



Presents a booklet on

Refunds under GST

CGST Act 2017: Chapter-XI : Section 54 to 58

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Central Tax Notifications

Notification 10/2017	Refund Rules Notified (Rules 89 to 97)
Notification 15/2017	New Rule 96A Added
Notification 17/2017	Rule 89 Amended
Notification 27/2017	New RFD-01 Form changed w.r.e.f. 01-07-2017
Notification 39/2017	Empowers authorised officers appointed under the respective SGST Act, 2017 or the UGST Act, 2017 to act as proper officers for the purpose of sanction of refund under CGST Act except for refund on account of export of goods after payment of taxes
Notification 47/2017	Rule 89 Amended (person eligible to claim refund in case of Deemed Exports) Rule 96A Amended (additional time period allowed for export) Changes in Form RFD-01 (Statement 2 & 4)
Notification 49/2017	Seeks to notify the evidences required to be produced by the supplier of deemed export supplies for claiming refund under rule 89(2)(g) of the CGST rules, 2017.
Notification 51/2017	Rule 96 & 96A amended (Refunds through GSTR-1E)
Notification 55/2017	New Rule 97A (RFD-01A Manual Form)
Notification 70/2017	Changes in Form RFD-01 & RFD-01A (Deemed Exports & Inverted Tax Structure)

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Notification 5/2017	Restriction on refund claim due to inverted tax structure restricted on some goods.
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1.01 Overview

Refunds under indirect tax laws may arise due to many reasons, be it excess tax deposited by mistake, export of goods or services, refund under any decree of court, some wrong calculations done by the dealer or otherwise.

Under the GST regime, some of the reasons which may result in refund of tax are:

1. A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified by the government under section 55 of CGST Act'2017 may claim the refund of Input tax paid by them on inward supplies availed by them.
2. A registered person making zero rated supplies under bond or LUT may claim refund of input tax paid by him on his inward supplies.
3. A registered person making zero rated supplies after payment of taxes may claim refund of tax paid by him on his outward export supplies.
4. In case, a registered person making supplies chargeable at lower rate of tax while his inputs being charged at higher rate of tax, may also claim refund of such excess ITC paid by him. Including supplier of goods to merchant exporters who are allowed to supply goods at special rate of 0.10% vide notification no. 41/2017-Integrated(Rate).
5. In case tax is deposited under protest, and thereafter decision or some decree of court comes in favour of the registered person, based on such order a registered person may also claim refund of tax.
6. In case of mistake on part of a registered dealer, regarding taxability of a particular supply as inter-state supply or intra-state supply as a consequence of which tax been deposited under a wrong head, such registered person shall first deposit the tax due under right head & thereafter may make an application for refund of tax deposited under the wrong head.
7. In case of mistake on part of a registered dealer, while determining nature of a particular supply, as supply of goods or supply of services, as a consequence of which tax calculation goes wrong and some excess tax been deposited by him, such registered person may also file application for claim of refund of excess tax deposited.
8. In case of Deemed Exports, refund can be claimed either by the supplier or the recipient.
9. In case where tax is paid on advance received by the supplier and eventually supplies not made due to cancellation of contract or for any other reason, refund in such cases may also be filed by the registered person. One important point to note here is that, as per notification no. 40/2017 – Central Tax dated 13th October 2017, registered person whose aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees or the registered person whose aggregate turnover in the year in which such person

has obtained registration is likely to be less than one crore and fifty lakh rupees and who did not opt for the composition levy under section 10 of the said Act, shall pay the central tax on the outward supply of goods at the time of supply as specified in clause (a) of sub-section (2) of section 12 of the said Act including in the situations attracting the provisions of section 14 of the said Act. In other words such person is not required to pay tax on advance received from customers.

Separate conditions and provisions have been prescribed under the GST regime, for availing refund of tax claimed under different circumstances. Doctrine of unjust enrichment which is applicable on availing refund of additional customs duty, excise duty & service tax under the current taxation laws is now also adopted into this GST regime. Unjust enrichment is a legal concept referring to situations in which one person is enriched at the expense of another in circumstances which the law treats as unjust. In case, a registered person has passed on the burden of the duty to his customers by charging them the tax on supplies made to them, it will not be justifiable to give him refund of such tax and thus provide him double benefit. Ideally in such cases refund of tax, if any, should be paid to customer who has borne the burden of tax. However since practically it is not feasible to identify such consumer and pay refund to him, so in such cases refunds under GST should be transferred to the Consumer Welfare Fund maintained by the government, unless a registered person proves to the satisfaction of the proper officer that he has not passed on burden of tax to another person.

A registered person making zero rated supply shall be eligible to claim refund in accordance with the provisions of section 54 of the Central Goods and Services Tax Act and the rules made there under. He shall be eligible to claim refund under either of the following options, namely:

(a) He may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of un-utilised input tax credit; or

(b) He may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied.

So an exporter shall obtain refund of integrated tax paid on export of goods or services of both. Whereas, in case of exports made without payment of integrated tax, exporter may claim refund of input tax credit which remains un-utilised after setoff with his output tax liability.

Procedure to obtain refund in case of export of goods or services or both under bond or Letter of Undertaking are different from the procedure to obtain refund in case of export on payment of integrated tax. In order to avoid the financial hardships to the exporters due to unnecessary delays in issuing of refunds, provisions to issue provisional refunds in case of exports are also provided in the GST Act. Also by the time online modules to process and issue refunds are not ready with the government, temporary facility for manual filing and processing of refunds under GST are also made available to the registered person.

1.02 Refund on export of goods after payment of IGST.

In case a supply of export is made after payment of integrated tax, the shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and no separate application for refund is required to be filed by the exporter.

However, the claim for refund shall be deemed to have been filed only when:-

(a) the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

(b) The applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR-3B;

The details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India. However, since FORM GSTR-1 was not available for filing on the common portal, so to expedite the process of refund, notification no. 51/2017 Central Tax dated 28-10-2017 provided the facility to file such refund claims through Table 6A of GSTR-01, which was made available online as a separate form termed as Form -1E and provisions were made so that the information in Table 6A furnished by the registered person shall be auto-drafted in FORM GSTR-1 for the said tax period, hence necessary amendments were made in Rule 96 & Rule 96A of CGST Rules 2017.

Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

Customs department on 7th November 2017 issued a circular no. 42/2017-Customs explaining the common errors that are hindering the disbursement of IGST refunds in the month of July'2017, these are:

1. Incorrect Shipping Bill number in GSTR-1.
2. Incorrect Invoice number in GSTR-1.
3. Mismatch of IGST paid in invoice with IGST declared in shipping bills.
4. Mismatch in information furnished in Export General Manifest(EGM).
5. Wrong bank accounts given to customs.

So, these common errors must be taken care of at the time of filing returns and custom declarations.

1.03 Refund on export of services after payment of IGST.

As per Clause 5 Section 2 of IGST Act'2017, "export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India.

