

Goods & Services Tax

The Central Goods & Services Tax Act, 2017

“Refunds” under GST

ICAI, New Delhi

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“Refunds” under GST

Who will claim the refund ?

Refund
from e-
Cash
Ledger-
PMT-5


Refund
IGST or
Unutilized
ITC
against
Zero-rated
Supply

Refund
due to
Inverted
Tax
Structure

Refund to
UN
Agencies
& Other
Cases

Other Instances of Refund

Issue of Refund Voucher where Supply has not been provided but tax was paid on Advance



Refund of Tax wrongly collected as CGST/SGST but Liable for IGST



Refund of balance Advance Tax deposited by Casual Taxable Person/NRTP



Refund of Tax deposited provisionally after Final Assessment thereof u/s 60



Refund of Amount deposited as pre-condition for filing of appeal u/s 107 & 112

Applicable Provisions under GST Law

CGST Act, 2017

• Sec.54 - 58

CGST Rules, 2017

• Rule-89-97A

Notifications

• 39,48 & 49/2017-CT

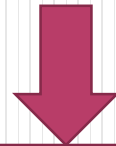
Forms

• RFD-01 to 10

Concept of “Unjust Enrichment”

UOI Vs Roplas Limited

1988 (38) ELT 27 Bombay High Court



What is necessary in all such cases is to find out from whose pocket ultimately the money for such payment has come or who has ultimately borne its brunt. It will be a travesty of the judicial process if it is allowed to be abused for patently illegal and unjust recoveries by those who have not paid the amounts. The judicial process cannot lend its assistance for collection of illegal booty.

Concept of “Unjust Enrichment”

Sec.49(9)

Every person who
paid GST, deemed to
passed on the full
incidence.

Refund to be credited to “Consumer Welfare Fund”

Order by Proper
Officer for Refund
Sec.54(5)



Generally, Refund to be
credited to Consumer
Welfare Fund



Refund to be paid to
applicant in certain
cases as per Sec.54(8)

Cases where refund will be paid to the applicant

Sec.54(8)

IGST

- 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

ITC

- refund of unutilised input tax credit under u/s 54(3) {Zero rated & Inverted Tax Structure}

Advance

- 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

Cases where refund will be paid to the applicant

Sec.54(8)

Wrong Tax
Paid

- refund of tax in pursuance of section 77 (CGST/SGST paid in place of IGST)

Unjust
Enrichment

- 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

Notify

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

Time Limit for claiming the Refund-Export of Goods

Any person may make an application before the expiry of two years from:-

the date on which the ship or the aircraft in which such goods are loaded, **leaves India**, in case of export of goods by sea or air

the date on which such goods **pass the frontier** in case the goods are exported by land

the **date of despatch of goods** by the Post Office concerned to a place outside India, if the goods are exported by post.

Time Limit for claiming the Refund

In case of
deemed export
of Goods

- Within 2 Years from the date on which the **return** relating to such deemed exports is furnished

In case of Export of
Services **without**
Advance Payment

- Within 2 years from the date of **receipt of payment** in convertible foreign exchange

