CHAPTER 7

EXPORT UNDER BOND OR LETTER OF UNDERTAKING

7.1 EXPORT UNDER BOND OR LETTER OF UNDERTAKING

Obtaining duty paid inputs, capital goods and input services and exporting the finished goods without payment of duty. This will result in the accumulation of input tax credit on the export as no IGST shall be payable on the export in this situation. Thereafter, claiming the credit of input tax paid on inputs and input services used in the export of such goods.

In respect of refund claimed for GST paid on inputs and input services used for exports once the export is established, verification of the GST paid on the inputs and input services as well as their utilization for the exports is required to be carried out.

Since in the instant case, the export of goods and/or services is done without the payment of IGST, therefore, the tax incurred on the input side which becomes accumulated shall be refunded has been dealt under Section 54(3) of the GST Act, 2017. Further, the entire refund procedure in this case is dealt with Rule 96A of the GST Rules, 2017.

Furnish bond or a Letter of Undertaking in FORM GST RFD-11 ***prior to export***

Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, *prior to export*, a bond or a Letter of Undertaking in ***FORM GST RFD-11*** to the ***jurisdictional Commissioner***, binding himself to pay the tax due along with the interest Section 50(1) within a period of -

(*a*) 15 days after the expiry of 3 months ***[or such further period as may be allowed by the Commissioner,]*** from the date of issue of the invoice for export, if the ***goods are not exported*** out of India; or

(*b*) 15 days after the expiry of 1 year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the ***payment of such services is not received*** by the exporter ***in convertible foreign exchange***.

Substantive benefit of zero-rating should not be denied where LUT has been applied after the actual zero-rated supply

- Export of goods or services can be made without payment of Integrated tax under the provisions of rule 96A of the CGST Rules.
- Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner **before** effecting zero rated supplies.
- A detailed procedure for filing of LUT has been specified vide ***Circular No. 8/8/2017-GST dated 4th October, 2017.*** It has been brought to the notice of the Board that in some cases, **such zero-rated supplies were made before filing the LUT** and **refund claims for unutilized input tax credit GOT FILED**.
- In this regard, CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has emphasized that the **substantive benefits** of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The same clarification was issued earlier in ***Circular No. 37/11/2018-GST dated 15th March, 2018,*** however, now the same is superseded by Master Circular.
- The delay in furnishing of LUT in such cases may be **condoned** and the facility for export under LUT may be allowed on ***ex post facto* basis** taking into account the facts and circumstances of each case.

Proper Officer should not insist for payment of tax where the conditions of exports has been fulfilled after the expiry of specified time period in specified cases

Rule 96A(1) of the CGST Rules provides that any registered person may export goods or services without payment of Integrated tax after furnishing a LUT/bond and that he would be ***liable to pay the tax due along with the interest as applicable within a period of:***

- **If the goods are not exported out of India:** ***15 days after the expiry of 3 months****(or such further period as may be allowed by the Commissioner)* from the date of issue of the invoice for export.
- **If the payment of such services is not received by the exporter in convertible foreign exchange:** The time period in case of services is ***15 days after the expiry of 1 year****(or such further period as may be allowed by the Commissioner)* from the date of issue of the invoice for export,

It has been reported that the exporters have been asked to pay IGST where the ***goods have been exported but not within 3 months*** from the date of the issue of the invoice for export.

In this regard, CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has **emphasized** that exports have been zero rated under the IGST Act and **as long as goods have actually been exported** even after a period of 3 months, payment of IGST first and claiming refund at a subsequent date should not be insisted upon. In such cases, the **jurisdictional Commissioner** may consider **granting extension of time limit for export** as provided in the said sub-rule *on post facto basis* keeping in view the facts and circumstances of each case. The same clarification was issued earlier in ***Circular No. 37/11/2018-GST dated 15th March, 2018,*** however, now the same is superseded by Master Circular.

The same principle should be followed in case of export of services.

Self-declaration by the applicant in respect of EACH refund claim "that he is not prosecuted" is not required.

It has been learnt by the CBIC that some field formations were asking for a ***self-declaration with every refund claim*** to the effect that the applicant has not been prosecuted. The facility of export under LUT is available to all exporters in terms of ***Notification No. 37/2017- Central Tax dated 4th October, 2017***, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds INR 2.5 crore. Para 2(d) of the ***Circular No. 8/8/2017-GST dated 4th October, 2017***, mentions that a person intending to export under LUT is required to give a ***self-declaration at the time of submission of LUT*** that he has not been prosecuted. In simple words, persons who are not eligible to export under LUT are required to export under bond. Accordingly, it has been clarified by the CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT ***is not warranted***. The same clarification was issued earlier in ***Circular No. 37/11/2018-GST dated 15th March, 2018,*** however, now the same is superseded by Master Circular.

Proper officer should not insist for LUT/Bond in case of export of exempt or non-GST supply

- Section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an ***exempt supply***.
- Section 2(*47*) of the CGST Act, exempt supply ***includes non-taxable supply***.
- Section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both ***under bond or letter of undertaking (LUT)*** or ***makes such supply on payment of Integrated tax***.

On perusal of the aforesaid sections, it can rightly be said that zero-rated supplies need to be under either of the options i.e. either LUT/Bond or on payment of IGST. However, it has been clarified by the CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** that only in cases of zero-rated supply of **exempted or non-GST goods**, the requirement for furnishing a bond or LUT ***cannot be INSISTED upon.***

However, such registered persons exporting **non-GST goods** shall comply with the ***requirements prescribed under the existing law*** (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, it been clarified that the exporter would be ***eligible for refund of unutilized input tax credit*** of Central tax, State tax, Union Territory tax, Integrated tax and compensation cess in such cases.

Key points for claiming refund of accumulated ITC on export of goods and/or services under Bond or LUT:

1. The taxpayer has to file refund application GST RFD-1 at GST Portal.
2. The taxpayer have to mention turnover of Zero-Related supplies and Adjusted Total Turnover in a State or UT for the period refund is sought for and the net ITC (the ITC availed during the period refund is sought for).
3. System will auto calculate the eligible refund amount and post in the last column of table.
4. Applicant has to ensure that he has filed the return (GSTR- 3B) of the period for which Refund is sought.
5. Balance in ITC ledger should be sufficient in each head (IGST/CGST/SGST/UTGST/CESS).
6. He should have exported goods/service on account of which he is claiming ITC refund.
7. In case of export of ***services***, he should have obtained FIRC/BRC from the concerned bank.
8. Application Reference Number (ARN) is generated.