However, as per clause 6 Section 2 of IGST Act'2017, (6) "export of services" means the supply of any service when,—

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

Since, for a particular supply to qualify as export of services, some additional restrictions have been placed under clause 6 Section 2 of IGST Act'2017, so refund on account of export of services with or without payment of tax is not automatic and it has to be made in form RFD-01. However, since FORM RFD-01 was not available for filing on the common portal, so to expedite the process of refund, notification no. 55/2017 Central Tax and circular 17/17/2017-GST both dated 15-11-2017 provided the facility to file such refund claims through form GSTR-1A, which was to be filed manually for such refunds, hence a new Rule 97A along with form RFD-01A & RFD-01B was also introduced in CGST Rules 2017.

1.04 Refund of unutilised input tax credit due to inverted tax structure or refund on export made under LUT / Bond without payment of IGST.

If the claim of refund is made, on the ground of zero rated supplies made without payment of tax or where the credit has accumulated on account of inverted tax rate structure i.e. where rate of tax on inputs are higher than the rate of tax on output supplies, a registered person may claim refund of any such unutilized input tax credit at the end of any tax period but before the expiry of two years from the relevant date in Form RFD-01. Here also, since FORM RFD-01 was not available for filing on the common portal, so to expedite the process of refund, notification no. 55/2017 Central Tax and circular 17/17/2017-GST both dated 15-11-2017 provided the facility to file such refund claims through form GSTR-1A, which was to be submitted online and then filed manually along with required documents for claiming such refunds, hence a new Rule 97A along with form RFD-01A & RFD-01B was also introduced in CGST Rules 2017.

Point here to note is that unutilized tax credit due to inverted tax structure is not available for making nil rated or fully exempt supplies, because section 17 restricts the input tax credits on exempt supplies, however when the same exempt supplies are made as zero rated supplies, then as per subsection 2 of section 16 of IGST Act'2017, the input tax credit is available on such supplies and refund for the same may also be claimed.

As per clause (ii) to first proviso of subsection 3 of section 54, Government may notify some supplies, in respect of which no refund of unutilized input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods. So, Government vide Notification No.5/2017-Central Tax (Rate) (amended by notification no. 29/2017 dated 22-09-2017 and further amended by notification no. 44/2017 dated 14-11-2017) exercised this power and notified following goods in respect of which no refund of unutilized input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods. These goods are as follows:

S. No.	Tariff heading, item, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
6A.	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials. (added by not. no. 44/2017 dtd. 14-11-2017)
6B.	5801	Corduroy fabrics. (added by not. no. 29/2017 dtd. 22-09-2017 amended by notification 44/2017 dtd. 14-11-2017)
6C.	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs) (added by not. no. 44/2017 dtd. 14-11-2017)
7.	60	Knitted or crocheted fabrics [All goods]
8.	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9.	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
10.	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11.	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)
12.	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)

However in case such supply qualifies for zero rated supply under section 16 of IGST Act'2017, then refund for these aforesaid supplies is also available. The same has also been clarified through circular no. 18/18/2017-GST dated 16-11-2017 though it was for only 3 items but in our opinion the same clarification is applicable for all such items.

On the same lines, another **Notification No.15/2017-Central Tax (Rate)** was issued which provides that, no refund of unutilized input tax credit shall be allowed under sub-section (3) of section 54 of the said Central Goods and Services Tax Act, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act. Schedule II item 5(b) is also reproduced below:

“construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.”

So in case of consideration received for supply in nature of construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, no refund of unutilized input tax credit shall be allowed. However, where such consideration is received after issuance of completion certificate i.e. consideration is received for supply of an immovable property, then it is out of purview of GST and no GST is leviable on such supplies, so question of availing input tax credit itself does not arise.

One important point here to note is that, under the GST regime, refund of un-utilised input tax credit shall not be allowed:

- in cases where the goods exported out of India are subjected to export duty; or
- if the supplier avails of drawback in respect of central tax paid on such supplies; or
- if the supplier claims refund of the integrated tax paid on such supplies of exports.

1.04.01 Calculation of refund amount in case of refund on account of inverted tax structure.

As per sub-rule (5) of rule 89 of CGST Rules 2017, in the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula -

Maximum Refund Amount =
{(Turnover of inverted rated supply of goods) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods

Where

"Net ITC" means input tax credit availed on inputs and input services during the relevant period;

"Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;

As per clause (112) of section 2 of CGST Act'2017

“turnover in State” or “turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess.

1.05 Conditions for claiming refund on export made under LUT / Bond without payment of IGST.

On 1st July 2017, CBEC issued a notification no. 15/2017-Central Tax, whereby Rule 96A was inserted in CGST Rules'2017, which was further amended vide notification no. 47/2017-Central Tax to provide that, any registered person availing the option to export goods or services 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 specified under sub-section (1) of section 50 within a period of —

- (a) fifteen days after the expiry of three 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) fifteen days after the expiry of one 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.

Same provisions shall apply, *mutatis mutandis*, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.

Where the goods are not exported within the time specified as specified above and the registered person fails to pay the tax due along with the interest specified under sub-section (1) of section 50, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

However, the export as allowed under bond or Letter of Undertaking withdrawn above shall be restored immediately when the registered person pays the amount due.

1.06 Procedure for claiming refund on export made under LUT / Bond without payment of IGST.

Refund on export of goods under LUT / Bond without payment of IGST shall be made in Form RFD-01. A registered person may claim refund of any such unutilized input tax credit at the end of any tax period but before the expiry of two years from the relevant date in Form RFD-01.

Refunds under GST in all the situations other than in case of refund of tax on account of integrated tax paid on exports and refund claims filed by specialized agencies as mentioned in section 55 of CGST Act'2017 shall be made in Form RFD-01. As discussed earlier, since FORM RFD-01 was not available for filing on the common portal, so to expedite the process of refund, notification no. 55/2017 Central Tax and circular 17/17/2017-GST both dated 15-11-2017 provided the facility to file such refund claims through form GSTR-1A, which was to be submitted online and then filed manually along with required documents for claiming such refunds.

1.07 Amount eligible for refund of integrated tax paid on inputs related to export made under bond or LUT.

Manner of calculation of amount of claim eligible for refund in case of exports made under bond or Letter of Undertaking is provided in Rule 89(4) of CGST Rules 2011. In case of zero-rated supply without payment of tax under bond or letter of undertaking, refund of input tax credit shall be granted as per the following formula:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where:

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;
- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking;
- (D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-
- Zero-rated supply of services is the aggregate of the
- Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and
 - **Add:** 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
 - **Less:** 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" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;
- (F) "Relevant period" means the period for which the claim has been filed.

1.08 Power to withhold refunds

Government may withhold refunds not only in case of exports made without payment of tax, but under some circumstances refund of tax paid on exports may also be withheld. Section 54(10) of CGST Act 2017 and subrule 4 of Rule 94 of CGST Rules 2017 generally talks about the withholding of GST refunds.