In case of Export
of Services when
Advance Payment
received

- Within 2 years from the date of **issue of invoice**

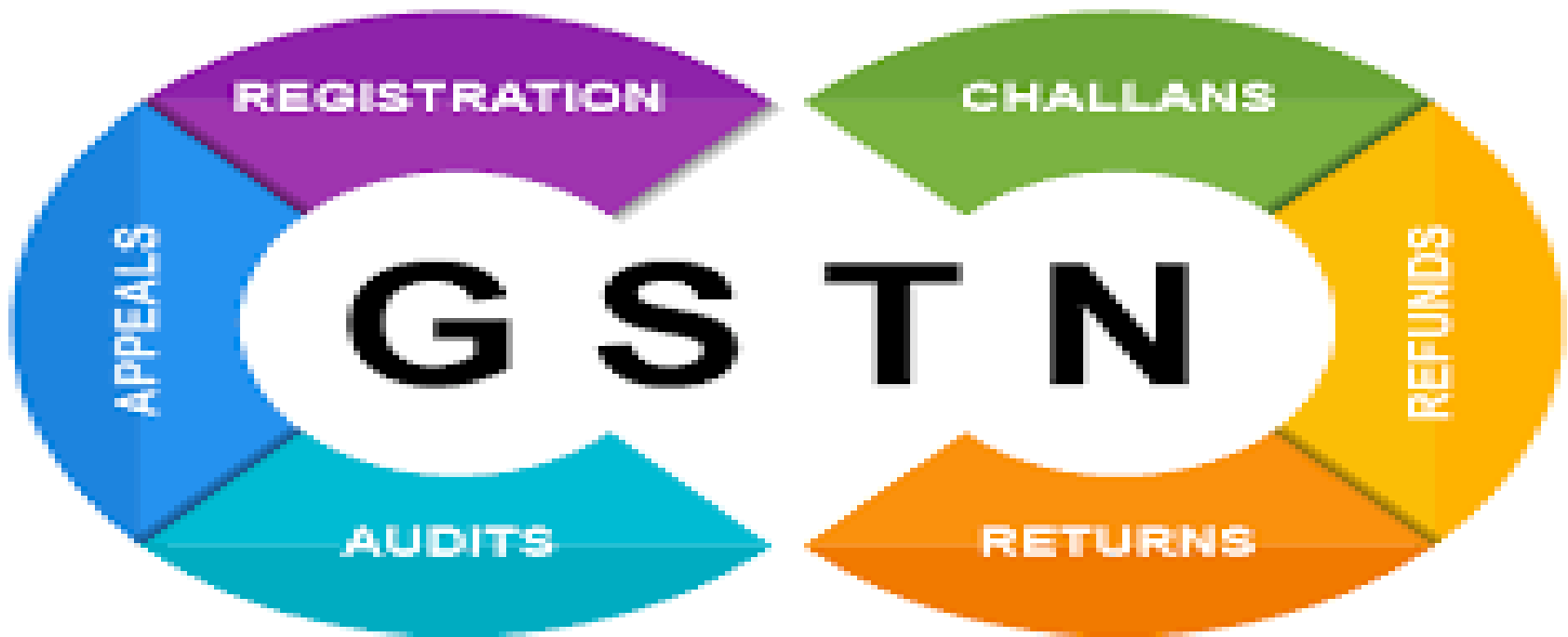
Time Limit for claiming the Refund

In case of refund
of unutilized
ITC u/s 54(3)

- Within 2 years from the the end of the financial year in which such claim for refund arises

In the case of a
person, other
than the supplier

- Within 2 years from the date of receipt of goods or services or both by such person



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Refund from E-Cash Ledger (PMT-5)

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Refund of any balance in PMT-5

Sec.49(6)/Proviso to Sec.54(1)

49(6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54



Sec.54(1) Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed

Refund of any balance in PMT-5

Rule-89



Refund from
e-cash ledger

- Provided that any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant tax period in **FORM GSTR-3** or **FORM GSTR-4** or **FORM GSTR-7**, as the case may be

Refund of any balance in PMT-5 GSTR-3

14. Refund claimed from Electronic cash ledger

Description	Tax	Interest	Penalty	Fee	Other	Debit Entry Nos.
1	2	3	4	5	6	7
(a) Integrated tax						
(b) Central Tax						
(c) State/UT Tax						
(d) Cess						
Bank Account Details (Drop Down)						

GST Refund Rules & Formats

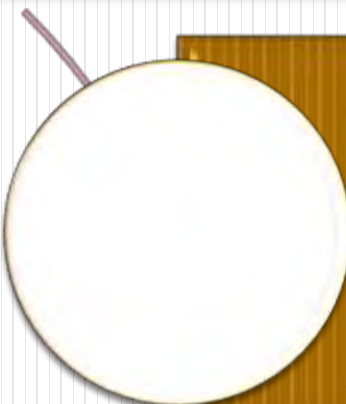
Form	RFD-01	Application for Refund
	RFD-02	Acknowledgement
	RFD-03	Deficiency Memo
	RFD-04	Provisional Refund Order
	RFD-05	Payment Advice
	RFD-06	Refund Sanction/ Rejection Order

Refund Procedure & Forms


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Refund

Sec.54/Rule.89



54. (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:



(1) Any person, except the persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application electronically in **FORM GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner

Refund

Sec.54/Rule.89

Refund
Order within
60 Days

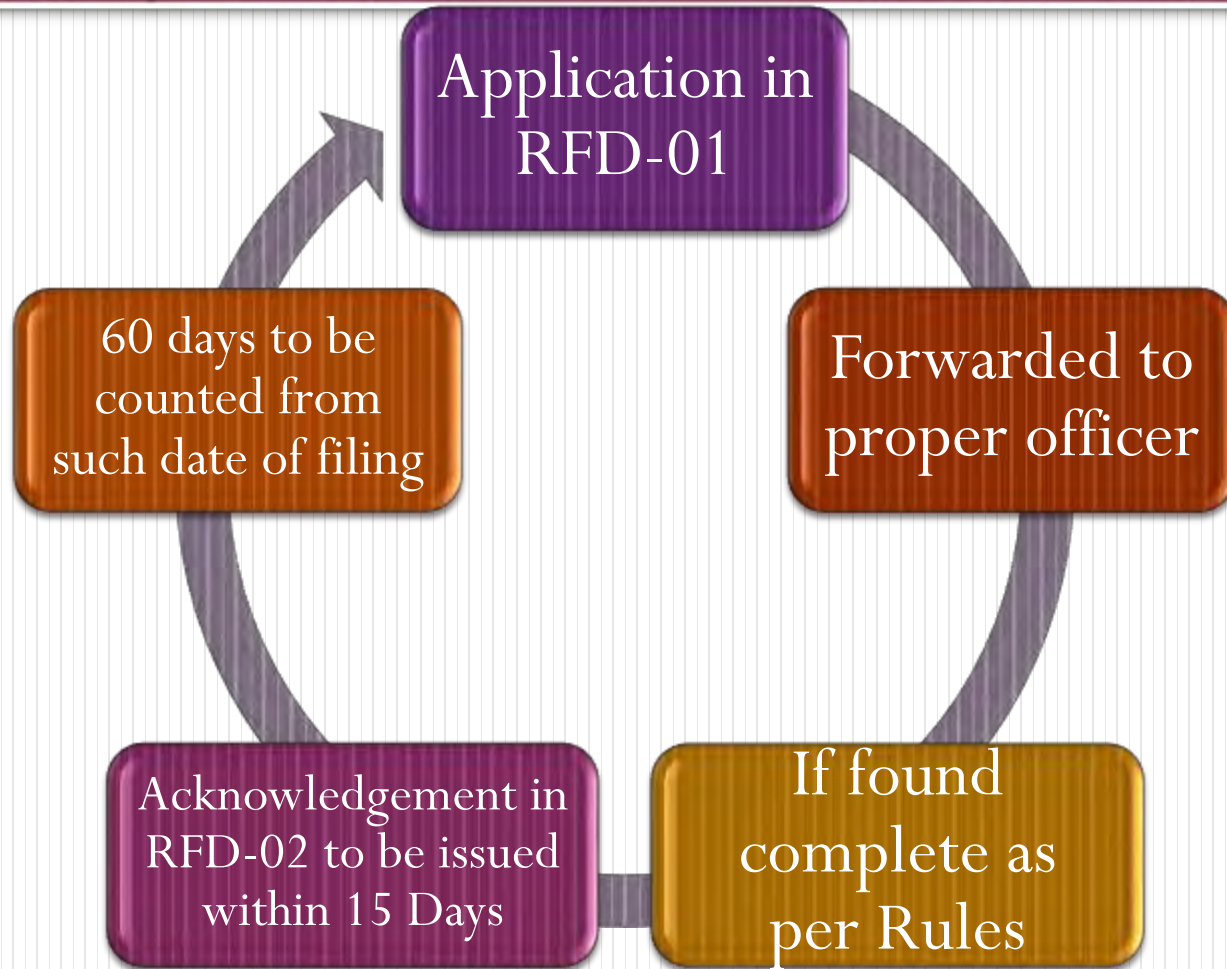
- The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects

No refund for
Amount less
than
Rs.1,000/-

- Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees

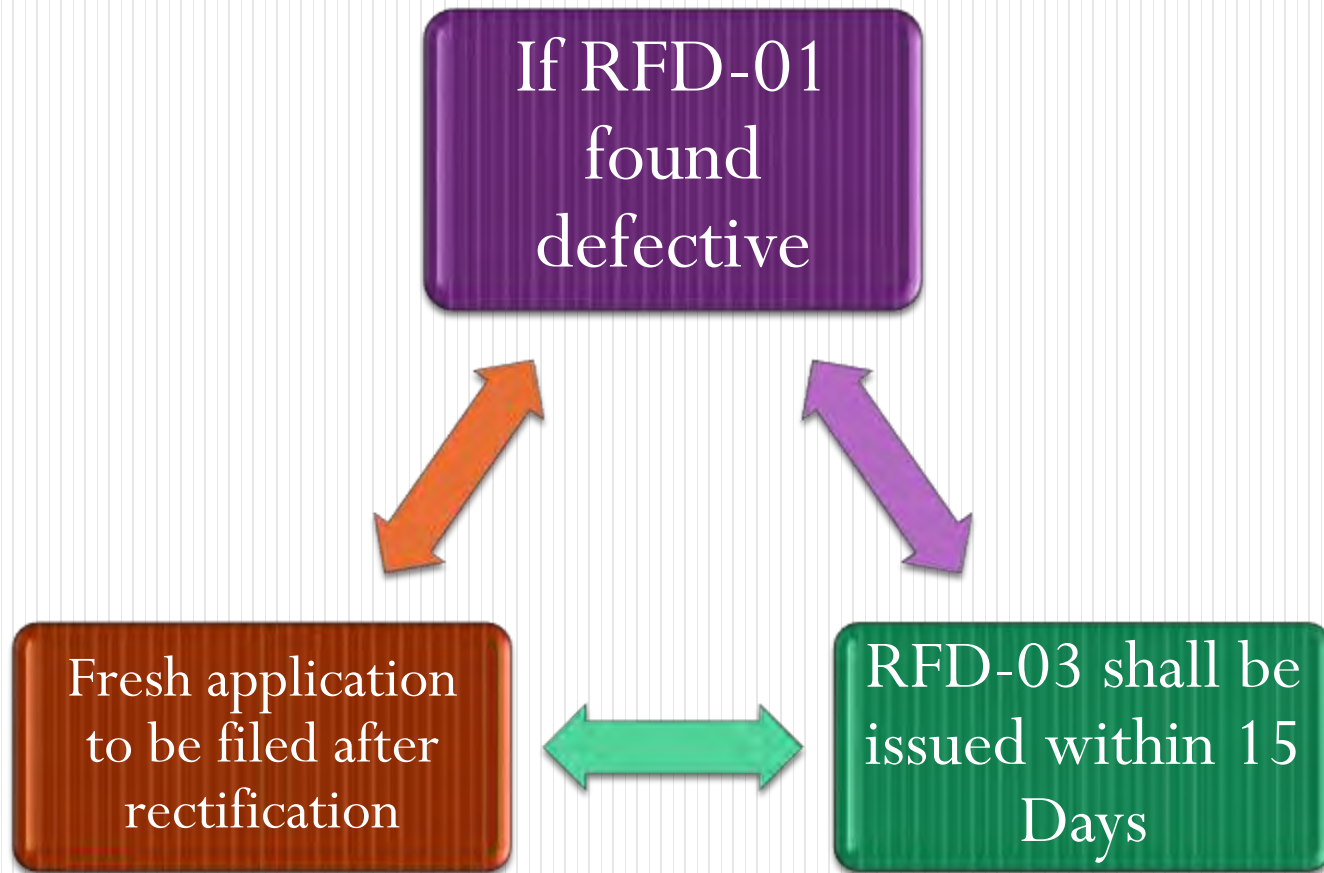
Refund (other than e-cash ledger)

Sec.54/Rule.89



Refund (other than e-cash ledger)

Sec.54/Rule.89



Interest on Delayed Refund

Sec.56/Rule.94

If refund is not given 60 days from the date of receipt of application

- Interest (6%- 13/2017) shall be payable after 60 days till the date of the refund.

Interest order in RFD-05

- **RFD-05**, specifying the amount of refund which is delayed, the period of delay for which interest is payable.

Refund Application- RFD-01

FORM-GST-RFD-01

[See rule 89(1)]

Application for Refund

(Applicable for casual or non-resident taxable person, tax deductor, tax collector, un-registered person and other registered taxable person)

1.	GSTIN / Temporary ID	
2.	Legal Name	
3.	Trade Name, if any	
4.	Address	
5.	Tax period (if applicable)	From <Year><Month> To <Year><Month>

Refund Application- RFD-01

6.	Amount of Refund Claimed (Rs.)	Act	Tax	Interest	Penalty	Fees	Others	Total
		Central tax						
		State / UT tax						
		Integrated tax						
		Cess						
		Total						

Refund Application- RFD-01

7. Grounds of refund claim (select from drop down)	(a)	Excess balance in Electronic Cash Ledger				
	(b)	Exports of services- with payment of tax				
	(c)	Exports of goods / services- without payment of tax (accumulated ITC)				
	(d)	On account of order				
	Sr. No.	Type of order	Order no.	Order date	Order Issuing Authority	Payment reference no., if any
	(i)	Assessment				
	(ii)	Provisional assessment				
	(iii)	Appeal				
	(iv)	Any other order (specify)				

Refund Application- RFD-01

(e)	ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]
(f)	On account of supplies made to SEZ unit/ SEZ developer (with payment of tax)
(g)	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)
(h)	Recipient of deemed export
(i)	Tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued (tax paid on advance payment)
(j)	Tax paid on an intra-State supply which is subsequently held to be inter- State supply and vice versa(change of POS)
(k)	Excess payment of tax, if any

Refund Application- RFD-01

8.	Details of Bank account	Name of bank	Address of branch	IFSC	Type of account	Account No.
9.	Whether Self-Declaration filed by Applicant u/s 54(4), if applicable			<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>		

