Refund of GST paid under Incorrect Head – Prior to Offsetting against Liabilities.

Supplier

Supplied Goods for Rs 6 L + 1,08,000 IGST

Recipient

Supplier

Liable to pay

IGST – Rs 1.08 L

Erroneously Paid

CG, SG – Rs 54 K each

Yet to be Filed

Incorrect Amount paid is "NOT OFFSET" in GSTR 3B.

Can Taxpayer **avail Refund of GST** paid under Incorrect Head / Wrong Head?

Prior to Offsetting such amount in GSTR 3B.

Refund of GST paid under Incorrect Head – Prior to Offsetting against Liabilities.

Taxpayer

Net GST Liability		Interest us/ 50 payable		Late Fees payable	
SGST – Rs 50,000	CGST – Rs 50,000	SGST – Rs 3,000	CGST – Rs 3,000	SGST – Rs 1,000	CGST – Rs 1,000

Taxpayer

Erroneously paid entire amount of Tax, Interest, Late Fees under "TAX HEAD"

SGST – Rs 54,000	CGST – Rs 54,000

What is the possible solution?

Refund for GST Payment under Incorrect Head

After Offsetting against Liabilities

Refund of GST paid under Incorrect Head – After Offsetting against Liabilities.

Architect (Mrs A) is Registered in Maharashtra

Supplied Services in relation to Immovable Property to

Recipient (Mr. B) is Registered in Maharashtra

Immovable Property constructed at

Immovable Property is in Delhi State

Wrongly paid CGST & SGST

As per Section 12 (3) of IGST Act 2017

Supplier filed GSTR 3B

POS shall be "LOCATION OF IMMOVABLE PROPERTY"

Incorrect Amount is ALREADY OFFSET" in GSTR 3B.

POS – **DELHI**
Supplier shall charge IGST

PMT – 09 can be filed only **prior to offsetting** GST Liabilities

PMT – 09 can be filed once Liability is offset through GSTR 3B or DRC 03

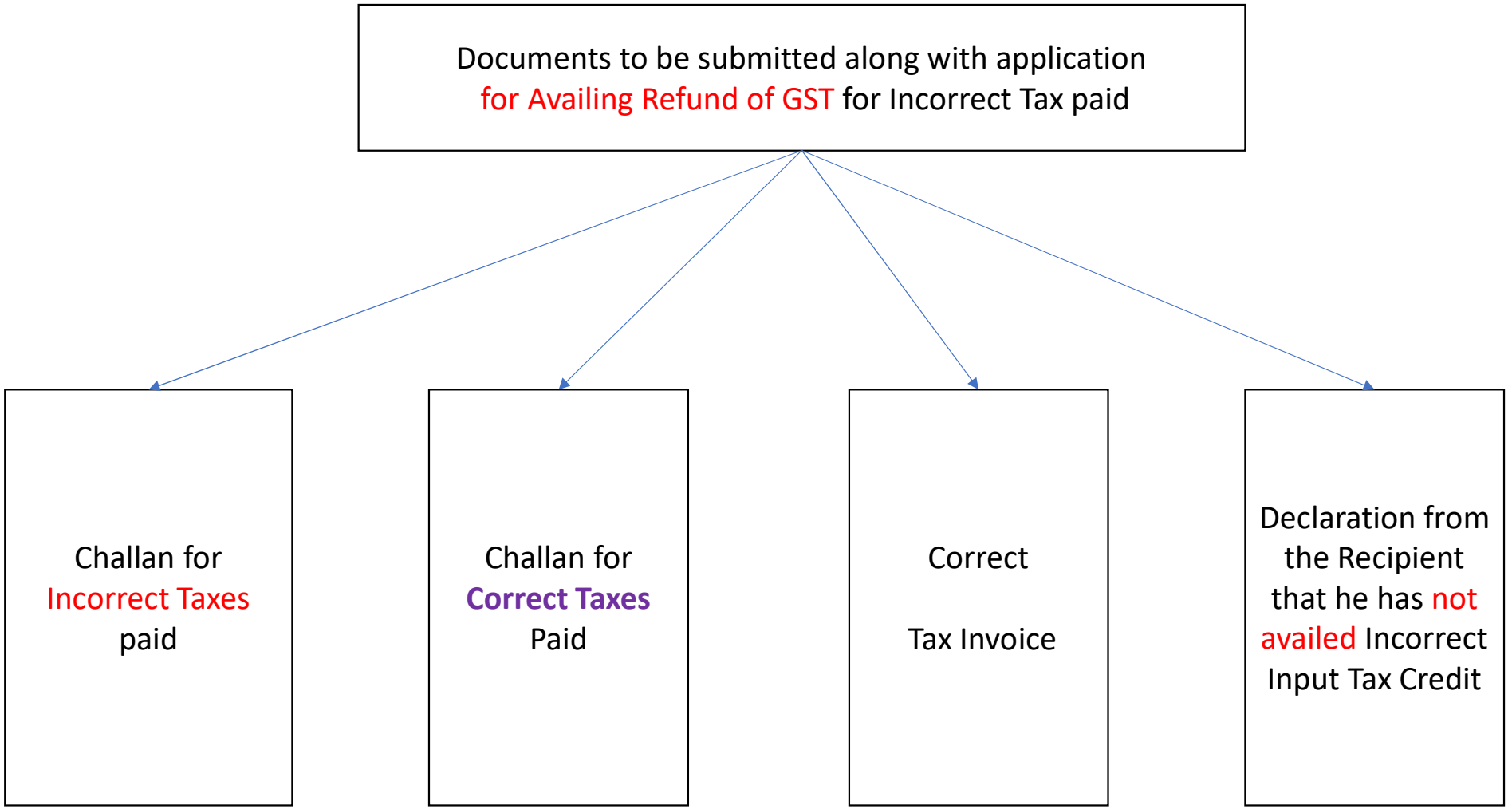
What is the Possible solution?