1.08.01 *Refund of utilised input tax credit arising due to inverted tax structure or due to export made without payment of IGST.*

As per sub-section 10 of section 54, in case of claim of refund under sub-section 3 of section 54, where a registered person has defaulted in furnishing any return or where a registered person has defaulted in payment of tax, interest or penalty which he is required to pay and which has not been stayed by any court, Tribunal or Appellate Authority by the last date for filing such an appeal under this Act, the proper officer may:

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be; or

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

An important point to note here is that the power to withhold refund is provided for those refunds which are claimed under sub-section 3 of section 54. Refund claim on account of unutilized input tax credit in case of zero rated supplies made without payment of tax and inverted tax structure can be withheld for non filing of returns or non payment of taxes along with interest and penalties due.

To withhold other refunds, the proper officer has to file a separate appeal against such refund order. Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

In such case, the taxable person shall, be entitled to interest at the rate of six percent, if as a result of the appeal or further proceedings he becomes entitled to refund.

Also, where the proper officer is of the opinion that the amount of refund is liable to be withheld under the provisions of the Act, he shall pass an order in Part B of FORM GST RFD-07 informing the registered person about the reasons for withholding of such refund.

1.08.02 *In case of export of goods after payment of IGST.*

As per sub rule 4 of rule 96, the claim for refund shall be withheld where:

(a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.

However subsection 10 of section 54 which provides power of withhold refunds, starts with the words that “Where any refund is due under sub-section (3)” i.e. only refund of nature as specified in subsection 3 of section 54 can be withheld. Subsection 3 of section 54 covers refund of unutilized input tax credit in case of zero rated supplies made without payment of tax and it does not cover refund of integrated tax paid on exports made after payment of taxes, so in the opinion of the author such refunds cannot be withheld under sub-section (10) of section 54, rather department may file an appeal against such refund order and where the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund under subsection 11 of section 54, till such time as he may determine.

Where refund is withheld in accordance with the provisions of clause (a) as stated above, the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.

Upon transmission of such intimation, the proper officer shall pass an order in Part B of FORM GST RFD-01.

In case the applicant becomes entitled to refund of the amount withheld under clause (a) above, the concerned jurisdictional officer shall proceed to refund the amount after passing an order in FORM GST RFD-06.

1.09 Interest on refunds withheld and delayed refunds

Where the proper officer files an appeal against some refund order or where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine. However in such cases the taxable person shall be entitled to interest at the rate of six percent from the date such refund was withheld till the date of final order allowing such refund, if as a result of appeal or further proceedings he becomes entitled to refund.

Also, where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at the rate of nine percent shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

In other cases, the proper officer shall issue the refund to the account of the registered person within sixty days from the date of receipt of application complete in all respects. However, If such amount is not refunded within sixty days from the date of receipt of application, interest

at the rate of six percent shall be payable from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund of such tax.

Where any interest is due and payable to the applicant, the proper officer shall make an order along with a payment advice in **FORM GST RFD-05**, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

1.10 Provisional refunds.

In case a claim for refund is on account of zero-rated supply made by registered persons, the proper officer after scrutiny of the claim and the evidence submitted in support thereof and on being *prima facie* satisfied that the amount claimed as refund is due to the applicant in accordance with the provisions of sub-section (6) of section 54, may issue refund order in **FORM GST RFD-04** on a provisional basis within seven days of issue of acknowledgement of refund application in form RFD-02. Refund amount in such order shall be ninety percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted and thereafter such proper officer shall make an order for final settlement of the refund claim after due verification of documents furnished by the applicant.

For the provisional refund, the proper officer shall issue a payment advice in **FORM GST RFD-05** for the amount so sanctioned and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

Also the provisional refund shall be granted only if the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds Rs. 2,50,000/-.

However, no provisional refund of amount less than Rs. 1,000/- shall be issued.

Though at the first instance it seems that the facility of this provisional refund is an advantage to a registered person under GST, however if we compare the scenario with the existing provisions of law, where purchases related to such zero rated supplies may be made without payment of taxes under statutory forms, we will come to conclusion that now actually under GST purchases against these zero rated supplies has to be first made after payment of taxes & then the dealer shall apply for refund of such taxes paid. Thereafter if he satisfies all the conditions mentioned above, then only he will get 90 percent of such refund on provisional basis and balance when he completes all the documents and prove to the satisfaction of proper officer that he has not passed on the incidence of such tax and interest to any other person.

1.11 Refund of Compensation Cess in case of exports.

Ministry of finance on 26th July 2017 issued circular no. 1- Compensation Cess providing clarification regarding applicability of section 16 of the IGST Act, 2017, relating to zero rated supply for the purpose of Compensation Cess on exports.

As per this circular:

- a) Exporter will be eligible for refund of Compensation Cess paid on goods exported by him [on similar lines as refund of IGST under section 16(3)(b) of the IGST, 2017]; or
- b) No Compensation Cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of Compensation Cess relating to goods exported [on similar lines as refund of input taxes under section 16(3) (a) of the IGST, 2017].

So, in case of exports without payment of integrated tax, refund of unutilized input of compensation cess will be available and in case of exports after payment of integrated tax, compensation cess will also have to be paid on exports which may be claimed as refund by the exporter.

1.12 Special refund provisions in case of, export of goods after payment of IGST where exports are made to Bhutan.

The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf.

Where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.

However, no such goods have been notified yet by the government.

1.13 Special refund provisions in case of foreign tourist.

The integrated tax paid by a tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed. However, no rules or provisions for such refund have been notified yet. Also, practically it will be very difficult for the supplier to know whether such goods supplied to a tourist would actually be taken outside India or not, in such a situation there will always be a confusion about whether to charge IGST or charge SGST+CGST on such supplies. Also in such cases refund of only IGST shall be available to the tourist. So, proper and detailed guidelines for charging tax on these transactions are also expected from the government in near future.

Please note, for the purpose of refund of IGST in such a case, "tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

1.14 Procedure for claiming refund of GST through online form RFD-01

Any person, except the two categories as mentioned below may file an application in FORM GST RFD-01:

- Persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him,
- Persons claiming refund of integrated tax paid on goods exported out of India,

This application for refund can be made before the expiry of two years from the relevant date in FORM GST RFD-01.

However in case the reason for filing refund claim being the excess balance in the electronic cash ledger i.e. in case of excess tax deposited by a registered person, then claim for such refund may also be filed at the time of filing return in FORM GSTR-3, FORM GSTR-4 or FORM GSTR-7, as the case may be under the GST Act and no separate application in FORM GST RFD-01 for refund is required in such cases. Where a registered person applies for refund at the time of filing return in FORM GSTR-3, FORM GSTR-4 or FORM GSTR-7, as the case may be under the GST Act, an acknowledgement shall be generated in FORM GST RFD-02, clearly indicating the date of filing of the claim for refund.

Where refund application is filed in FORM GST RFD-01, proper officer shall, within fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete, proper officer shall issue an acknowledgement in FORM GST RFD-02, clearly indicating the date of filing of the claim for refund.

Where any deficiencies are noticed in the application for refund filed by a registered person, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03, requiring him to file a fresh refund application after rectification of such deficiencies.