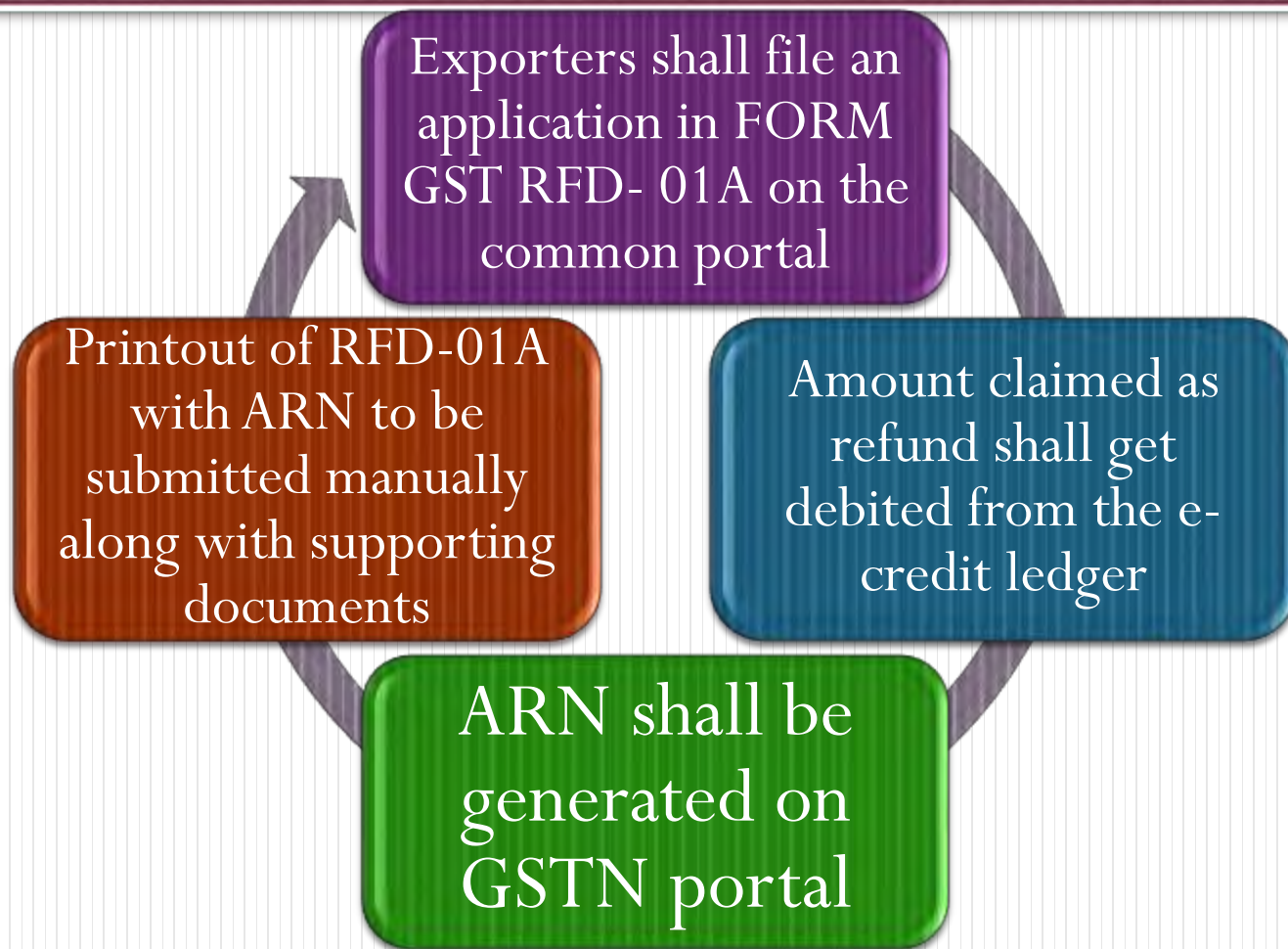


Manual Refund Application for Exporters & E-Cash Ledger Refunds

CA Rohit Vaswani, B.com, FCA, ACMA, LLB, DISA (ICAI)

Press Release – Refund of ITC

Dated- 29th November 2017



CA Rohit Vaswani, B.com, FCA, ACMA, LLB, DISA (ICAI)

Manual Refund Application- RFD-01 A

FORM-GST-RFD-01 A

[See rules 89(1) and 97A]

Application for Refund (Manual)

(Applicable for casual taxable person or non-resident taxable person, tax deductor, tax collector and other registered taxable person)