No refund where the goods exported are subjected to export duty

As per *second proviso* to Section 54(3) of the GST Act, 2017, no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to **export duty**.

No refund if the supplier avails drawback in respect of central tax or integrated tax

As per *third proviso* to Section 54(3) of the GST Act, 2017, no refund of input tax credit shall be allowed, if the supplier of goods and/or services **avails**

of drawback in respect of **central tax** or claims refund of the integrated tax paid on such supplies.

Status of Drawback in GST regime: No amendments have been made in the drawback provisions (Section 74 or Section 75) under Customs Act, 1962 in the GST regime. Section 74 is applicable when imported goods are re-exported as it is, and article is easily identifiable while section 75 is granted when imported materials are used in the manufacture of goods which are then exported. Hence, the drawback scheme will continue in terms of both section 74 and section 75.

Duty Drawback: In case of goods which were earlier imported on payment of duty and are later sought to be exported within a specified period, Customs duty paid at the time of import of the goods, with certain cuts, can be claimed as Duty Drawback at the time of export of such goods. Such Duty Drawback is granted in terms of Section 74 of the Customs Act, 1962 read with Re-export of Imported Goods (Drawback of Customs Duty) Rules, 1995. For this purpose, the identity of export goods is cross verified with the particulars furnished at the time of import of such goods. Where the goods are not put into use after import, 98% of Duty Drawback is admissible under Section 74 of the Customs Act, 1962. In cases the goods have been put into use after import, Duty Drawback is granted on a sliding scale basis depending upon the extent of use of the goods.

Brand Rate: Brand rate of drawback is falling under two categories. Firstly, the exporter's product has not been listed in the Duty drawback schedule. Secondly, the exporter considers the listed rate of drawback is insufficient to fully neutralize the duties suffered by his export product. Here in both the above circumstances, exporter opts for the brand rate of duty drawback.

Section 74 of Customs Act: Drawback under Section 74 will refund Customs duties as well as Integrated Tax and Compensation Cess paid on imported goods which are re-exported. Further, it has been clarified vide ***Circular No. 21/2017-Customs dated 30th June, 2017*** that the drawback under Section 74 would ***include refund of IGST and Compensation Cess along with the basic customs duty, etc.***

Requirement of Certificate for the purpose of Section 74 ***(Circular No. 21/2017-Customs dated 30th June, 2017)***: In order to prevent dual benefit while sanctioning drawback under Section 74 of the Customs Act, 1962, it may be ensured that a **certificate** duly signed by the **Central/State/UT GST officer**, having jurisdiction over the exporter is obtained, that:

- **No credit** of integrated tax/compensation cess paid on imported goods has been availed or
- **No refund** of such credit or integrated tax paid on re-exported goods has been claimed.

All other extant instructions in respect of drawback claims under Section 74 remain unchanged.

Section 75 of Customs Act: Option of All Industry Rate (AIR) as well as Brand Rate under Section 75 shall also continue. Earlier, Duty Drawback Scheme under Section 75 neutralises Customs duty, Central excise duty and Service Tax chargeable on any imported materials or excisable materials used or taxable services used as input services in the manufacture of export goods. Under GST regime, Drawback under Section 75 ***shall be limited to Customs duties*** on imported inputs and Central Excise duty on items specified in Fourth Schedule to Central Excise Act, 1944 (specified petroleum products, tobacco etc.) used as inputs or fuel for captive power generation.

Existing drawback scheme under Section 75 of the Customs Act to continue during transition period of 3 months: In order to ensure smooth transition to the GST regime, Government has allowed the extant Duty Drawback Scheme to continue for a period of three months i.e. from 1.7.2017 to 30.9.2017 vide *Notification numbers 58/2017-Cus (N.T.) & 59/2017-Cus (N.T.), both dated 29.6.2017, which are effective from 1.7.2017* read with *Circular No. 22/2017-Customs dated 30th June, 2017*. The exporter may, for exports made during this period, continue to claim the composite rates i.e. rates and caps given under columns (4) and (5) respectively of the Schedule of AIRs of duty drawback, subject to certain additional conditions. During the transition period, exporters can also claim Brand rate of duty/tax incidence as they have been doing earlier.

The conditions imposed for claiming these composite rates aim to ensure that:

- The **exporters do not claim** composite AIRs of **duty drawback and simultaneously avail input tax credit** of CGST or IGST on the export goods or on inputs and input services used in manufacture of export goods or claim refund of IGST paid on export goods.
- An **exporter claiming composite rate** shall also be **barred to carry forward Cenvat credit** on the export goods or on inputs or input services used in manufacture of export goods in terms of the CGST Act, 2017.
- The **exporters** have to give a **declaration** and **certificates** as prescribed in this Notification at the time of export.
- **Similar checks** shall apply while determining the **Brand rate of drawback**.
- While a transition period of three months has been allowed, the exporters shall have an option to claim **only Customs portion of AIRs of duty drawback** i.e. rates and caps given under columns (6) and

(7) respectively of the Schedule of AIRs of duty drawback and **avail input tax credit of CGST or IGST or refund of IGST paid on exports**.

A **certificate** from jurisdictional GST officer in this regard has been prescribed in the notification related to AIRs. As per Systems design, whenever higher rate (composite rate) of drawback is claimed, the non-availment of credit certificate is a mandatory document and unless it is recorded as available, shipping bill will not move to LEO stage. In such a situation, all field formations shall ensure that exports are not delayed for requirement of the said certificate. The way out in such situation for the exporter is to amend the shipping bill to claim lower rate. The exporter will have an option to file supplementary claim as per Drawback Rules at a later date once the certificate is obtained. (*See* **Appendix**)

This will prevent double availment of neutralisation of input taxes. Similarly, the exporter can claim brand rate for Customs, Central Excise duties and Service Tax during this period.

Exporters also have the option of claiming only the Customs portion of AIR and claim refund/ITC under GST laws.