Also in case such deficiencies have been communicated by proper officer, to a registered person, where the application to claim refund was filed on account of refund of input tax credit, and where the electronic credit ledger of the applicant was debited by him for an amount equal to the refund so claimed, the amount so debited shall be re-credited to the electronic credit ledger of the applicant.

After this the proper office may either:

- Issue full refund to the bank account of the Registered Person; or
- Credit full refund to the account of Consumer Welfare Fund; or
- Withhold the refund on account of outstanding liabilities of the Registered Person; or
- Adjust the outstanding liabilities of the Registered Person with its refund due; or
- Reject the refund application.

When, the proper officer is satisfied that a refund is due and payable to the applicant, he shall make an order in FORM GST RFD-06, sanctioning the amount of refund to which the applicant is entitled. This order shall clearly mention the amount of total refund due, refund already made to him on provisional basis, amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable.

However in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, an order giving details of the adjustment may be issued in Part-A of FORM GST RFD-01.

Also Where the proper officer is of the opinion that the amount of refund is liable to be withheld under sub-section 10 or sub-section 11 of section 54, he shall pass an order in Part B of FORM GST RFD-07 informing him the reasons for withholding of such refund.

In case the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a show cause notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply *in FORM GST RFD-09* within fifteen days of the receipt of such notice and after considering the reply, make an order in FORM GST RFD-06, sanctioning the amount of refund in whole or part, or rejecting the said refund claim. However, no application for refund shall be rejected without giving the applicant a reasonable opportunity of being heard.

Also in case any amount claimed as refund is rejected, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03.

After making refund order in FORM GST RFD-06, where the proper officer is satisfied that the amount refundable is payable to the applicant in his bank account and not to be sent to consumer welfare fund, he shall issue a payment advice in FORM GST RFD-05, for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

In case the proper officer is satisfied that the amount refundable is liable to be credited to Consumer Welfare Fund u/s 54(5), he shall make an order in FORM GST RFD-06 and shall issue an advice in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund. However, in such cases refund of amount less than Rs. 1000/- shall not be made by the proper officer.

1.15 Procedure for claiming refund of GST through Manual form RFD-01A

As discussed earlier, in order to expedite the process of issuing refunds particularly to the exporters, facility to file manual application of refund was made available through **notification no. 55/2017** dated 15-11-2017 and **circular no.17/17/2017** dated 15-11-2017. Later on another **circular 24/24/2017** dated 21-12-2017 was issued for providing clarification regarding allow-ability of manual filing of refund applications in case of Inverted Tax Structure, Deemed Exports & Excess balance in Cash ledger.

Vide Notification 55/2017, new Rule 97A and new forms RFD-01A, RFD-01B were also introduced for manual processing of refund claims.

As per circular 17/17/2017

The refund of integrated tax paid on goods exported out of India as governed by rule 96 of the CGST Rules, the shipping bill filed by an exporter shall be deemed to be an application for refund in such cases. The application shall be deemed to have been filed only when export manifest or export report is filed and the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be. Upon receipt of the information regarding furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be, from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of such export shall be electronically credited to the bank account of the applicant. Any order regarding withholding of such refund or its further sanction respectively in PART-B of **FORM GST RFD-07** or **FORM GST RFD-06** shall be done manually till the refund module is operational on the common portal, so Rule 96 of CGST Act'2017 was amended vide notification no. 51/2017-Central Tax dated 28-10-2017 whereby form GSTR-1E as discussed earlier was made available to the registered person.

The application for refund of integrated tax paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services is required to be filed in **FORM GST RFD-01A** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable (as per the details in statement 2 or 4 of Annexure to **FORM GST RFD – 01**), within the time stipulated for filing of such refund under the CGST Act. Though as per this notification for refund on SEZ supplies form GST RFD-01A has been filed manually, however no such facility has been provided yet on the common portal.

The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in **FORM GST RFD-01A** on the common portal and the amount claimed as refund shall get debited in accordance with sub-rule (3) of rule 86 of the CGST Rules from the amount in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN- Acknowledgement Receipt Number) which would be mentioned in the **FORM GST RFD-01A** submitted manually, along with the print out of **FORM GST RFD-01A** to the jurisdictional proper officer, and with all necessary documentary evidences as applicable (as per details in statement 3 or 5 of Annexure to **FORM GST RFD-01**), within the time stipulated for filing of such refund under the CGST Act.

The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime.

Once such a refund application in **FORM GST RFD-01A** is received in the office of the jurisdictional proper officer, an entry shall be made in a refund register to be maintained for this purpose. Further, all communication in regard to the FORMS mentioned below shall be done manually, within the timelines as specified in the relevant rules, till the module is operational on the common portal. The processing of the claim till the provisional sanction of refund shall also be recorded in the refund register.

After the refund claim is processed in accordance with the provisions of the CGST Act and the rules made thereunder and where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**. The amount would be credited by the proper officer using **FORM GST RFD-01B**.

As per circular 24/24/2017

More clarification was provided as regards manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger is concerned. Clarifications were provided on following issues:

a. Eligibility

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of inverted duty structure (including supplies in terms of notification Nos. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23.10.2017 i.e. where refund arise due to supply at special concessional rate of 0.10% to merchant exporters), deemed exports and excess balance in electronic cash ledger shall be filed and processed manually till further orders. In this regard, the provisions of Circular No. 17/17/2017-GST dated 15.11.2017 shall also be applicable to the following types of refund:-

- (i) refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council (section 54(3) of the CGST Act refers);
- (ii) refund of tax on the supply of goods regarded as deemed exports; and
- (iii) refund of balance in the electronic cash ledger.

b. Frequency & Timing

It is clarified that refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in FORM GST RFD-01A. However, in case registered persons having aggregate turnover of up to Rs1.5 crore in the preceding financial year or the current

financial year are opting to file FORM GSTR-1 quarterly, such persons shall apply for refund on a quarterly basis.

Further, it is stated that the refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed. However since facility to file GSTR-1 from August'2017 was deferred for a long time so in order to allow the exporters to obtain timely refund Rule 96 & Tule 96A of CGST Rules 2017 were amended vide notification no. 51/2017-Central tax so as to provide that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common port to the system designated by the Customs, also the information in this Table 6A shall be auto-drafted in FORM GSTR-1 for the said tax period.

c. Statements, Declarations and Undertakings

Since the date of furnishing of FORM GSTR 1 from July, 2017 onwards has been extended while the dates of furnishing of FORM GSTR 2 and FORM GSTR 3 for such period are yet to be notified, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. So, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim in FORM RFD-01A till the same is available on the common portal. So, in case of refund claim arising due to inverted duty structure, Statement 1 and Statement 1A of FORM GST RFD-01A have to be filled.

In case of Deemed Exports, CGST Rules allows either the recipient or the supplier to apply for refund of tax paid on such deemed export supplies.

In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017-Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed of by him. The undertaking should be submitted manually along with the refund claim. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall not claim the refund in respect of such supplies is also required to be furnished manually. Statement 5B of FORM GST RFD-01A is required to be furnished for claiming refund on supplies declared as deemed exports.