1.	GSTIN / Temporary ID							
2.	Legal Name							
3.	Trade Name, if any							
4.	Address							
5.	Tax period (if applicable)	From <Year><Month>		To	<Year><Month>			
6.	Amount of Refund Claimed(Rs.)	Act	Tax	Interest	Penalty	Fees	Others	Total
		Central tax						
		State / UT tax						
		Integrated tax						
		Cess						
		Total						

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Manual Refund Application- RFD-01 A

7.	Grounds of Refund Claim (select from drop down)	(a)	Excess balance in Electronic Cash Ledger
		(b)	Exports of services- with payment of tax
		(c)	Exports of goods / services- without payment of tax (accumulated ITC)
		(d)	ITC accumulated due to inverted tax structure[under clause (ii) of first proviso to section 54(3)]
		(e)	On account of supplies made to SEZ unit/ SEZ developer(with payment of tax)
		(f)	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)
		(g)	Recipient of deemed export



Refund against “Zero Rated Supply” and in other cases

CA Rohit Vaswani, B.com, FCA, ACMA, LLB, DISA (ICAI)

Refund of **IGST Paid** on Exports

Export of Goods
with payment of
IGST

No need to
file refund
application

Refund on the
basis of shipping
bill by custom
department

Deemed Export of
Goods with
payment of IGST

Application in
Form RFD-01

Refund from
GSTN portal

Export of Services/
Supply to SEZ with
payment of IGST

Application in
Form RFD-01

Refund from
GSTN portal

Refund from IGST from Custom Department

Rule.96

Shipping Bill to be application for refund

- 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

Application shall be deemed to have been filed, if

- the person in charge of the conveyance carrying the export goods duly files an export manifest/report
- the applicant has furnished a valid return in **FORM GSTR-3/3B**

Refund from IGST from Custom Department Rule.96

Invoice
Details

- 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

Return

- Upon the receipt of the information regarding the furnishing of a valid return in **FORM GSTR-3/3B**, 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 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

Restriction on Claiming the Refund in case of “Deemed Export” or “0.1% IGST Scheme” with payment of IGST Rule-96(9)

- “(9) The persons claiming refund of integrated tax paid on export of goods or services
- should not have received supplies on which the supplier has availed the benefit of
- notification No. 48/2017-Central Tax dated 18th October, 2017 or
- notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23rd October, 2017

Refund in case of Deemed Export

Rule.89

In respect of supplies regarded as deemed exports, the application for Refund may be filed by

the recipient of
deemed export
supplies; or

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

Refund of Unutilized ITC against Zero Rated Supply **without payment of IGST**



Refund of Unutilized ITC

Sec.54(3)

Cases where Refund of Unutilized ITC allowed-

zero rated supplies
made without
payment of tax

ITC Accumulated
due to inverted tax
rates

No refund in
case export is
subject to
export duty

If duty
drawback is
availed for
Central Tax

Except for
supplies as
may be
notified

Refund on Provisional basis in case of zero-rated supply

Sec.54(6)

Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons

other than such category of registered persons as may be notified by the Government on the recommendations of the Council

refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted

in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant

Grant of Provisional Refund

Rule-91

No
prosecution

- Has not been prosecuted during last 6 years under this act or under existing law for amount exceeding 2.5 Cr

Within 7 Days of
Acknowledgement

- shall make an order in **RFD-04**, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding 7 days from the date of the acknowledgement

Payment
Advice

- Payment Advice in RFD-05 for payment in Bank Account

Refund of Unutilized ITC in Case of Zero Rated Supply Rule.89(4)

- Refund Amount = $\left(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services} \right) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$

Refund of Unutilized ITC in Case of Zero Rated Supply Rule.89(4)

- "Refund amount" means the maximum refund that is admissible;
- "Net ITC" means 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 sub-rules (4A) or (4B) or both
- "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, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both

Refund of Unutilized ITC in Case of Zero Rated Supply Rule.89(4)

- "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 payments received during the relevant period for zero-rated supply of services and 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 reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

Refund of Unutilized ITC in Case of Zero Rated Supply Rule.89(4)

- "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding (a) the value of exempt supplies other than zero-rated supplies and (b) the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any, during the relevant period.
- "Relevant period" means the period for which the claim has been filed

