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CCT/26-4/2017-2018/ 376

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**CIRCULAR
(No. 04/2018-2019-GST)**

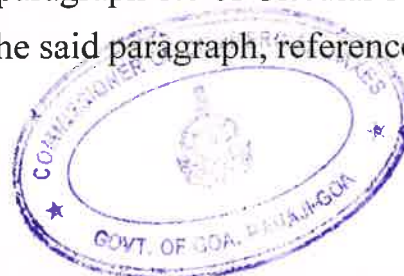
Subject: Clarifications on exports related refund issues- regarding

The Commissioner of State Tax vide Circular No. 10/2017-2018 – GST and 16/2017-2018 - GST dated 7th February, 2018 clarified various issues in relation to processing of claims for refund. In order to have clarity on export related issues and with a view to ensure uniformity in the implementation of the provisions of the law across field formations, the Commissioner, in exercise of its powers conferred by section 168 (1) of the Goa Goods and Services Tax Act, 2017 (Goa GST Act), hereby clarifies as below:

2. Non-availment of drawback:

The third proviso to sub-section (3) of section 54 of the Goa GST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of integrated tax.

2.1 This has been clarified in paragraph 8.0 of Circular No. 16/2017-2018- GST, dated 7th February, 2018. In the said paragraph, reference to “section 54(3)(ii) of



the Goa GST Act” is a typographical error and it should read as “section 54(3)(i) of the Goa GST Act”.

3. Amendment through Table 9 of GSTR-1:

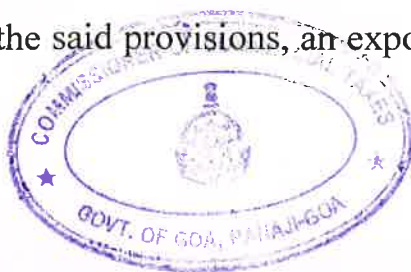
It has been reported that refund claims are not being processed on account of mismatches between data contained in FORM GSTR-1, FORM GSTR-3B and shipping bills/bills of export. In this connection, it may be noted that the facility of filing of Table 9 in FORM GSTR-1, an amendment table which allows for amendments of invoices/ shipping bills details furnished in FORM GSTR-1 for earlier tax period, is already available. If a taxpayer has committed an error while entering the details of an invoice / shipping bill / bill of export in Table 6A or Table 6B of FORM GSTR-1, he can rectify the same in Table 9 of FORM GSTR-1.

3.1. It is advised that while processing refund claims on account of zero rated supplies, information contained in Table 9 of FORM GSTR-1 of the subsequent tax periods should be taken into cognizance, wherever applicable.

3.2. Proper Officers are also advised to refer to Circular No. 20/2017-2018 – GST dated 7th February, 2018, wherein the procedure for rectification of errors made while filing the returns in FORM GSTR-3B has been provided. Therefore, in case of discrepancies between the data furnished by the taxpayer in FORM GSTR-3B and FORM GSTR-1, the officer shall refer to the said Circular and process the refund application accordingly.

4. Exports without LUT:

Export of goods or services can be made without payment of integrated tax under the provisions of Rule 96A of the Goa Goods and Services Tax Rules, 2017 (the Goa GST Rules). Under the said provisions, an exporter is required to furnish a



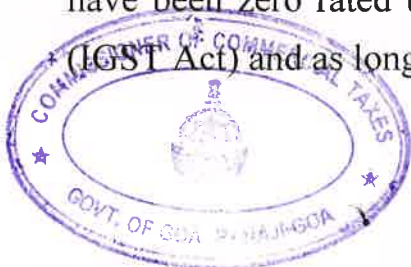
bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has already been specified vide Circular No. 03/2017-2018 –GST dated 7th February, 2018. It has been noticed that in some cases, such zero rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit have been filed.

4.1. In this regard, it is emphasised that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

5. Exports after specified period:

Rule 96A (1) of the Goa GST Rules provides that any registered person may export goods or services without payment of integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of 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. The time period in case of services is 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.

5.1 It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasised that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period

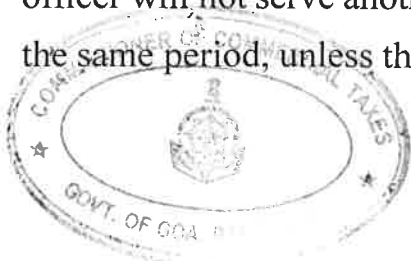


of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

6. Deficiency memo:

It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the Goa GST Rules, an acknowledgement in FORM GST RFD-02 should be issued. Rule 90 (3) of the Goa GST Rules provides for communication in FORM GST RFD-03 (deficiency memo) where deficiencies are noticed. The said sub-rule also provides that once the deficiency memo has been issued, the claimant is required to file a fresh refund application after the rectification of the deficiencies.

6.1. In this connection, a clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the Goa GST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. It is therefore, clarified that there can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application, manually in FORM GST RFD-01A. This fresh application would be accompanied with the original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original memo remain



unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

7. Self-declaration for non-prosecution:

It is learnt that some proper officers are asking for a self-declaration with every refund claim to the effect that the claimant has not been prosecuted.