Taxpayer

Shall be required to pay Correct Tax again ie IGST

Can Claimed Refund of Incorrect GST Paid

Refund of GST paid under Incorrect Head – After Offsetting against Liabilities.



Refund of GST paid under Incorrect Head.

Taxpayer

In-Correct Taxes (GST) Paid

Prior to filing GSTR 3B or DRC 03

Ie Prior to Offsetting GST Liabilities

File PMT 09

Transfer Amount from Incorrect Head to Correct Head

After filing GSTR 3B or DRC 03

Ie After Offsetting GST Liabilities

Pay GST again under Correct Head

File Refund Application and Claim Refund of GST paid under Incorrect Head

Refund of Excess Balance in Electronic Cash Ledger.

Taxpayer

GST on Outward Supplies	Input Tax Credit	Net GST payable
Rs 12,000	Rs 1,800	Rs 10,200

Taxpayer

Paid / Deposited GST of	Excess GST Paid
Rs 10,800	Rs 600

Taxpayer

Returns are **"YET TO BE FILED"**

How can Taxpayer avail Refund of excess GST Paid of Rs 600?

Refund of Excess Payment of GST.

Case Study: – Refund of Advances Collected from the Recipients (Services not yet provided to the Recipient).

Collected Advances on "SERVICES" **of Rs 10 L + 18% GST during April 2021**

Services to be provided during **July 2021**

Supplier **paid G** **Rs 1.8 L** while f GSTR 3B of April 2021

Refunded Rs 10 L + 18 % GST ie Rs 11.8 Lakhs to the Recipient

Recipient cancelled Service Order and **demanded refund**

During June 2021 Prior to Receipt of Services

Had already deposited GST of Rs 1.8 Lakhs to govt while filing GSTR 3B of April 2021

Still Supplier **refunded** **Rs 11.8 Lakhs** to the Recipient

Shall suffer loss of GST Paid of Rs 1.8 Lakhs?

Reply to Case Study:

As per Section 31 (3) (e) **read with Rule 51** of CGST Rules 2017

If Supplier is refunding advances collected **along with GST then**

Supplier is required to issue

Rs 11.8 Lakhs

Recipient **(R.D. or U.R.D.**

Supplier

On the basis of such **Refund Vouchers**

Supplier have an Option to claim

Refund of GST paid of Rs 1.8 Lakhs from the Govt

Under the Head

Excess Payment of GST

GST – Rs 1.8 L

Case Study: – Refund of Advances Collected from the Recipients (Services not already provided to the Recipient).

GST – Rs 90 K

Supplier

Supplied "TEACHING SERVICES" in April 2021 for Rs 50,000 + 18% GST

Supplier **paid GST of Rs 9,000** while filing GSTR 3B of April 2021

50 K + 18% GST

Recipient

Were Not Satisfied with Teaching Services

Hence Demanded **Refund of Rs 50,000 + 18%** GST in June 2021

50 K + 18% GST

Supplier

Had already deposited GST of Rs 9,000 to govt while filing GSTR 3B of April 2021

Still Supplier **refunded Rs 50,000 + 18% GST** to the Recipient

Recipient

Which Document

Supplier

Is required to issue for

Refund against Services Provided

As Refund is provided to the Recipient "AFTER THE RECEIPT OF SERVICES"

Reply to Case Study:

As per Section 34 of CGST Act 2017	If Supplier is refunding advances collected **along with GST**	After the Services are provided then	Supplier is required to issue	

Supplier	During June 2021	Outward GST Liability **Say**	GST reduction on account of Credit Note	**Net GST paid**	
		Rs 30,000	(Rs 9,000)	Rs 21,000	

Supplier	During June 2021	Outward GST Liability **Say**	GST reduction on account of Credit Note	**Claim Refund of GST paid of Rs 9,000 under** Excess Payment of GST	
		Rs NIL	(Rs 9,000)	Taxpayer may carry forward and adjust against subsequent months liability	

Refund of GST under "Inverted Duty Structure."