Clarification regarding the requirement of Certificate : CBIC *vide* ***Circular No. 32/2017-Customs dated 27th July, 2017*** stated that various issues have been highlighted by field formations and exporters regarding the requirement of a certificate to be obtained from the jurisdictional GST officer prescribed *vide*:

- Note and Condition 12A of *Notification 131/2016-Cus (N.T.), dated 31-10-.2016*
- Amendment to the aforesaid Notification *vide Notification 59/2017-Cus (N.T.), dated 29-6-2017*. The **certificate** aimed to ensure that there was **no double neutralisation of taxes** by way of **credit/refund and drawback**. However, in view of factors such as absence of clarity about jurisdictional GST officer, time lag between exports and the requisite returns to be filed under GST laws, etc., the said certificate from GST officer may not be available immediately at the time of export.

Self-declaration rather than Certificate from GST Officer: Keeping in mind the above difficulties, the Government has amended Note and Condition 12A of Notification 131/2016-Cus (N.T.), dated 31-10-2016 by *Notification 73/2017-Cus (N.T.), dated 26-7-2017* and **dispensed with the requirement of the certificate from GST** officer to claim higher rate of drawback. To facilitate exports, the higher rate of drawback can be claimed on the basis of **self-declaration** to be provided by exporter in terms of revised Note and Condition 12A of aforesaid Notification.

Insertion and amendment in Condition 12A:

Clause 12A	Notification 131/2016-Cus (N.T.), dated 31-10-2016	*Notification 59/2017-Cus (N.T.), dated 29-6-2017*	*Notification 73/2017-Cus (N.T.), dated 26-7-2017*
Notification With Effect From	15th November, 2016	1st July, 2017	26th July, 2017
Action Taken	There was no Clause 12A	Inserted Clause 12A	Amended Clause 12A
The rates and caps of drawback specified in columns (4) and (5) of the said Schedule shall be applicable to export of a commodity or product if the exporter satisfies the following conditions, namely			
Condition (a)/a(i)		The exporter shall **declare**, and if necessary, establish to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, that -No input tax credit of the CGST or IGST has been availed: On the export product or On any of the inputs or input services used in the manufacture of the export product	The exporter shall **declare**, and if necessary, establish to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, that -No input tax credit of the CGST or IGST has been availed: On the export product or On any of the inputs or input services used in the manufacture of the export product
Condition (b)/a(ii)		If the goods are exported under bond or letter of undertaking or on payment of IGST, - A **certificate** from the officer of goods and services tax having jurisdiction over the exporter, to the effect that: -**No input tax credit** of the CGST or IGST has been availed on the export product or	If the goods are exported on payment of IGST, -The exporter shall **declare** that no refund of IGST paid on export product shall be claimed.

		on any inputs or input services used in the manufacture of the export product or -**No refund** of IGST paid on export product shall be claimed, is produced;	
Condition (c)/(b)		A **certificate** from the officer of goods and services tax having jurisdiction over the exporter, to the effect that:	The exporter shall **declare**, and if necessary, establish to the satisfaction of the Assistant Commissioner of
		-Exporter has **not carried forward the amount of Cenvat credit** on the export product or on the inputs or input services used in the manufacture of the export product, under the Central Goods and Services Tax Act, 2017 (12 of 2017), is produced.	Customs or Deputy Commissioner of Customs, as the case may be, that: -The exporter has **not carried forward and shall not carry forward the amount of Cenvat credit** on the export product or on the inputs or input services used in the manufacture of the export product, under the Central Goods and Services Tax Act, 2017 (12 of 2017).

Supersession of Notification 131/2016-Cus (N.T.), dated 31-10-2016 : *Vide* Notification No. 89/2017-Customs (N.T.) dated 21st September, 2017 with effect from 1st October, 2017.

Definition of Drawback: As per section 2(*a*) of the **Customs and Central Excise Duties Drawback Rules, 2017** introduced *vide* ***Notification No. 88/2017-Customs (N.T.) dated 21st September, 2017*** defines "drawback" in relation to any goods manufactured in India and exported, means the rebate of duty ***excluding:***

- Integrated tax leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) **and**
- Compensation Cess leviable under sub-section (9) respectively of section 3 of the Customs Tariff Act, 1975 (51 of 1975)

chargeable on any imported materials or excisable materials used in the manufacture of such goods.

Clarification in respect of refund of unutilized credit when drawback is availed - Master Circular No. 125/44/2019-GST dated 18th November, 2019

Provision	Drawback	Refund of ITC
Third proviso to section 54(3) states that ***no refund of input tax credit*** shall be allowed in cases where the supplier of goods or services or both avails of ***drawback in respect of Central tax***.	Supplier avails of drawback in respect of **duties** rebated under the Customs and Central Excise Duties Drawback Rules, 2017	He shall be ***eligible for refund of unutilized input tax credit*** of CGST/SGST/UTGST/IGST/Compensation Cess.
	Supplier of goods or services or both has availed of drawback in respect of **Central tax**.	It is clarified that refund of eligible credit on account of State tax shall be available.

The same clarification was issued earlier in ***Circular No. 24/24/2017-GST dated 21st December, 2017 &Circular No. 37/11/2018-GST dated 15th March, 2018*** however, now the same is superseded by Master Circular.

Cases where IGST refunds have not been granted due to claiming higher rate of drawback OR where higher rate and lower rate were identical - *Circular No. 37/2018-Customs dated 9th October, 2018*

Notes and condition (11) of Notification No. 131/2016-Customs (NT) dated 31.10.2016 (as amended by Notification No. 59/2017-Customs (NT) dated 29.6.2017), under which All Industry Rates of Drawback had been notified and which were applicable for availing composite rates during period in question (i.e. 1st July, 2017 to 30th September, 2017), prescribed that 'The rates and caps of drawback specified in columns (4) and (5) of the said Schedule **shall not be applicable** to export of a commodity or product if such commodity or product is:

(*d*) *exported claiming refund of the integrated goods and services tax paid on such exports.*

Further, Notes and Condition (12A) of Notification No. 131/2016-Customs (NT) dated 31.10.2016 (as amended by Notification No. 59/2017-Customs (NT) dated 29-6-2017 and 73/2017-Customs (NT) dated 26.7.2017) prescribed that 'The rates and caps of drawback specified in columns (4) and (5) of the said Schedule **shall be applicable** to export of a commodity or product if the exporter satisfies the following conditions, namely:

(*ii*) *If the goods are* ***exported on payment of integrated goods and services tax****, the exporter shall* ***DECLARE*** *that* ***no refund of integrated goods and services tax paid on export product shall be claimed****;*

In terms of Rules 12 and 13 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, the **shipping bill** itself is **treated as claim for drawback** in terms of the declarations made on the shipping bill.