7.1. The facility of export under LUT is available to all exporters in terms of notification No. CCT/26-2/2017-18/13/3048 dated 11th October, 2017 published in Extraordinary Official Gazette, Series I No. 28 dated 12th October, 2017, except to those who have been prosecuted for any offence under the Goa GST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 3/2017-2018-GST dated 7th February, 2018 mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond.

7.2. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.

8. Refund of transitional credit:

Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the Goa GST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the Goa GST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit



availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under subrules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under the Goa Value Added Tax Act, 2005, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC'.

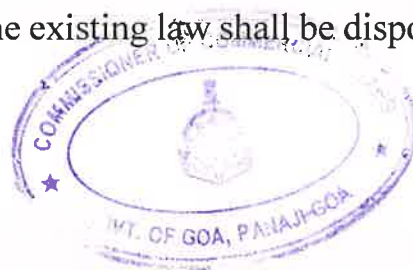
9. Discrepancy between values of GST invoice and shipping bill/bill of export:

Where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. In this regards, it is clarified that the zero rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are for export and the same is done under an invoice issued under rule 46 of the Goa GST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the Goa GST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export.

9.1 During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

10. Refund of taxes paid under existing laws:

Sub-sections (3), (4) and (5) of section 142 of the Goa GST Act provide that refunds of tax/duty paid under the existing law shall be disposed of in accordance



with the provisions of the existing law. It is observed that certain taxpayers have applied for such refund claims in FORM GST RFD-01A also. In this regard, the proper officers are advised to reject such applications and pass a rejection order in FORM GST PMT-03 and communicate the same on the common portal in FORM GST RFD-01B. The procedures laid down under the existing laws viz., Goa Value Added Tax Act, 2005 read with above referred sub-sections of section 142 of the Goa GST Act shall be followed while processing such refund claims.

10.1 Furthermore, it has been brought to the notice of the Commissioner that the proper officers are rejecting, withholding or re-crediting CENVAT credit, while processing claims of refund filed under the existing laws. In this regard, attention is invited to sub-section (3) of section 142 of the Goa GST Act which provides that the amount of refund arising out of such claims shall be refunded in cash. Further, the first proviso to the said sub-section provides that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse and therefore, will not be transitioned into GST. Furthermore, it should be ensured that no refund of the amount of CENVAT credit is granted in case the said amount has been transitioned under GST. The proper officers are advised to process such refund applications accordingly.

11. Filing frequency of Refunds:

Section 2(107) of the Goa GST Act defines the term “tax period” as the period for which the return is required to be furnished. The terms ‘Net ITC’ and ‘turnover of zero rated supply of goods/services’ are used in the context of the relevant period in rule 89(4) of Goa GST Rules. The phrase ‘relevant period’ has been defined in the said sub-rule as ‘the period for which the claim has been filed’.

11.1 In many scenarios, exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed. Similarly, there may be cases where exports may have been made in a period but



no input tax credit has been availed in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.

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

12. BRC / FIRC for export of goods:

It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the Goa GST Rules, a statement containing the number and date of invoices and the relevant Bank Realisation Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

13. Supplies to Merchant Exporters:

Notification No. 38/1/2017-Fin(R&C) (40/2017-Rate)/3942 dated 02nd November, 2017 published in Official Gazette, Series II No. 31, Extraordinary No. 2, dated 02nd November, 2017 and No. 38/1/2017-Fin(R&C)(41/2017-Rate) dated 14th November, 2017, published in the Extraordinary Official Gazette Series I No. 32 dated 14th November, 2017 provide for supplies for exports at a



concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications.

13.1 It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate.

13.2 It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the Goa GST Act. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of integrated tax. In this connection, Notification No. 38/1/2017-Fin(R&C)(42)/434, dated 31.01.2018, published in the Official Gazette Series I No. 44, Extraordinary No. 2, dated 05.02.2018 may be referred.

14. Requirement of invoices for processing of claims for refund:

It has been noticed that for processing of refund claims, copies of invoices and other additional information are being insisted upon by many proper officers.

14.2 A list of documents required for processing the various categories of refund claims on exports is provided in the Table. Apart from the documents listed in the Table, no other documents should be called for from the taxpayers, unless the same are not available with the officers electronically:



Table	
Type of Refund	Documents
Export of Services with payment of tax (Refund of IGST paid on export of services)	<ul style="list-style-type: none"> • Copy of FORM RFD-01A filed on common portal • Copy of Statement 2 of FORM RFD-01A • Invoices w.r.t. input, input services and capital goods • BRC/FIRC for export of services • Undertaking / Declaration in FORM RFD-01A
Export (goods or services) without payment of tax (Refund of accumulated ITC of IGST / CGST / SGST / UTGST / Cess)	<ul style="list-style-type: none"> • Copy of FORM RFD-01A filed on common portal • Copy of Statement 3A of FORM RFD-01A generated on common portal • Copy of Statement 3A of FORM RFD-01A • Invoices w.r.t. input, input services • BRC/FIRC for export of services • Undertaking / Declaration in FORM RFD-01A

15. These instructions shall apply to exports made on or after 1st July, 2017. It is also advised that refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.

16. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the undersigned.



(Dipak M. Bandekar)

Commissioner of State Tax

Note : Similar Circular is issued under the Central Goods and Services Act, 2017 by GST Policy Wing, Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, New Delhi vide Circular No. 37/11/2018- GST dated 15/03/2018.