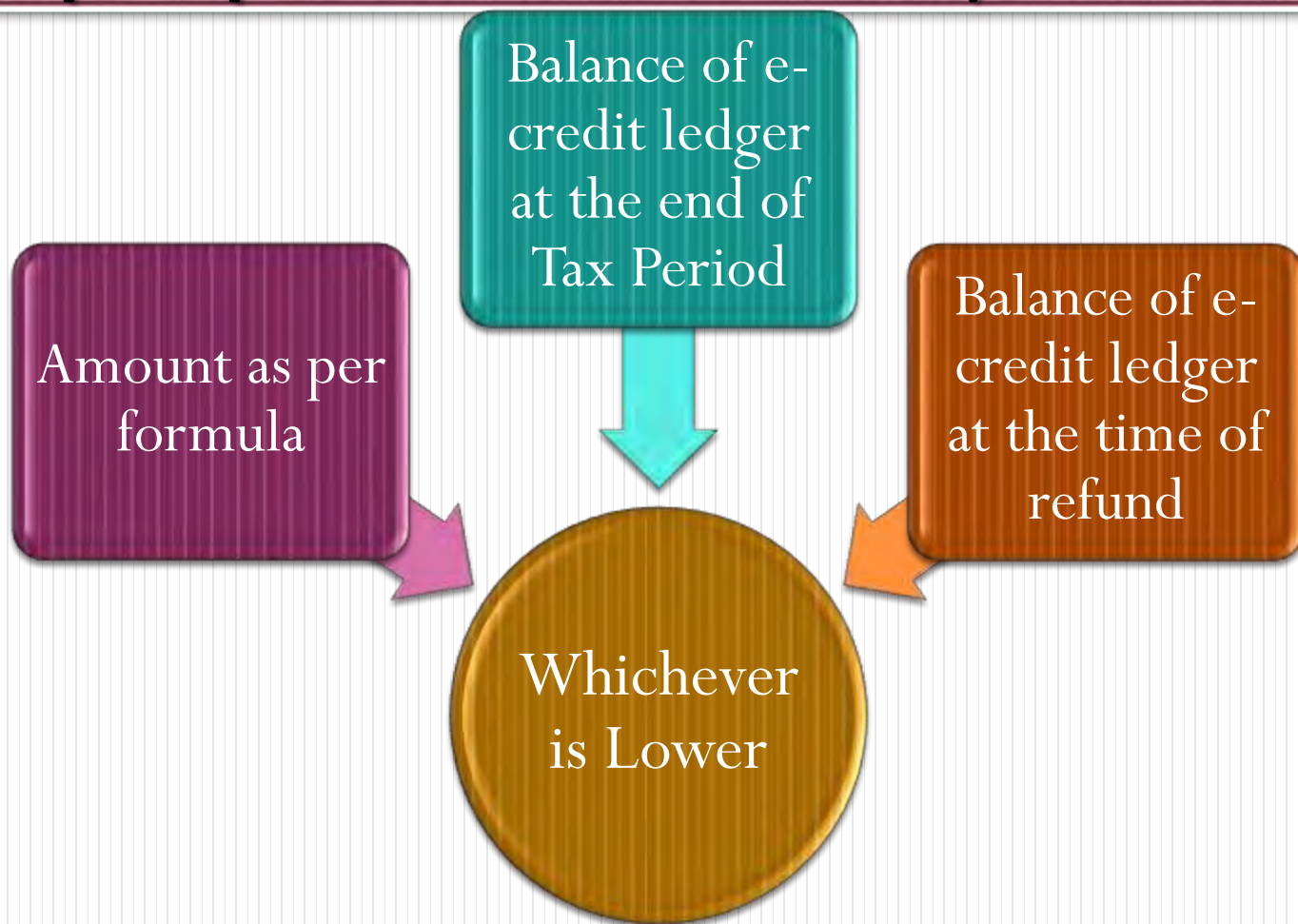
Refund of Unutilized ITC in Case of “Deemed Export” Rule.89(4A)

- In the case of supplies received on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18th October, 2017,
- refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted

Refund of Unutilized ITC in Case of “0.1% IGST Scheme” Rule.89(4B)

- In the case of supplies received on which the supplier has availed the benefit of notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23rd October, 2017, or both,
- refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and
- the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted

Amount of Permissible Refund (As per practice in Excise)



Refund in case of Inverted Rate Structure

Rule-89(5)

- Maximum Refund Amount =
$$\{(\text{Turnover of inverted rated supply of goods}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\}$$
 - tax payable on such inverted rated supply of goods

No Refund by the Order of Court

Sec.54(9)

Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court

or in any other provisions of this Act or the rules made thereunder

or in any other law for the time being in force

no refund shall be made except in accordance with the provisions of sub-section (8)

Power to withhold Refund of Unutilized ITC

Sec.54(10)

Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, 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

(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

For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act

Power to withhold Refund in Case of Appeal etc. Sec.54(11)

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

Refund in case of Casual Taxable Person/Non-resident Taxable Person-Sec.54(13)

