

CLARIFICATION OF REFUND RELATED ISSUES IN GST BY CBIC

Circular No.135/05/2020

Date – 31st March 2020

CBIC has issued this circular to clarify the refund related issues after receiving various representations seeking clarification

Bunching of refund claims across Financial Years

Issue: The restriction on clubbing of tax periods across different financial years was put in vide para 11.2 of the Circular No. 37/11/2018-GST dated March 15, 2018. Later the said circular was rescinded being subsumed in the Master Circular on Refunds No. 125/44/2019-GST dated November 18, 2019 (“Master Refund Circular”) and the said restriction on the clubbing of tax periods across financial years for claiming refund thus has been continued vide Paragraph 8 of the Master Refund Circular. The restriction imposed vide para 8 of the Master Refund Circular prohibits the refund of Input Tax Credit (“ITC”) accrued.

Explanation: Restriction on clubbing of tax periods across Financial Years has been removed. *It means that the restriction on bunching of refund claims across financial years shall not apply.*

Refund of accumulated ITC on account of reduction in GST Rate

Issue: There was an issue about the refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods. This can be explained through an illustration. An applicant trading in goods has purchased, say goods “X” attracting 18% GST. However, subsequently, the rate of GST on “X” has been reduced to, say 12%. It is being claimed that accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund of accumulated ITC under Section 54(3)(ii) of the Central Goods and Services Tax Act, 2017 (“CGST Act”).

Explanation: The refund of accumulated ITC under Section 54(3)(ii) of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of Section 54(3)(ii) of the CGST Act. *Therefore, refund of accumulated ITC under Section 54(3)(ii) of the CGST Act would not be applicable in cases where the input and the output supplies are the same.*

Change in manner of refund of tax paid on supplies other than zero rated supplies

Issue: Circular No. 125/44/2019-GST dated 18.11.2019, in para 3, categorizes the refund applications to be filed in FORM GST RFD-01 as under:

- a) Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- b) Refund of tax paid on export of services with payment of tax;
- c) Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;

- d) Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;
- e) Refund of unutilized ITC on account of accumulation due to inverted tax structure;
- f) Refund to supplier of tax paid on deemed export supplies;
- g) Refund to recipient of tax paid on deemed export supplies;
- h) Refund of excess balance in the electronic cash ledger;
- i) Refund of excess payment of tax;
- j) Refund of tax paid on intra-State supply which is subsequently held to be inter State supply and vice versa;
- k) Refund on account of assessment/provisional assessment/appeal/any other order;
- l) Refund on account of "any other" ground or reason."

Explanation: In case of refund, where the tax to be refunded has been paid already by debiting both electronic cash and credit ledgers (other than the refund of tax paid on zero-rated supplies or deemed export), the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger were debited for discharging the total tax liability for the relevant period for which application for refund has been filed. Such amount shall be accordingly paid by *issuance of order in FORM GST RFD-06 for amount refundable in cash and FORM GST PMT-03 to re-credit the amount attributable to credit as ITC in the electronic credit ledger.*

Guidelines for refunds of ITC under Section 54(3) of the CGST Act:-

Issue: In terms of para 36 of circular No. 125/44/2019-GST dated 18.11.2019, the refund of ITC availed in respect of invoices not reflected in FORM GSTR-2A was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of Rule 36(4) of the CGST Rules vide notification No. 49/2019-GST dated October 9, 2019, various references were received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the FORM GSTR-2A of the applicant.

Explanation: *The refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.*

New Requirement to mention HSN/SAC in Annexure 'B'

Issue: HSN wise details of goods and services are not available in FORM GSTR-2A and therefore it becomes very difficult to distinguish ITC on capital goods and/or input services out of total ITC for a relevant tax period. It has been recommended that a column relating to HSN/SAC Code should be added in the statement of invoices relating to inward supply as provided in Annexure-B of the circular No. 125/44/2019-GST dated 18.11.2019 so as to easily identify between the supplies of goods and services.

Explanation: Distinction is important in view of the provisions relating to refund where refund of credit on Capital goods and/or services is not permissible in certain cases, it has been decided to amend the said statement. Accordingly, Annexure-B of the Master Refund Circular stands modified to that extent.

A suitably modified statement format is attached for applicants to upload the details of invoices reflecting in their FORM GSTR-2A. The applicant is, in addition to details already prescribed, now required to mention HSN/SAC code which is mentioned on the inward invoices. In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

Annexure-B

Statement of invoices to be submitted with application for refund of unutilized ITC

Sr. No	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Category of input supplies		Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	Date	Value	Inputs/Input Services/capital goods	HSN/SAC						
1	2	3	4	5	6	7	8	9	10	11	12	13	14