The **DECLARATIONS** required in terms of above Notes and Conditions and provisions of the Drawback Rules are made electronically in the EDI System. When composite drawback rate was claimed (by declaring suffix A or C with Drawback serial number), exporter was required to tick DBK002 and DBK003 declarations in the shipping bills. In fact, for period 1st July, 2017 to 26th July, 2017, a manual declaration was also required to be given as the changes made on 26th July, 2017 were made applicable for exports made from 1st July, 2017 onwards.

By declaring drawback serial number suffixed with A or C and by making above stated declarations, the **exporters consciously relinquished their IGST/ITC claims**.

CBIC has noted that exporters had availed the option to take drawback at higher rate in place of IGST refund out of their own volition. Considering the fact that exporters have made aforesaid declaration while claiming the higher rate of drawback, it has been decided that ***IT WOULD NOT BE JUSTIFIED ALLOWING EXPORTERS TO AVAIL IGST REFUND AFTER INITIALLY CLAIMING THE BENEFIT OF HIGHER DRAWBACK***.

Duty Drawback scheme in Customs at the glance

(*i*) No amendments have been made to the drawback provisions (Section 74 or Section 75) under Customs Act, 1962 in the GST regime.

(*ii*) However, the duty drawback rules have substantially been amended and new Customs and Central Excise Duties Drawback Rules, 2017 with effect from 01.10.2017, have been issued. (Notification No. 88/2017-Customs (N.T) dated 21st September, 2017)

(*iii*) The definition of drawback has been amended to exclude Integrated Tax and GST Compensation Cess, hence no refund of any of the GST taxes.

(*iv*) A new Duty Drawback schedule, comprising of only one rate for every product irrespective of whether ITC is taken by the exporter or not has been introduced with effect from 01.10.2017. (Notification No. 89/2017-Customs (N.T) dated 21st September, 2017)

(*v*) The rates of drawback have substantially been reduced. The earlier rebate had been done away with. Instead now, refund of integrated tax, if paid by the exporter, is refunded by Customs.

(*vi*) The refund of integrated tax is irrespective of whether drawback is taken by the exporter or not.

(*vii*) The drawback scheme will continue in terms of both section 74 and section 75. Option of All Industry Rate (AIR) as well as Brand Rate under Section 75 shall also continue.

(*viii*) Drawback under Section 74 will refund Customs duties as well as Integrated Tax and Compensation Cess paid on imported goods which are re-exported. However, a part of the Integrated Tax and Compensation Cess paid on imported goods would have gone to the respective States/UT, therefore, the same can only be refunded only if the concerned State/UT has not refunded it and the importer has not taken ITC of the same.

(*ix*) The Central Government has notified the revised All Industry Rates (AIRs) of Duty Drawback vide Notification No. 95/2018-Customs (N.T.) dated 6.12.2018 which will come into force on 19.12.2018. Certain clarifications has been issued in this regard vide ***Circular No. 52/2018-Customs dated 12th December, 2018.***

Availability of Drawback at higher rate to exporters who do not avail Input Tax Credit (ITC) like presently available to those who do not avail CENVAT credit

Prior to GST, there were two All Industry Rates (AIRs) of duty drawback on exports. The higher rate rebated Customs duties, Central Excise duties and Service tax on inputs or input services used in the manufacture of export goods subject to the condition that no input credit i.e. CENVAT credit was claimed. The lower rate rebated Customs duties on inputs and Central excise duty on fuel for generation of captive power, used in the manufacture of export goods.

In the post GST era, as Central Excise duties and Service Tax have been subsumed in GST, for which full input tax credit is available, only single rate of AIRs have been continued.

Therefore, there will be no difference in rate of Drawback for exporters not availing ITC in GST regime. In GST regime, drawback will be admissible only at lower rate determined on the basis of customs duties paid on imported materials used in the manufacture of export goods. However, as an export facilitation measure, for the transition period of 3 months from July to September, 2017, drawback at higher composite rates were continued to be granted subject to the condition that no input tax credit of CGST/IGST was claimed, no refund of IGST paid on export goods was claimed and no CENVAT credit was carried forward.

Refund of IGST paid on goods exported out of India could have been withheld only in circumstances arising in rule 96(4) of CGST Rules and could not have been withheld for reason that higher rate of drawback was claimed

Applicant a cotton ginning mill being a registered person claimed refund of IGST paid in regard to goods exported *i.e.* 'Zero Rated Supplies'. Respondent authorities held that applicant had availed higher duty drawback at rate of 1 per cent, hence, would not be entitled to seek refund of IGST paid in connection with said 'zero rated supplies'. It was informed that, had, applicant claimed drawback at rate of 0.15 per cent instead of 1 per cent, their refund would have been sanctioned. Applicant, thus gave back excess drawback claimed along with interest. However, even then, refund of IGST was not granted on ground that there was no provision for accepting refund of such higher duty drawback. Respondent also relied upon Circular No. 37/2018-customs dated 9-10-2018 to deny refund. It has been held that Refund of IGST paid on goods exported out of India could have been withheld only in circumstances arising in rule 96(4) of CGST Rules and could not have been withheld for reason that higher rate of drawback was claimed. It has also been held that Circular relied upon by the Respondent to deny refund apart from being in form of instructions or guidance to concerned department was dated 9-10-2018 whereas export took place on 27-7-2017.

Case Name	Court	Decision On	Citation
Amit Cotton Industries *v.* Principal Commissioner of Customs	HC	27th June, 2019	[2019] 107 taxmann.com 167 (Gujarat)

GST authorities were to be directed to pay IGST minus higher rate of duty drawback already availed where petitioner claimed refund of IGST in relation to goods exported

Case Law	Court	Citation
G Nxt Power Corp. *v.* Union of India	Kerala High Court	[2019] 109 taxmann.com 305 (Kerala)

- Petitioner being an exporter contended that he was entitled for refund of IGST during transition period. However, GST authorities objected by pointing out that the petitioner had already drawn or availed the higher rate of duty drawback and, therefore, while ordering refund of IGST, the petitioner was required to refund the higher rate of duty drawback already availed by it with interest.
- The Hon'ble Court held that the respondents are given liberty to **adjust** the amount already availed by the petitioner on account of higher rate of duty drawback and pay the balance of IGST payable to the petitioner.