Notwithstanding anything to the contrary contained in this section-

the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27

shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force

furnished all the returns required under section 39. (shall be claimed in the last return required to be furnished by him)

Refund to UN Organizations

Sec.55/Rule.95

The Government may, on the recommendations of the Council, by notification, specify

any 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 and any other person or class of persons as may be specified in this behalf

who shall, subject to such conditions and restrictions as may be prescribed, **be entitled to claim a refund** of taxes paid on the notified supplies of goods or services or both received by them

Refund to UN Organizations

Sec.55/Rule.95

Application in
RFD-10

- On quarterly basis along with a statement of the inward supplies of goods or services or both in **FORM GSTR-11**,

Refund allowed if


- the inward supplies of goods or services or both were received from a registered person against a tax invoice

Express provision
in any treaty to
prevail


- Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.

Documentary evidences to be accompanied with RFD-01 to establish that a refund is due to the applicant

Rule-89




the reference number of the order and a copy of the order passed in case of **pre-deposit before filing the appeal**




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, in a case where the refund is on account of **export of goods**

Documentary evidences to be accompanied with RFD-01 to establish that a refund is due to the applicant

Rule-89




a statement containing the number and date of invoices and the relevant BRC or FIRC, as the case may be, in a case where the refund is on account of the **export of services**




a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the **supply of goods made to a SEZ Unit/Developer**

Documentary evidences to be accompanied with RFD-01 to establish that a refund is due to the applicant

Rule-89




a statement containing the number and date of invoices, the evidence regarding the endorsement specified and the details of payment, along with the proof thereof in a case where the refund is on account of **supply of services made to a SEZ unit/Developer**




a declaration to the effect that the SEZ unit/developer has not availed the ITC of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of **supply of goods or services made to a SEZ unit/ developer**

Documentary evidences to be accompanied with RFD-01 to establish that a refund is due to the applicant

Rule-89




a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of **deemed exports**




a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised ITC credit u/s 54(3) where the credit has accumulated on account of the **rate of tax on the inputs being higher than the rate of tax on output supplies**, other than nil-rated or fully exempt supplies

Documentary evidences to be accompanied with RFD-01 to establish that a refund is due to the applicant

Rule-89




the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment




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

Documentary evidences to be accompanied with RFD-01 to establish that a refund is due to the applicant

Rule-89



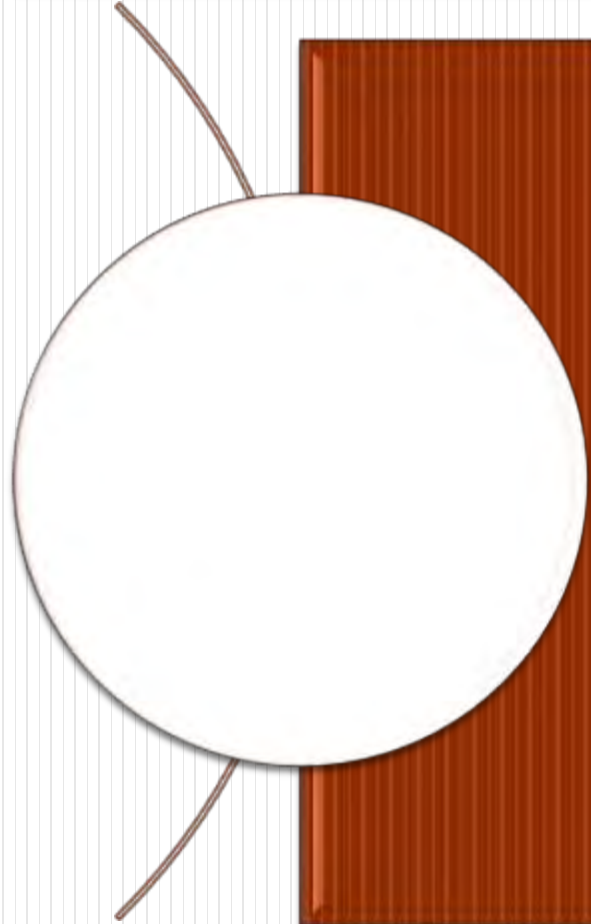
a statement showing the details of the amount of claim on account of **excess payment of tax**



a declaration 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**, in a case where the amount of refund claimed does not exceed 2 lakh rupees (Not applicable for export, deemed export, provisional assessment & appeal order cases)

Documentary evidences to be accompanied with RFD-01 to establish that a refund is due to the applicant

Rule-89



a Certificate in Annexure 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, in a case **where the amount of refund claimed exceeds 2 lakh rupees** (Not applicable for export, deemed export, provisional assessment & appeal order cases)



Thank You

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CA Rohit Vaswani