It is also clarified that the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act. A declaration to this effect forms part of FORM GST RFD-01A as well.

d. Authority and Procedure

Para 2.5 of Circular No. 17/17/2017-GST dated 15.11.2017 may be referred to in order to ascertain the jurisdictional proper officer to whom the manual application for refund is to be submitted.

Where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST RFD-1B until the FORM GST PMT-03 is available on the common portal.

Further, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Central or State Government. Thus, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counterpart tax authority within seven working days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular No. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in para 4 of the said Circular.

It must be ensured that the timelines specified under section 54(7) and rule 91(2) of the CGST Rules for the sanction of refund are adhered to.

In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liaising through a dedicated e-mail id.

Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule 91(2) of the CGST Rules, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa.

The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the sanction order [FORM GST RFD-04 and FORM GST RFD-06], the application for refund in FORM GST RFD-01A and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue FORM GST RFD-05 and send it to the DDO for onward transmission for release of payment.

After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

In case of refund claim for the balance amount in the electronic cash ledger, upon filing of FORM GST RFD-01A as per the procedure laid down in para 2.4 of Circular No. 17/17/2017-GST dated 15.11.2017, the amount of refund claimed shall get debited in the electronic cash ledger.

Forms to be filled for REFUND of GST

In case of Exports made with Payment of Taxes				In case of Exports made without Payment of Taxes			
for export of Goods		for export of Services		for export of Goods		for export of Services	
Form to be filled	Mode	Form to be filled	Mode	Form to be filled	Mode	Form to be filled	Mode
Form 01E (Part 6A of GSTR-1)	ONLINE	RFD-1A	Manual	RFD-01A	ONLINE & then Manual	RFD-1A	ONLINE & then Manual
GSTR-3B	ONLINE						

Other Reasons for claiming Refund	Form to be filled	Mode
Excess Cash Ledger	RFD-1A	ONLINE & then Manual
Inverted Tax Structure	RFD-1A	Manual
Deemed Exports	RFD-1A	Manual
Supplies to SEZ	RFD-1A	Manual

Please attach copy of online form filled along with documentary evidence and submit it with proper GST officer for claiming refund of tax in form RFD-01A

1.16 Person authorized to file refund applications and due date to file refund applications.

In respect of supply of goods to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the supplier after such goods have been admitted in full in the Special Economic Zone for authorized operations, as endorsed by the specified officer of the Zone.

In respect of supply of services to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the supplier along with such evidence regarding receipt of services for authorized operations as endorsed by the specified officer of the Zone.

As per rule 89 of CGST Rule 2017, in respect of supplies regarded as deemed exports under section 147 of CGST Act'2017, the application shall be filed by the recipient of deemed export supplies. However sub-rule 1 of rule 89 was amended vide notification 47/2017-Central Tax, and it was Provided that in respect of supplies regarded as deemed exports, the application may be filed by, -

- (a) the recipient of deemed export supplies; or
- (b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

In respect of Casual person or non-resident taxable person, refund shall be claimed either in the last return required to be furnished by him or only after furnishing of the said last return.

1.17 Mode of refund & time limit for issue of refund

The amount of refund as determined by the proper officer shall be paid directly to the account of the applicant, if such refund claimed by a registered person relates to:

- (a) tax paid on zero-rated supplies or on inputs or input services used in making such zero-rated supplies;
- (b) un-utilised input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies; i.e. credit as per section 54(3)
- (c) tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) Tax wrongfully collected and paid to Central Government or State Government i.e., tax paid in pursuance of section 71.
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

In other cases the proper officer shall credit the refund so determined to the Consumer Welfare Fund which shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed. Such order shall be issued within 60 days of receipt of application complete in all respects.

As required in *para. (e)* above, that amount of refund determined by the proper officer shall be paid directly into the bank account of the registered person only if such person proves to the satisfaction of the proper officer that the incidence of such tax has not been passed on to another person. Now the question arise that how a registered person shall prove that the incidence of such tax has not been passed on to another person, reply of this has been provided in subsection 4 of section 54, which states that, where the amount claimed as refund is less than Rs. 2,00,000/-, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a simple declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

In case the amount claimed as refund is Rs. 2,00,000/- or more, the application of refund shall be accompanied by a certificate in Annex 2 of **FORM GST RFD-01** issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person.

Also as per explanation (ii) to sub-rule 2 of rule 89 of CGST Rules 2017, where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

However, such declaration & CA certificate in Annex 2 of **FORM GST RFD-01** is **NOT** required to be furnished in respect of:

(a) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;

(b) refund of unutilised input tax credit where such credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies).

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of Tax wrongfully collected and paid to Central Government or State Government under section 71.

(e) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

In such cases all the refunds shall directly be deposited into the bank accounts maintained by the registered person.

1.18 Documents required to be filed along with refund application.

Sub-section 4 to section 54 of CGST Act'2017, requires that the application of refund shall be accompanied by such documentary evidence as may be prescribed to establish that a refund is due to the applicant. The application of refund shall be accompanied by any of the following documents, as applicable, to establish that a refund is due to the applicant:

- Where such amount claimed as refund was deposited as a precondition to filing of an appeal before appellate authority as required under sub-section (6) of section 107 or where such amount was deposited as a precondition to filing of an appeal before appellate tribunal as required under sub-section (8) of section 112, the application for refund shall be accompanied by the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount as specified.

Clause (ii) of sub-section (6) of section 107, requires a registered person to deposit a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order as a pre condition to file an appeal, in relation to which the appeal has been filed before the appellate authority.

Clause (ii) of sub-section (8) of section 112, requires a registered person to deposit a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, in relation to which the appeal has been filed.

- Where the refund is on account of export of goods, the application for refund shall be accompanied by a statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices.
- Where the refund is on account of export of services, the application for refund shall be accompanied by a statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates, as the case may be.
- Where the refund is on account of supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be accompanied by a statement containing the number and date of invoices along with the evidence regarding endorsement by special officer of the zone to the effect that such goods have been admitted in full in the Special Economic Zone for authorised operations. Also an additional declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed of the input tax credit of the tax paid by the supplier of goods or services or both, is required to be filed.
- Where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be accompanied by a statement containing the number and date of invoices, the evidence regarding endorsement by special officer of the zone regarding receipt of services for authorised operations and the details of payment, along with proof thereof, made by the recipient to the supplier for authorized operations as defined under the Special Economic Zone Act, 2005. Also an additional declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed of the input tax credit of the tax paid by the supplier of goods or services or both, is required to be filed.
- Where the refund is on account of deemed exports, the application for refund shall be accompanied by a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf.
- Where the claim pertains to refund of any unutilized input tax credit on account of rate of tax on inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies, the application for refund shall be accompanied by a statement in Annex 1 of **FORM GST RFD-01** containing the number and date of invoices received and issued during a tax period.
- Where the refund arises on account of finalization of provisional assessment, the application for refund shall be accompanied by the reference number of the final assessment order and a copy of the said order.
- In case a registered person considers some supply to be in course of intra-state but which is subsequently held to be inter-State supply, he cannot adjust the amount of state tax and central tax deposited with the integrated tax payable, in this case he has to deposit the tax under right head and claim refund of tax paid under head. So, where refund is claimed due to payment of tax under wrong head, the application for refund shall be accompanied by a

statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply.