Calculation of refund amount of unutilized input tax credit

CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has clarified that the common portal calculates the refundable amount as the least of the following amounts:

(*a*) The maximum refund amount **as per the formula** in rule 89(4) or rule 89(5) of the CGST Rules [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];

(*b*) The balance in the electronic credit ledger of the applicant **at the end of the tax period for which the refund claim is being filed** after the return in FORM GSTR-3B for the said period has been filed; and

(*c*) The balance in the electronic credit ledger of the applicant **at the time of filing the refund application**.

The same clarification was issued earlier in ***Circular No. 59/33/2018-GST dated 4th September, 2018,*** however, now the same is superseded by Master Circular.

Calculation of refund amount of Compensation Cess

CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has clarified that for all refund applications where refund of unutilized ITC of compensation cess is being claimed, the calculation of the refundable amount of compensation cess shall be done separately and the amount so calculated will be entirely debited from the balance of compensation cess available in the electronic credit ledger.

Debit of amount calculated from the electronic credit ledger in a specified order

CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has clarified that after calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

(*a*) IGST, to the extent of balance available;

(*b*) CGST and SGST/UTGST, **equally** to the extent of balance available and in the event of a **shortfall** in the balance available in a particular electronic credit ledger (say, CGST), the differential amount **is to be debited from the other electronic credit ledger** (*i.e.,* SGST/UTGST, in this case).

No adverse view can be taken in case the specified order is not adhered by the applicant: The order of debit described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are **advised** to follow the order as explained above for all refund applications. However, for applications where this order is not adhered to by the applicant, *no adverse view may be taken by the tax authorities.* The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01 is generated. The same clarification

was issued earlier in ***Circular No. 59/33/2018-GST dated 4th September, 2018,*** however, now the same is superseded by Master Circular.

Formula of input tax credit to be refunded in case of export of goods and/or services under the Bond or LUT

As per Rule 89(4) of the GST Rules, 2017, in the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017, refund of input tax credit shall be granted as per the following formula:

Particulars	Old Formula	New Formula
With Effect From		Vide ***Notification No. 75/2017-CT dated 29th December, 2017*** substituted with retrospective effect from 23rd October, 2017
Refund amount	(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) × Net ITC ÷Adjusted Total Turnover	(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) × Net ITC ÷ Adjusted Total Turnover
(A) Meaning of Refund amount	Maximum refund that is admissible	Maximum refund that is admissible
(B) Net ITC [Note 2]	ITC availed on inputs and input services during the relevant period	ITC availed on **inputs** and **input services** during the **relevant period** *other than the input tax credit availed for which refund is claimed under sub-rule (4A) or (4B) or both* [Note 1]
(C) Turnover of zero-rated supply of goods	Value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking	Value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, *other than the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or (4B) or both*
(D) Turnover of zero-rated supply of services	Value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-	Value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Particulars	Old Formula	New Formula
	◆ Zero-rated supply of services is the ***aggregate of the payments received*** during the ***relevant period*** for zero-rated supply of services, **AND** ◆ Zero-rated supply of services where ***supply has been completed for which payment had been received in advance*** in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period	◆ Zero-rated supply of services is the ***aggregate of the payments received*** during the ***relevant period*** for zero-rated supply of services, **AND** ◆ Zero-rated supply of services where ***supply has been completed for which payment had been received in advance*** in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period
(E) Adjusted Total turnover	Turnover in a State or a Union territory, as defined under section 2(112), ***excluding***: ◆ The value of exempt supplies other than zero-rated supplies	The clause (E) has been substituted vide ***Notification No. 39/2018-Central Tax dated 4th September, 2018*** which means the sum total of the value of - (*a*) the turnover in a State or a Union territory, as defined under clause (*112*) of section 2, excluding the turnover of services; and (*b*) the turnover of zero-rated supply of services determined in terms of clause (*d*) above and non-zero-rated supply of services, ***excluding*** - (*i*) the value of exempt supplies other than zero-rated supplies; and (*ii*) the turnover of supplies in respect of which refund is

Particulars	Old Formula	New Formula
		claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period. *Earlier, it was* *Turnover in a State or a Union territory, as defined under Section 2(112), **excluding**:* ◆ *The value of exempt supplies other than zero-rated supplies* ***AND*** ◆ *The turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both,* *if any, during the relevant period*
(F) Relevant period	The period for which the claim has been filed.	The period for which the claim has been filed.

The aforesaid refund amount has to be furnished in Statement-3A to Annexure 1 of the FORM GST RFD-01 (*See* **Appendix**).

Note 1 : Rule 89(4A)

Old Provision	New Provision
	Substituted *vide* ***Notification No. 03/2018- CT dated 23rd January, 2018*** with retrospective effect from 23rd October, 2017.
◆ In the case of supplies received by the recipient ◆ On which the supplier has availed the benefit of ***Notification No. 48/2017-Central Tax dated 18th October, 2017***,	◆ In the case of supplies received by the recipient ◆ On which the supplier has availed the benefit of the Government of India, Ministry of Finance,
◆ Refund of input tax credit, availed in respect of ***other*** inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.	***Notification No. 48/2017-Central Tax dated the 18th October, 2017*** published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (*i*), *vide* number G.S.R. 1305(E) dated the 18th October, 2017,

Old Provision	New Provision
	◆ Refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

Rule 89(4B)

Old Provision	New Provision
	Substituted *vide* ***Notification No. 03/2018- CT dated 23rd January, 2018*** with retrospective effect from 23rd October, 2017.
◆ In the case of supplies received ◆ On which the supplier has availed the benefit of: ■ Notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 or ■ Notification No. 41/2017-Integrated Tax (Rate) dated 23rd October, 2017, or ■ Both ◆ Refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of ***other*** inputs or input services to the extent used in making such export of goods, shall be ***granted***.	◆ In the case of supplies received ◆ On which the supplier has availed the benefit of: ■ The Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (*i*), vide number G.S.R. 1320(E) dated the 23rd October, 2017 or ■ Notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (*i*), *vide* number G.S.R. 1321(E) dated the 23rd October, 2017 or ■ Notification No. 78/2017-Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (*i*), *vide* number G.S.R. 1272(E) dated the 13th October, 2017 or

Old Provision	New Provision
	■ Notification No. 79/2017-Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (*i*), *vide* number G.S.R. 1299(E) dated the 13th October, 2017, or ■ All of them, ◆ Refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of ***other*** inputs or input services to the extent used in making such export of goods, shall be ***granted.***

Note 2 :

ITC on invoices shall be considered as the part of the relevant period in which ITC has been availed instead of the month in which invoice is being issued

Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self-declaration basis in FORM GSTR-3B for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2018, may be declared in the FORM GSTR-3B filed for a subsequent month, say September 2018. This is inevitable in cases where the supplier raises an invoice, say in August, 2018, and the goods reach the recipient's premises in September, 2018. Since GST law mandates that ITC can be availed only after the goods have been received, the recipient can only avail the ITC on such goods in the FORM GSTR-3B filed for the month of September, 2018. However, it has been reported that tax authorities are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September, 2018.

