Exports, Exporters need to make sure the following:

- Exporter shall not claim full refund of Input Tax Credits
- Exporter shall not claim refund of IGST paid
- Exporter shall not carry over any CENVAT credit

A declaration to the effect has to be obtained from the Jurisdictional GST Officer which can be difficult. The Customs Department has issued an advisory that, since in the absence of such a certificate from the GST Officer, the Shipping Bill cannot move to the Let Export Order stage, Exporters may claim of lower rate of duty drawback ( and avoid this declaration to be submitted) in the Shipping Bill. Subsequently, when the Certificate is obtained, the Exporter may file a supplementary claim as per Drawback Rules and claim the full rate of DBK. Surely, not reassuring!

### **2.4. Refund under Old V Refund under GST – a Challenge:**

Post 30 Sept 2017, full rate of Duty Drawback will no longer be available. While it is goodbye to a tried and tested refund mechanism that kept most exporters happy, Exporters are now apprehensive that the replacement of DBK with Refund might adversely affect the operations. While working capital may be impacted if refunds do not come on time – note that that every transaction is impacted by GST -- Exporters also have to be proactive in renegotiating the prices of inputs with their suppliers. Anti-Profiteering Clause is quite clear – that the Industry shall pass on the benefit of seamless credit under GST as well as the rate of GST and to this extent the basic prices of inputs – particularly those procured from Dealers – should drop. In the new GST regime, it would be imperative for every exporter to conduct an Impact Study to understand how GST impacts Working capital, Interest costs, Cost of production, Profits and

Prices. Exporters will be able to make out how much of price reduction they would have to negotiate with suppliers as well as price increases with Buyers to maintain the same amount of profits in the old regime.

### **3. Summary:**

Unless the first set of refund applications are processed, one may not have a proper idea as to how things will turn-out on the ground. The manner in which the Act and the Rules are framed does not make for easy reading, leave alone, a clear understanding. Teething problems are bound to be present. Whether refund for July and August will be issued on time, given exporters would be filing GSTR – 3B ( consolidated monthly return) and not all the 3 returns? Will Exporters be required to file GSTR 1 for July and August ( for which there is time till Sept) to enable the Customs and GSTN portal to validate exports in terms of Rule 96 and 96A? One hopes that these and other questions will be addressed as quickly as possible to introduce certainty and predictability in the matter of exports and refunds.

\*\*\*\*\*