Reg Person

Textile Business

GST Rate on **Inputs** – 18%

Say ITC – Rs 1,80,000

GST Rate on **O/w supply** – 5%

Say GST Liability – Rs 50,000

GST Rate on Inputs is **Higher** than GST Rate on **Outputs**

Such cases are known as Inverted Duty Structure

Reg Person **may avail refund of Rs 1,30,000** under Inverted Duty Structure

ITC – Rs 1,80,000

Case Study: 1

Reg Person

GST Rate on **Inputs** – 18%

Say ITC – Rs 2,00,000

GST Rate on **C.G.** – 28%

Say ITC – Rs 25,00,000

GST Rate on **O/w supply** – 5%

Say GST Liability – Rs 50,000

Calculate Eligible Refund from Electronic Credit Ledger under Inverted Duty Structure?

Solution

Under Inverted Duty Structure, Taxpayer can claim refund of only

INPUTS

Refund of Capital Goods is

"NOT ALLOWED"

Eligible Refund shall be

Less

Refund – Rs 1,50,000

Input Tax Credit for Capital Goods is to be **"CARRIED FORWARD"** and utilized in subsequent month

Case Study: 2

Reg Person

Textile Bus

GST Rate on **Inputs** – 18%

Sav ITC – Rs 2,00,000

ITC – Rs 2,00,000

GST Rate on **Services.**–18%

Sav ITC – Rs 5,00,000

ITC – Rs 5,00,000

GST Rate on **O/w supply** – 5%

Sav GST Liability – Rs 75,000

GST Liability – Rs 75,000

Calculate Eligible Refund from Electronic Credit Ledger under Inverted Duty Structure?

Solution

Under Inverted Duty Structure, Taxpayer can claim refund of only

INPUTS

Refund of Services is **"NOT ALLOWED"**

Eligible Refund shall be

Less

Refund – Rs 1,25,000

In case of VKC Footsteps India Pvt Ltd V/s Union of India held that

Under Inverted Duty Structure, Registered Person may avail refund of GST on Input Services too

Registered Person **"MAY CLAIM REFUND" of Rs 6,25,000 (75,000 – 2,00,000 - 5,00,000)**

However GST Officer may not grant refund and it may lead to Pro-Longed Litigation

My View

Services which are directly linked with product manufactured or sold or output services provided	Services which are "COMMON" and NOT linked with product manufactured or sold or output services provided
Refund of GST paid on such Services **"MUST BE ALLOWED"** under Inverted Duty Structure	Refund of GST paid on such Services **"SHOULD NOT BE ALLOWED"** under Inverted Duty Structure

Case Study: 3

Reg Person

GST Rate on **Inputs** – 28%

Say ITC – Rs 5,00,000

E Exempt | NIL Rated | Non GST | N Non Taxable

NO GST ON OUTWARD SUPPLY

Calculate Eligible Refund under Inverted Duty Structure?

Solution

As per Section 17 (1) , 17 (2) and read with Rule 42 of CGST Rules 2017

If Outward Supply is

Taxpayer is "NOT ELIGIBLE" to avail Input Tax Credit

Ineligible

Since Input Tax Credit is "NOT ADMISSIBLE"

Reg Person "CANNOT CLAIM REFUND"

Case Study: 4

Reg Person

GST Rate on **Inputs** – 12%

Say ITC – Rs 4,00,000

GST Rate on **O/w supply** – 12%

Say GST Liability – Rs 3,00,000

GST Rate on Input and Output is **Uniform**

Calculate Eligible Refund under Inverted Duty Structure?

Solution

Reg Person may avail Refund under **Inverted Duty Structure** if

GST Rate on Inputs is "HIGHER" than GST Rate on Output

In the given case

Hence Registered Person **"CANNOT CLAIM REFUND"** of GST Paid of Rs 1 Lakh

Registered Person "SHALL CARRY FORWARD" Refund of Rs 1 Lakh and adjust against future GST Liabilities if any

Case Study: 5

Reg Person

GST Rate **O/w supply** – 12%

GST Liability – Rs 3,00,000

GST on Input – 5%

ITC – Rs 2,00,000

GST on Input – 12%

ITC – Rs 3,00,000

GST Rate on **Services.**–18%

Say ITC – Rs 5,00,000

Whether Registered Person may avail refund of GST under Inverted Duty Structure?