- Where the refund arises on account of excess amount of tax deposited by mistake, the application for refund shall be accompanied by a statement showing the details of the amount of claim on account of excess payment of tax.

1.19 Refunds in case of specialized agencies.

As discussed earlier in this chapter, a specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified by government shall be entitled to refund of tax paid by it on notified inward supplies of goods or services or both received by them.

So supplies made to such agencies shall be taxable and thereafter these agencies may file claim of refund with GST authorities. But since these agencies are not required to charge GST on supplies made by them, so they shall not obtain GST registration number, rather they shall obtain UIN (Unique Identification Number) and any invoice regarding any supplies made to such agencies shall mention UIN in place of GSTIN.

This facility to claim refund is not available to all the agencies, rather the agencies which have been notified by the government under section 55 of the CGST Act'2017 shall only be eligible to claim refund of taxes as specified above and that too only for taxes paid on the notified supplies of goods or services or both received by them. As of now government has issued two notifications under section 55 of the CGST Act'2011. These are notification no. 6/2017-Central Tax (Rate) and notification no. 16/2017-Central Tax (Rate).

Government vide Notification No.6/2017-Central Tax (Rate) specified the Canteen Stores Department (CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of 50% of the applicable central tax paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

Government vide Notification No.16/2017-Central Tax (Rate) specified:

- (i) United Nations or a specified international organisation; and
- (ii) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, the purposes of the said section subject to the following conditions:-
 - (a) United Nations or a specified international organisation shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to a certificate from United Nations or that specified international organisation that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international organisation.
 - (b) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to, -
 - (i) that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to refund of central tax, as

stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity;

(ii) that in case of supply of services, the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorised by him, shall furnish an undertaking in original, signed by him or the authorised person, stating that the supply of services received are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family;

(iii) that in case of supply of goods, concerned diplomatic mission or consulate or an officer duly authorized by him will produce a certificate that,—

(I) the goods have been put to use, or are in the use, as the case may be, of the mission or consulate;

(II) the goods will not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods; and

(III) in the event of non-compliance of clause (I), the diplomatic or consular mission will pay back the refund amount paid to them;

(iv) in case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post;

(v) the refund of the whole of the central tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.

Such an agency shall make an application for such refund, in FORM GST RFD-10 once in every quarter, along with a statement of inward supplies of goods or services or both in FORM GSTR-11, prepared on the basis of return filed by the corresponding suppliers, before the expiry of six months from the last day of the quarter in which such supply was received.

An acknowledgement for receipt of the application for refund shall be issued in **FORM GST RFD-02**.

Refund of tax paid by the applicant shall be available only if-

(a) The inward supplies were received from a registered person against a tax invoice; and

(b) The price of the supply covered under a single tax invoice exceeds Rs. 5000/- excluding tax paid, if any; and

(c) Name and GSTIN or UIN of the applicant is mentioned on the tax invoice.

All the other provisions related to order of refund, deficiency memo, withholding refund, show cause notice of rejection of refund, reply to show cause notice and payment advice shall be the same as followed in case of other refunds. However, where there is an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, which is inconsistent with the provisions of these rules, in that case such treaty or international agreement shall prevail.

1.20 Format of declarations to be filed for refund

In order to obtain refund under GST, many declarations are required to be filed under various provisions of CGST Act'2017 and rules made there under.

Notification no. 27/2017- Central Tax dated 30th August, 2017 made various changes in form RFD-01 specifying formats of various declarations to be filed along with refund applications.

Notification no. 47/2017- Central Tax dated 18th October, 2017 made changes in statement 2 and 4 of form RFD-01 specifying formats of various statement to be filed for refund due to export of services with payment of tax and SEZ supplies after payment of tax.

Notification no. 70/2017- Central Tax dated 21st December, 2017 also made changes in statements and declarations in form RFD-01 and RFD-01A to be filed for refund due to deemed exports and claim of refund filed on account of inverted tax rate structure.

1.21 Format of certificate to be obtained from a chartered accountant or a cost accountant.

Notification no. 27/2017- Central Tax dated 30th August, 2017 made various changes in form RFD-01 specifying formats of various declarations and certificate to be filed along with refund applications. Format of certificate to be obtained from a chartered accountant or a cost account and to be filed as annexure 2 to form RFD-01 is as below:

Certificate [rule 89(2)(m)]

This is to certify that in respect of the refund amounting to Rs.<<>> ----- (in words) claimed by M/s----- (Applicant's Name) GSTIN/ Temporary ID----- for the tax period < ---->, the incidence of tax and interest, has not been passed on to any other person.

This certificate is based on the examination of the books of account and other relevant records and returns particulars maintained/ furnished by the applicant.

Signature of the Chartered Accountant/ Cost Accountant:

Name:

Membership Number:

Place:

Date:

Note - This Certificate is not required to be furnished by the applicant, claiming refund under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54 of the Act.

1.22 Consumer Welfare Fund.

As discussed in this chapter, that there may be circumstances when instead of paying refund in cash to a registered person, such refund is transferred to a special fund constituted under section 57 of CGST Act'2017, in name of Consumer Welfare Fund .

This Consumer Fund shall be credited with:

- (a) the amount referred to in sub-section (5) of section 54;
- (b) any income from investment of the amount credited to the Fund; and
- (c) such other monies received by it.

Rule 97 of chapter X of CGST Rules' 2017 provides for the provisions related to manner of transfer of funds into Consumer welfare Fund, modes of the investments and manner of utilisation of this fund. As per these rules:

(1) All credits to the Consumer Welfare Fund shall be made under sub-rule (5) of rule 92 i.e. where the proper officer is satisfied that the amount refundable under this Act and rules made there under is not payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue an advice in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund.

(2) Any amount, having been credited to the Fund, ordered or directed as payable to any claimant by orders of the proper officer, appellate authority or Appellate Tribunal or court, shall be paid from the Fund.

(3) Any utilisation of amount from the Consumer Welfare Fund under sub-section (1) of section 58 shall be made by debiting the Consumer Welfare Fund account and crediting the account to which the amount is transferred for utilisation.

(4) The Government shall, by an order, constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other Members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers.

(5) The Committee shall meet as and when necessary, but not less than once in three months.

(6) Any agency or organisation engaged in consumer welfare activities for a period of three years registered under the provisions of the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force, including village or mandal or samiti level cooperatives of consumers especially Women, Scheduled Castes and Scheduled Tribes, or any industry as defined in the Industrial Disputes Act, 1947 (14 of 1947) recommended by the Bureau of Indian

Standards to be engaged for a period of five years in viable and useful research activity which has made, or is likely to make, significant contribution in formulation of standard mark of the products of mass consumption, the Central Government or the State Government may make an application for a grant from the Consumer Welfare

Fund:

Provided that a consumer may make application for reimbursement of legal expenses incurred by him as a complainant in a consumer dispute, after its final adjudication.