In this regard, it is clarified by the CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** that "Net ITC" as defined in rule 89(4) of the GST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. *Input tax credit can be said to have been "availed" when it is entered into the electronic credit ledger of the registered person.* Under the current dispensation, this hap-

pens when the said taxable person files his/her monthly return in FORM GSTR-3B. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2019, "availed" in September, 2019 cannot be excluded from the calculation of the refund amount for the month of September, 2019.

The aforesaid clarification was issued earlier in ***Circular No. 79/53/2018-GST dated 31st December, 2018,*** however, now the same is superseded by Master Circular.

ITC is available of taxes paid on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, etc.

It has been represented to the CBIC that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the ***grounds that these are not directly consumed in the manufacturing process*** and therefore, do not qualify as input. There are also instances where ***stores and spares charged to revenue are considered as capital goods*** and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the applicant.

CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has clarified that:

- The ITC of the GST paid on inputs, including inward supplies of stores and spares, packing materials etc., shall be **available as ITC** as long as these inputs are ***used for the purpose of the business and/or for effecting taxable supplies***, including zero-rated supplies, and the ITC for such inputs is ***not restricted under section 17(5)*** of the CGST Act.
- Further, capital goods have been clearly defined in section 2(*19*) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

The same clarification was issued earlier in ***Circular No. 79/53/2018-GST dated 31st December, 2018,*** however, now the same is superseded by Master Circular.

Transitional credit cannot be said to be availed during the relevant period as the same has been availed under the existing law

The formulae use the phrase 'Net ITC' and defines the same as "***input tax credit availed*** on inputs and input services ***during the relevant period*** other than the input tax credit availed for which refund is claimed under sub-rule (4A) or (4B) or both".

It is clarified by the CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** that as the ***transitional credit*** pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, ***the same cannot be said to have been availed during the relevant period*** and ***thus, cannot be treated as part of 'Net ITC'*** and ***thus no refund of such unutilized transitional credit is admissible.***

Calculation of refund amount of unutilized input tax credit

CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has clarified that the common portal calculates the refundable amount as the least of the following amounts:

(*a*) The maximum refund amount **as per the formula** in rule 89(4) or rule 89(5) of the CGST Rules [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];

(*b*) The balance in the electronic credit ledger of the applicant **at the end of the tax period for which the refund claim is being filed** after the return in FORM GSTR-3B for the said period has been filed; and

(*c*) The balance in the electronic credit ledger of the applicant **at the time of filing the refund application**.

The same clarification was issued earlier in ***Circular No. 59/33/2018-GST dated 4th September, 2018,*** however, now the same is superseded by Master Circular.

Calculation of refund amount of Compensation Cess

CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has clarified that for all refund applications where refund of unutilized ITC of compensation cess is being claimed, the calculation of the refundable amount of compensation cess shall be done separately and the amount so calculated will be entirely debited from the balance of compensation cess available in the electronic credit ledger.

Debit of amount calculated from the electronic credit ledger in a specified order

CBIC vide ***Master Circular No. 125/44/2019-GST dated 18th November, 2019*** has clarified that after calculating the least of the three amounts, as

detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

(*a*) IGST, to the extent of balance available;

(*b*) CGST and SGST/UTGST, **equally** to the extent of balance available and in the event of a **shortfall** in the balance available in a particular electronic credit ledger (say, CGST), the differential amount **is to be debited from the other electronic credit ledger** (i.e., SGST/UTGST, in this case).

No adverse view can be taken in case the specified order is not adhered by the applicant: The order of debit described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are **advised** to follow the order as explained above for all refund applications. However, for applications where this order is not adhered to by the applicant, *no adverse view may be taken by the tax authorities*. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01 is generated. The same clarification was issued earlier in ***Circular No. 59/33/2018-GST dated 4th September, 2018,*** however, now the same is superseded by Master Circular.

Filing frequency of Refunds:

Various representations have been made to the CBIC regarding the period for which refund applications can be filed. Section 2(107) of the CGST Act defines the term "tax period" as the period for which the return is required to be furnished. The terms 'Net ITC' and 'turnover of zero rated supply of goods/services' are used in the context of the relevant period in rule 89(4) of CGST Rules. The phrase 'relevant period' has been defined in the said sub-rule as 'the period for which the claim has been filed'.

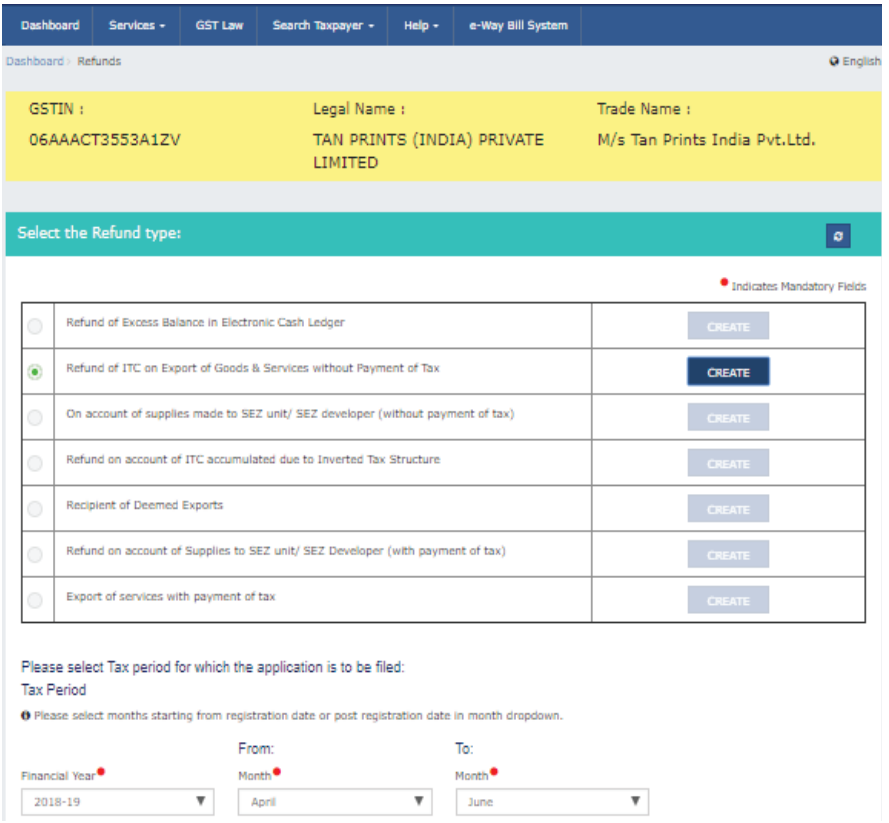
In many scenarios, exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed. Similarly, there may be cases where exports may have been made in a period but no input tax credit has been availed in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.