GST Rate on Input Services **is higher** than GST Rate on Outward Supply

GST Rate on Inputs is uniform or lesser than GST Rate on Outward Supply

Solution

As per Section 54 read with Rule 89, Pre-Condition for GST Refund under Inverted Duty Structure is

GST Rate on "INPUTS"

Is higher than GST Rate on Output

In the given case

Hence Registered Person **"CANNOT CLAIM REFUND"** under Inverted Duty Structure

Registered Person "SHALL CARRY FORWARD" GST Refund and adjust against future GST Liabilities if any

Case Study: 6

Reg Person

GST Rate O/w supply – 5%

GST Liability – Rs 3,00,000

GST on Input – 12%

ITC – Rs 7,00,000

GST Rate on Services.–18%

Say ITC – Rs 5,00,000

Calculate Eligible GST Refund under Inverted Duty Structure?

Solution

In the Given case, GST Rate on Inputs **(12%)** is higher than GST Rate on Output (5%)

Hence R.P. shall be eligible to avail GST Refund under Inverted Duty Structure.

Say R.P. takes advantage of Gujarat High Court Judgement, Eligible GST Refund shall be

Less

Eligible GST Refund shall be Rs 9,00,000

Summary

Condition for Refund under Inverted Duty Structure

GST Rate on **"INPUT"** is | Is higher than | GST Rate on **"OUTPUT"**

If GST Rate on Input is lower or equal to GST Rate on Output then R.P. **cannot claim** GST Refund under ITC

It is immaterial that GST Rate on input Services is higher than GST Rate of Output.

Registered Person

May Avail Refund of GST paid on "INPUTS"

"Cannot Avail" Refund of GST paid on "Capital Goods"

"Cannot Avail" Refund of GST paid on "Input Services"

However R.P. may avail refund of Input Services on basis of Gujarat H.C. Judgement

Registered Person cannot avail refund of GST if outward supply is exempted, nil rated, non taxable, NON GST

Registered Person cannot avail refund if GST Rate on Inputs **is equal** to GST Rate on Output

Entry No 59 of GST Exemption Notification No 12/2017 .

Services by a "Foreign Diplomatic Mission" located in India.

Entry No 59 of GST Exemption Notification No 12/2017 - Services by a "Foreign Diplomatic Mission" located in India.

Home Country

Host Country Keep offices of Foreign Diplomats in India

FOREIGN EMBASSY
IN INDIA

Entry No 59 of GST Exemption Notification No 12/2017 - Services by a "Foreign Diplomatic Mission" located in India.

Foreign Diplomats in India supply various services

Supplier

Supply various services for a consideration to

Govt

Non - Govt

- Represent **"HOME COUNTRY"** in India
- "PROTECT INTERESTS" of their Home Country in India
- Promote **"FRIENDLY RELATIONS"** between Host Country and Home Country
- Issue Passports, Travel Documents and Visas
- Developing Commercial, Economic, Cultural & Scientific Relations between Host Country and Home Country

As per Entry No 59

of GST Exemption Notification No 12/2017

Services **supplied by / provided by**

"FOREIGN DIPLOMATIC MISSION" **"LOCATED IN INDIA"**

Case Study: 1

Foreign Diplomats "RECEIVES" various services

Whether such Foreign Diplomats shall be liable to pay GST to the Supplier for

"RECEIPT OF SUCH SERVICES"?

Renting of Commercial Property

Entry No 59 restricts exemption for **"SERVICES PROVIDED BY"** Foreign Diplomatic Mission

Exemption is "NOT AVAILABLE" for **"RECEIPT OF SERVICES"** by Foreign Diplomatic Mission

Hence Supplier "SHALL BE LIABLE" to charge, collect and pay GST **from Foreign Diplomatic Mission.**

Services "PROVIDED TO "Foreign Diplomatic Mission" located in India.

GST – Rs 18K

Supplier

Supplied Services for

Rs 1 Lakh

GST – 18%

GST – Rs 18K

FDM (Recipient)

GST – Rs 18K

Why Foreign Diplomatic Mission shall be subjected to GST for Receipt of Services?

GST paid by Foreign Diplomatic Mission for

"RECEIPT OF SERVICES"

Shall be "**REFUNDED**" back

FDM (Recipient)

Regular Taxpayers

GST NUMBER

Foreign Diplomatic Mission

UIN – Unique Identification Number

Foreign Diplomatic Mission

Shall get registered in GST Act & obtain

"UIN – UNIQUE IDENTIFICATION NUMBER"

Avail GST Refund for GST paid

on Receipt of Services

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31/08/2021

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26/08/2021

Advisory on HSN and GSTR-1 Filing

26/08/2021

Implementation of Rule-59(6) on GST Portal

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Upcoming Due Dates (Download as PDF File)

GSTR-3B (Aug, 2021)	Sep 20th, 2021	GSTR-3B (Jul-Sep, 2021)	Oct 22nd, 24th, 2021
GSTR-1 (Aug, 2021)	Sep 11th, 2021	IFF (Optional) (Aug,2021)	Sep 13th, 2021

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