(7) All applications for grant from the Consumer Welfare Fund shall be made by the applicant Member Secretary, but the Committee shall not consider an application, unless it has been inquired into in material details and recommended for consideration accordingly, by the Member Secretary.

(8) The Committee shall have powers -

- a. to require any applicant to produce before it, or before a duly authorised Officer of the Government such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;
- b. to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or, as the case may be, State Government;
- c. to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;
- d. to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;
- e. to recover any sum due from any applicant in accordance with the provisions of the Act;
- f. to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;
- g. to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;
- h. to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;
- i. to identify beneficial and safe sectors, where investments out of Consumer Welfare Fund may be made and make recommendations, accordingly;

j. to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;

k. to make guidelines for the management, administration and audit of the Consumer Welfare Fund.

(9) The Central Consumer Protection Council and the Bureau of Indian Standards shall recommend to the Goods and Services Tax Council, the broad guidelines for considering the projects or proposals for the purpose of incurring expenditure from the Consumer Welfare Fund.

1.23 Meaning of relevant date.

At many places in this chapter, we used the word relevant date, so what do we actually mean by the term relevant date? Actually the term relevant dates derive its meaning from the particular situation or circumstances with which it is used. So for the sake of clarity, we are presenting below various circumstances and the corresponding meaning of relevant date in a tabular format below:

S.No.	Event / Circumstances	meaning of relevant date
1.	In the case of goods exported out of India.	(i) If the goods are exported by sea or air, relevant date shall be the date on which the ship or the aircraft in which such goods are loaded, leaves India. (ii) If the goods are exported by land, relevant date shall be the date on which such goods pass the frontier. (iii) If the goods are exported by post, relevant date shall be the date of dispatch of goods by the Post Office concerned to a place outside India.
2.	In case, the supply of goods is regarded as deemed exports and where a refund of tax paid is available in respect of the goods.	Relevant date shall be the date on which the return relating to such deemed exports is furnished.
3.	In the case of services exported out of India.	(i) Relevant date shall be the date of receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment. (ii) Relevant date shall be the date of issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice.
4.	In case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court.	Relevant date shall be the date of communication of such judgment, decree, order or direction.
5.	In the case of refund of unutilized input tax credit on zero rated supplies made without payment of tax or in case of refund of unutilized input tax credit where the credit which has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil	Relevant date shall be the end of the financial year in which such claim for refund arises

	rated or fully exempt supplies).	
6.	In the case of refund of tax paid provisionally under this Act or the rules made there under, which finally becomes refundable.	Relevant date shall be the date of adjustment of tax after the final assessment thereof
1.	In the case of refund accrued to a person, other than the supplier e.g. Specialized agencies, recipient of supplies under deemed exports etc.	Relevant date shall be the date of receipt of goods or services or both by such person
8.	In any other case	Relevant date shall be the date of payment of tax

1.24 Forms for obtaining refunds under GST

In case of refund under GST, each and every communication whether it is an application of refund, acknowledgment of refund, deficiency memo or order of refund, all the documentation has to be done in a prescribed format only. Various online forms have been prescribed for different purposes, below is the list of various forms as prescribed for refunds under GST.

S.No.	Form No.	Purpose
1.	GST RFD-01	Online Application for filing refund in all cases other than those filed by special agencies as discussed.
	GST RFD-1A	Manual application for filing refund in all cases other than those filed by special agencies as discussed.
2.	GST RFD-02	Acknowledgement of filing refund application
3.	GST RFD-03	Deficiency memo
4.	GST RFD-04	Order sanctioning provisional refund
	GST RFD-1B	Refund Order Details (Manual)
5.	GST RFD-05	Payment advice
6.	GST RFD-06	Order sanctioning final refund
7.	GST RFD-07	Order showing adjustment of outstanding demands against refund issued.
8.	GST RFD-08	Show cause notice for rejection of refund
9.	GST RFD-09	Reply to show cause notice
10.	GST RFD-10	Application of refund by special agencies being embassies, agencies of UNO etc.
11.	GST RFD-11	Statement of Inward supplies by special agencies being embassies, agencies of UNO etc.

1.25 Tax refund on goods supplied under earlier laws and returned after the appointed day by an unregistered recipient.

In case of goods removed not being earlier than six months prior to the appointed day on which proper duty, had been paid under the existing law and such goods are returned by an **unregistered** person within six months of the appointed day, the registered person shall be eligible for refund of the duty paid under the earlier law where such goods are identifiable to the satisfaction of the proper officer.

In case, the said goods are returned by a **registered** person, the return of such goods shall be deemed to be a fresh supply.

1.26 Provision related to claim of refund made in case of CENVAT paid (tax + interest & not penalties) under the earlier laws, even if such claim is filed after the appointed day. [Section 142(3)]

In case such CENVAT credit is not carried forward to the proposed GST regime, such claim shall be disposed of in accordance with the provisions of earlier laws.

Where any claim for such refund is fully or partially rejected, the amount so rejected shall lapse.

Otherwise all the provisions of earlier law shall be followed and any amount eventually accruing to him shall be paid in cash & shall not be credited to electronic credit ledger or electronic cash ledger of the registered person.

1.27 Provision related to claim of refund made in case of exports of goods or services under the earlier laws, even if such claim is filed after the appointed day. [Section 142(4)]

In case such CENVAT credit is not carried forward to the proposed GST regime, such claim shall be disposed of in accordance with the provisions of earlier law.

Where any claim for such refund is fully or partially rejected, the amount so rejected shall lapse. Otherwise all the provisions of earlier law shall be followed and any amount eventually accruing to him shall be disposed of in accordance with the provisions of the earlier law.

Comparative analysis of Section 142(3) & Section 142(4)...Refund of Tax Paid under earlier Laws