In this regard, it is hereby clarified that the exporter, at his option, may file refund claim for one calendar month/quarter or by clubbing successive calendar months/quarters. The calendar month(s)/quarter(s) for which refund claim has been filed, however, cannot spread across different financial years.

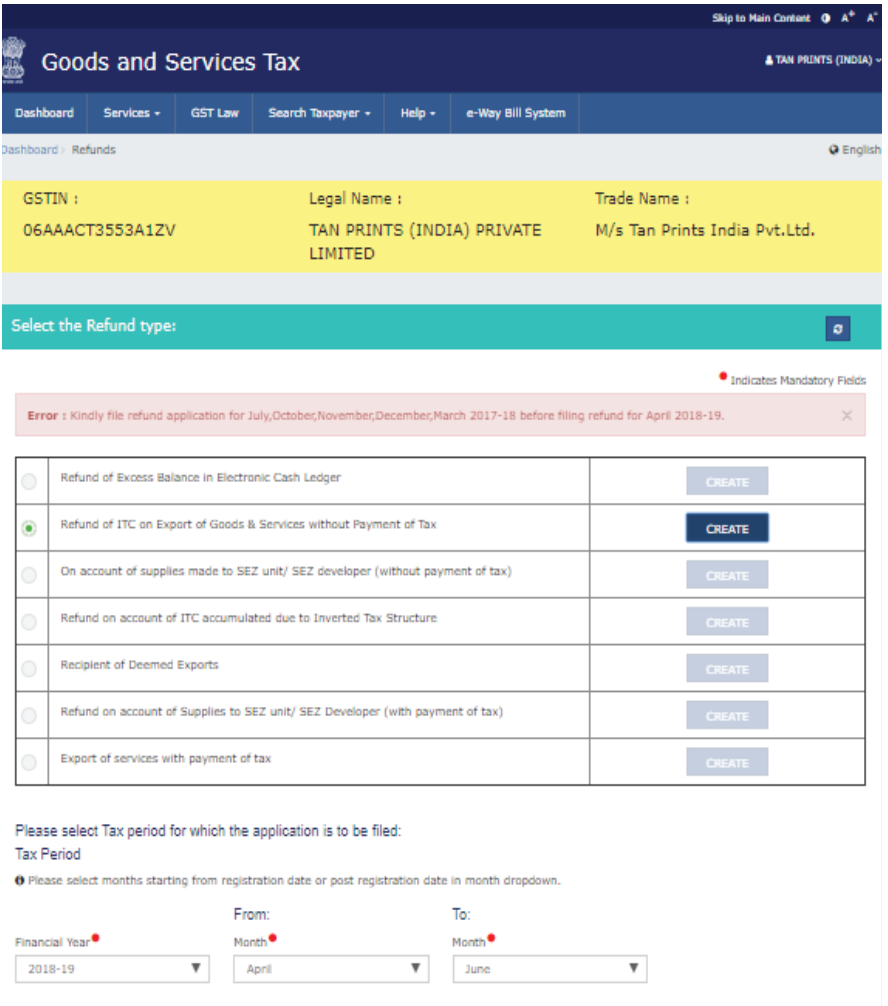
In regard to the filing frequency, GST Common Portal has now come up with the functionality to allow taxpayer to file refund application for multiple tax period in respect of export of goods and/or services without

payment of tax. The following points needs to be ensured while filing refund application for multiple tax periods:

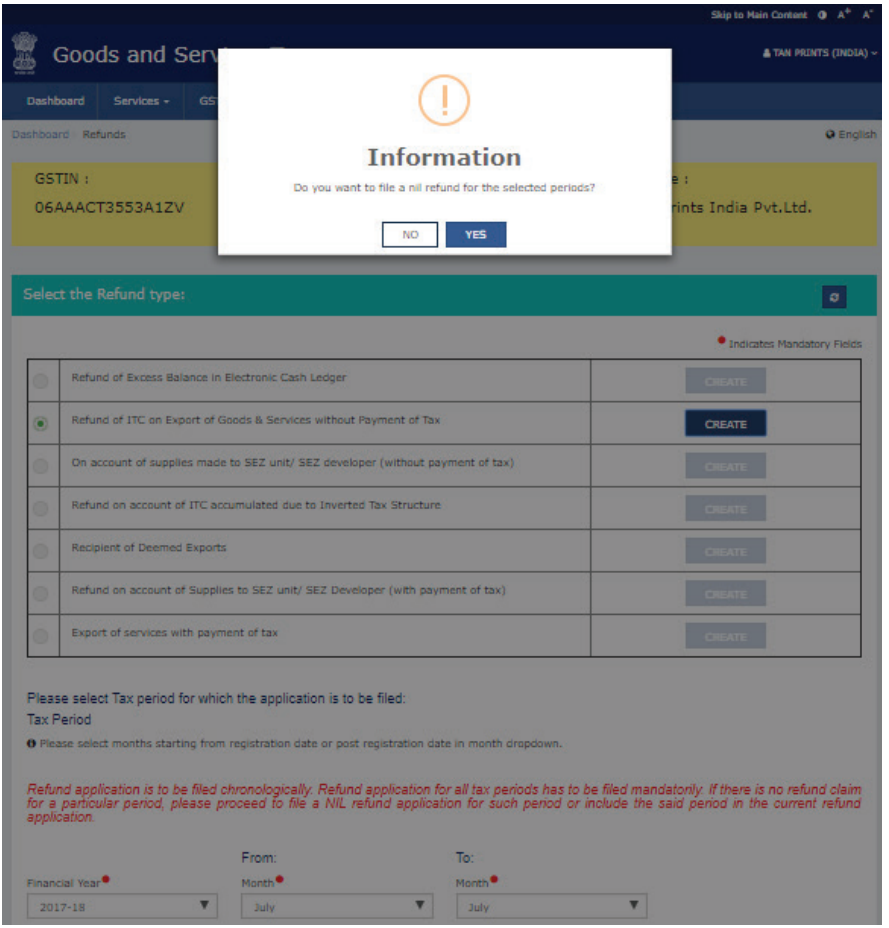
- Refund application can be filed using refund application Form GST-RFD-01. The tax period can be selected i.e. single tax period as well as a range of tax period.

