

Refund of taxes under GST

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CGST Act, 2017 - Chapter-XI : Refunds

Section	Description
54	Refund of tax
55	Refund in certain cases
56	Interest on delayed refunds
57	Consumer Welfare Fund
58	Utilization of Fund

CGST Rules, 2017 - Chapter-X : Refund

Rule	Description
89	Application for refund of tax, interest, penalty, fee or any other amount
90	Acknowledgement
91	Grant of provisional refund
92	Order sanctioning refund
93	Credit of the amount of rejected refund claim
94	Order sanctioning interest on delayed refunds
95	Refund of tax to certain persons
95A	Refund of taxes to the retail outlets in departure area of an international airport ...
96	Refund of integrated tax paid on goods or services exported out of India
96A	Export of goods or services under bond or Letter of Undertaking
97	Consumer Welfare Fund
97A	Manual filing and processing

Situations, in which refund is statutorily provided for

- Export of goods or services (IGST or unutilized ITC)
- Supplies to SEZs units and developers
- Deemed Export supplies
- Refund of taxes on purchase made by UN or embassies etc.
- Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
- Refund of accumulated ITC on account of inverted duty structure
- Finalization of provisional assessment
- Refund of pre-deposit
- Excess payment due to mistake

Situations, in which refund is statutorily provided for

- Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India
- Refunds to retail outlets in departure area of international airports
- Refund on account of issuance of refund vouchers for taxes paid on advances, against which goods or services have not been supplied
- Refund of CGST & SGST paid by treating the supply as intra-State supply, which is subsequently held as inter-State supply and vice versa
- Refund of balance in electronic cash / credit ledger

Refund Procedure: general [Section 54]

- Refund application to be made before expiry of 2 years from the relevant date [as defined in Expln-2 to Section 54(14)]
- Refund of unutilized ITC available only in case of: (a) zero-rated supplies made without payment of tax, and (b) inverted duty structure, provided that:
 - Goods exported are not subjected to export duty
 - No drawback of CGST or refund of IGST paid on export supplies is claimed.
- Refund application to be primarily accompanied with: (a) evidence to prove that refund is due, and (b) non-application of unjust enrichment
- A person paying tax deemed to have passed on full incidence of such tax to recipient, unless the contrary is proved – unjust enrichment [Section 49(9)]
- Proof of non-application of unjust enrichment not required, if amount claimed as refund is less than two lakh rupees and a self-declaration suffices
- If deficiencies pointed out, application filed after removal of deficiencies treated as fresh application
- No refund payable, if amount is less than one thousand rupees

Refund Procedure: general [Section 54]

- Proper officer to adjudicate the application and refund, if admissible, creditable to Consumer Welfare Fund, except in the following cases, where it is to be paid to Applicant:
 - Refund of IGST on exports
 - Refund of unutilized ITC in case of exports and inverted duty structure
 - Refund of tax paid on a supply, not provided either wholly or partly
 - Refund in pursuance of Section 77 (inter-state v. intra-state supply)
 - Tax and interest or any other amount, if no unjust enrichment
- In case of refund on account of zero-rated supplies, 90% of total amount claimed to be refunded on provisional basis, subject to final adjudication of the claim, except where claimant prosecuted in last 5 years
- Final adjudication order to be issued within 60 days from receipt of completion application
- For any delay in sanction of refund beyond 60 days, interest @ 6% payable under Section 56
- In case of refund arising out of orders in litigation, interest payable @ 9%, after expiry of 60 days from the date of refund application filed consequent to such order
- Proper officer empowered to withhold / adjust refund in specified cases

Refund Procedure: recent updates

- Decision of Hon'ble Supreme Court in ***Union of India v. VKC Footsteps India Private Limited, 2021-TIOL-237-SC-GST***: Refund of ITC on input services/capital goods in case of inverted duty structure
- Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
 - GST Council's 45th meeting on 17.09.2021
 - Amendment to Rule 89 vide Notification No. 35/2021-CT, dated 24.09.2021: refund to be made within 2 years from the date of payment of correct tax

Refund in certain cases [Section 55]

- Government empowered to notify any person or class of persons, including any specialized agency of UNO or multilateral financial institutions or organizations notified under the UN (P&I) Act, 1947
- Such notified persons eligible to claim refund of taxes paid on notified supplies of goods or services or both received by them
- Application for refund to be made before expiry of 6 months from the last day of the quarter, in which supply was received

Refund – calculation and issues

- Refund of unutilized ITC in zero-rated supplies:

Turnover of zero-rated supply of goods + services

$$\text{Refund amount} = \frac{\text{Turnover of zero-rated supply of goods + services}}{\text{Adjusted total turnover}} * \text{Net ITC}$$

- Refund in case of inverted duty structure:

Turnover of inverted rated supply of goods + services

$$\text{Refund amount} = \frac{\text{Turnover of inverted rated supply of goods + services}}{\text{Adjusted total turnover}} * \text{Net ITC} - \text{tax payable on inverted rated supplies}$$

- Turnover of zero-rated supply of goods to be actual turnover or 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less
- Net ITC in case of inverted duty structure defined to mean ITC availed on inputs only, resulting in no refund of ITC on input services / capital goods – whether it is ultra vires Section 54(3)

Refund: other issues

- Section 16(3) of the IGST Act proposed to be amended vide Section 123 of the Finance Act, 2021 (yet to be made effective), to:
 - provide for repayment of refund of unutilized ITC in export of goods, for failure to realize sale proceeds, within 30 days after expiry of time-limit provided under the FEMA Act, 1999 for receipt of foreign exchange remittances [Rule 96B]
 - restrict the export of goods or services on payment of IGST, only to specified class of persons or goods/ services

Refund: other relevant points

- Refund of IGST paid on exports:
 - Shipping bill filed by an exporter of goods deemed to be application for refund of IGST
 - For refund of IGST on export of services, refund application to be filed separately in Form GST RFD-01
- Persons claiming refund of IGST paid on export of goods or services should not have claimed benefit of notifications specified in Rule 96(10)
 - Is restriction applicable to person or goods
 - Explanation introduced in 2020 with retrospective effect: Payment of IGST and compensation cess and exemption on BCD only
- Manual filing and processing of refund treated at par with electronic processing, in terms of Rule 97A

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THANK YOU!

FOR ANY SUPPORT OR ADDITIONAL INFORMATION WRITE TO:

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