142(3) (Other Refunds)	142(4) (Refund on Account of Exports)	Remarks
Every claim for refund	Every claim for refund	SAME
filed by any person	filed	Meaning of “any person” is not clear here.
before, on or after the appointed day,	after the appointed day	Claims filed on/before the appointed day shall be dealt under section 142(3) only even if it is for export of goods or services.
for refund of any <ul style="list-style-type: none"> • amount of Cenvat credit, • duty, • tax or • interest or • any other amount 	for refund of any <ul style="list-style-type: none"> • duty or • tax 	Since section 142(4) is for refund of export duty paid on exports out of India, so it is clear that there is no question of refund of interest, stay amount etc. Also the balance Cenvat Credit must have already been claimed as refund or carry forward in return filed by such person so there is no question of refund of Cenvat Credit here.
paid under the existing law,	paid under existing law,	Both these sections are regarding Tax paid under the existing laws, which are not carried forward into the GST Law.
	for the goods or services exported	Section 142(4) is regarding refund due to exports and 142(3) is regarding other refunds. (May be due to some decree of court, tax deposited under protest, Stay Amount deposited, refund due to inverted tax structure etc.)
	before or after the appointed day	Before the appointed day is clear by itself, here “after the appointed day” refers to situation where export duty is paid before the AD and exports and then made after the AD.
shall be disposed of in accordance with the provisions of existing law	shall be disposed of in accordance with the provisions of existing law:	SAME
<u>and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of subsection (2) of section 11B of the Central Excise Act, 1944:</u>		In case of export of goods or services, the amount of refund of duty or tax can be credited into electronic ledger of the registered person. In other cases it has to be compulsorily paid through cash mode only.
PROVIDED that where any claim for refund of Cenvat credit is fully or partially rejected, the amount so rejected shall lapse:	PROVIDED that where any claim for refund of Cenvat credit is fully or partially rejected, the amount so rejected shall lapse:	SAME
PROVIDED FURTHER that no refund claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.	PROVIDED FURTHER that no refund claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.	Shall we interpret that: (Not our Opinion) The Cenvat C/f. into the GST regime can't be claimed as refund. (i.e. it is a restriction) OR Shall we interpret that: (Our Opinion) In case the Cenvat Credit is C/f. into the GST regime, it can't be claimed as refund under GST. (i.e. to avoid duplication of claim.)

In case of Exports made against payment of duty[140(4)]

In case claim for refund: filed under existing law: after AD
 on account of exports: made before / after AD(**where duty is paid under existing law**)
 Such refund shall be credited to electronic credit ledger of the registered person.

1.28 Provision related to claim of refund of service tax paid under the existing laws, in case of service tax paid on advance received, even if such claim is filed after the appointed day.

Under the existing laws, in case service tax is paid in respect of advance received and eventually services are not provided by the supplier, such supplier may claim refund of such service tax paid under the existing laws.

Such refund shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash & shall not be credited to electronic credit ledger or electronic cash ledger of the registered person.

In case, where service tax is deposited on receipt of advance under existing tax provisions and supplies are made under GST, such supplies shall be taxable under GST. However the taxable person shall be entitled to take credit of VAT or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

Note: here existing law refers to law before implementation of GST in India and AD refers to appointed date.

	Before AD	After AD	Form to be filled	To be filled by	Benefit of filling such form.
140(5)	Bills Raise Tax Pay	Supply Receive Bill Book	Tran-1	Recipient	Claim ITC of VAT/Service Tax under GST
142(5)	Advance Receive Tax Pay	Supply Cancels Refund Pay	Refund document under existing law	Supplier	Cash refund under existing Law
142(11)(c)	Advance Receive Tax Pay	Supply Made Bill Raise	Tran-1	Supplier	Setoff GST Output with VAT/Service Tax already paid

1.29 Provisions related to proceedings of appeal, review or reference, initiated under the existing laws, even if such proceedings are initiated after the appointed day. [Section 142(6) & Section 142(7)]

Such proceedings shall be disposed of in accordance with the provisions of existing law

In case it relates to a claim for CENVAT credit which has not been carried forward under this Act, any amount of credit found to be admissible to the claimant shall be refunded to him in cash & shall not be credited to electronic credit ledger or electronic cash ledger of the registered person.

In case it relates to recovery of CENVAT credit, any amount of credit that becomes recoverable shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

In case it relates to any output duty or tax liability to be deposited, any amount that becomes recoverable shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

In case it relates to any output duty or tax liability to be refunded, any amount found to be admissible to the claimant shall be refunded to him in cash & shall not be credited to electronic credit ledger or electronic cash ledger of the registered person.

Note: here existing law refers to law before implementation of GST in India

1.30 Provisions related to assessment or adjudication proceedings, initiated under the existing laws, even if such proceedings are initiated after the appointed day. [Section 142(8)]

Such proceedings shall be disposed of in accordance with the provisions of existing law

In case any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

In case any amount of tax, interest, fine or penalty becomes refundable to the person, any amount found to be admissible to the claimant shall be refunded to him in cash & shall not be credited to electronic credit ledger or electronic cash ledger of the registered person.

Note: here existing law refers to law before implementation of GST in India

1.31 Provisions related to returns filed under the existing laws and revised after the appointed day. [Section 142(9)]

In case, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

In case, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash & shall not be credited to electronic credit ledger or electronic cash ledger of the registered person.

Note: here existing law refers to law before implementation of GST in India

Event	Section	Tax Involved	Final result	Execution as per	Mode
Appeal, Review & Reference filed by dealer	142(6)	Cenvat Credit	Refund Due	Existing Law	Cash refund only
	142(7)				
Assessment, Adjudication by department	142(8)	Output Duty or tax Liability	Recovery Due	GST Act	Tax Payable as GST and No ITC available on Payment of such demand
Revised Return under Existing Law filed by dealer	142(9)				

1.32 Special refund package for exporters announced in 22nd meeting of GST council held on 06-10-2011.

The GST Council in its 22nd meeting held on 06th October 2017 at New Delhi approved the following package of relief and incentives for exporters with immediate effect.

Refunds in case of export of goods after payment of Tax.

- By 10.10.2017 the held-up refund of IGST paid on goods exported outside India in July would begin to be paid.
- The August backlog would get cleared from 18.10.2011.
- Refunds for subsequent months would be handled expeditiously.

Refunds paid on inputs used for export of goods and supplies to SEZs.

IGST paid on supplies to SEZs and of inputs taxes on exports under Bond/LUT, shall be processed from 18.10.2017 onwards.

e-Wallet Scheme for future refunds.

The permanent solution to cash blockage is that of "e-Wallet" which would be credited with a notional amount as if it is an advance refund. This credit would be used to pay IGST, GST etc. The details of this facility would be worked out soon. The Council desired that the "e-Wallet" solution should be made operational w.e.f. 1st April 2018.

For speedy disposal of pending refunds, CBEC vide notification no. 39/2017-Central Tax dated 13th October 2017, empowered the officers appointed under the respective State Goods and Refunds under GST by CA. Mithun Khatri (founder www.gstbible.com)

Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, 2017 as the proper officers for the purposes of section 54 or section 55 of the CGST Acts, except for refunds to be issued under rule 96 of the Central Goods and Services Tax Rules, 2017, because refund in such cases shall be issued automatically after filing of GSTR3 or GSTR3B as the case may be. Similar notification is also issued for speedy processing of refunds under IGST Act'2011.

Similarly, some amendments were also made in para 5.07 Foreign Trade Policy 2015-20 vide notification 33/2015-20 dated 13-10-2017, whereby some provisions of deemed exports were made applicable to GST era. CBEC on 18th October 2017 also issued three notifications, notification no. 47/2017-Central Tax, notification no. 48/2017 and notification no. 49/2017-Central Tax whereby some amendments were made to CGST Rules and it was provided that in respect of supplies regarded as deemed exports, the application for refund may be filed by, -

- (a) The recipient of deemed export supplies; or
- (b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

All the conditions of deemed exports & process of filing refund for deemed exports are discussed in detail in our separate booklet titled "Deemed Exports under GST".