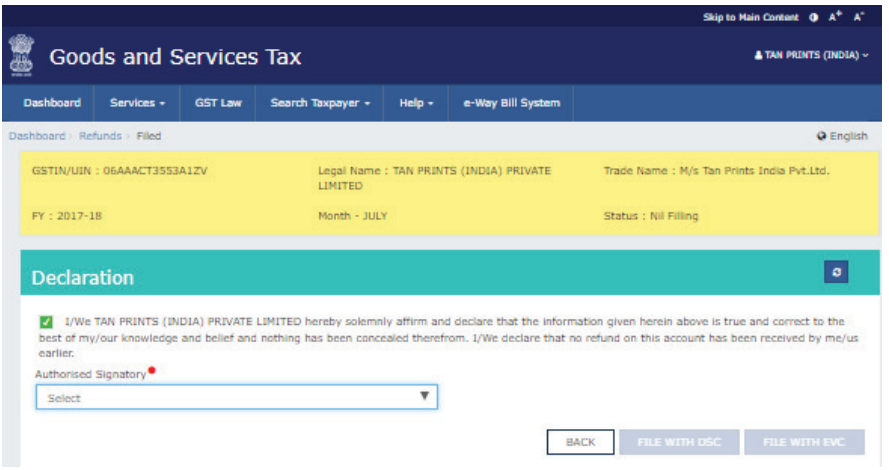


- The multiple tax period application should be within financial year as it can be observed that first the Financial Year has to be selected.
- Due to the applicability of this approach, it has been noted that the refund application has to be filed chronologically for the tax periods.
- Refund application for all tax periods has to be filed mandatorily.
- In case, the refund application for the earlier tax period is not filed then an error message will pop-up requesting the taxpayer to file refund application for the earlier tax periods before filing the refund for the current tax period.



- If there is no refund claim for a particular tax period then ***proceed to file NIL REFUND APPLICATION*** for such tax period. Alternatively, the said tax period can be included in the current refund application.


Skip to Main Content
Goods and Serv
TAN PRINTS (INDIA)
Dashboard
Services
Dashboard Refunds
English
GSTIN :
06AAACT3553A1ZV
Information
Do you want to file a nil refund for the selected periods?
NO
YES
Select the Refund type:
Indicates Mandatory Fields
Refund of Excess Balance in Electronic Cash Ledger
Refund of ITC on Export of Goods & Services without Payment of Tax
CREATE
On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)
Refund on account of ITC accumulated due to Inverted Tax Structure
Recipient of Deemed Exports
Refund on account of Supplies to SEZ unit/ SEZ Developer (with payment of tax)
Export of services with payment of tax
Please select Tax period for which the application is to be filed:
Tax Period
Please select months starting from registration date or post registration date in month dropdown.
Refund application is to be filed chronologically. Refund application for all tax periods has to be filed mandatorily. If there is no refund claim for a particular period, please proceed to file a NIL refund application for such period or include the said period in the current refund application.
From:
To:
Financial Year
Month
2017-18
July


Skip to Main Content
Goods and Services Tax
TAN PRINTS (INDIA)
Dashboard
Services
GST Law
Search Taxpayer
Help
e-Way Bill System
Dashboard Refunds Filed
English
GSTIN/UIN : 06AAACT3553A1ZV
Legal Name : TAN PRINTS (INDIA) PRIVATE LIMITED
Trade Name : M/s Tan Prints India Pvt.Ltd.
FY : 2017-18
Month - JULY
Status : Nil Filling
Declaration
I/We TAN PRINTS (INDIA) PRIVATE LIMITED hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom. I/We declare that no refund on this account has been received by me/us earlier.
Authorised Signatory
Select
BACK
FILE WITH DSC
FILE WITH EVC

- For claiming refund, taxpayer would have to ***upload invoice details*** mandatorily in the statement template available in the refund application itself.
- The ***statement*** uploaded by taxpayers will be ***validated*** by system from the invoice data declared/provided by the taxpayer at the time of filing ***return*** for that period for which refund is claimed.
- Only ***after validating*** data from system, the taxpayer would be able to ***file*** refund application.
- All the invoice details are to be provided in a ***single statement***.
- Taxpayer is ***not*** required to upload ***multiple statements for different periods separately***.
- After filing refund application, taxpayer would not be able to claim refund for that invoice again in some other refund application as the system will ***lock the invoice*** for which refund is claimed in one application.
- The taxpayer would ***not*** be able to ***amend*** invoice details after claiming refund
- Taxpayer can also attach any other ***supporting document***, if required 4 documents can be uploaded with a single refund application in pdf format. Maximum size allowed for a document is 5MB.
- After filing of refund application by taxpayer, refund application Form GST-RFD-01A along with the statement and documents uploaded shall be available to ***tax officer for review and processing*** of refund.
- As the functionality for multiple tax period has been made available, therefore to ***avoid duplication***, the refund applications saved for individual tax periods in the GST system will be purged and removed from the system.

7.1-1 Refund of tax paid on exports of goods under Bond or Letter of Undertaking

Rule 96A of the GST Rules, 2017 deals with the refund of IGST in case of export of goods and/or services under Bond or LUT.

Form for claiming refund: The application for refund of tax paid on export of the goods exported out of India shall be filed in FORM GST RFD-01.

In order to claim the accumulated input tax credit, it needs to be established that the exports has taken place. For this purpose, the details of export invoices needs to be furnished in GSTR 1 which in turn shall be cross-verified from the Customs system.