

# EY Tax Alert

## CBIC clarifies additional issues on exports related refund

Tax Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your Ernst & Young advisor.

### Executive summary

This Tax Alert summarizes a recent Circular<sup>[1]</sup> issued by the Central Board of Indirect Taxes and Customs, dealing with the processing of refund claims in cases of exports.

The important clarifications issued are as follows:

- Filing of applicable returns by input service distributor, composition taxpayer and non-resident taxable person will be sufficient for claiming refund.
- A solution has been provided to claim refund due to error in declaring zero rated supplies made to a Special Economic Zone unit or developer in GSTR-3B returns.
- Refund of unutilized credit of compensation cess will also be granted to exporters even if the outward supply does not attract compensation cess.
- Furnishing of Letter of Undertaking /bond is not required in respect of export of non-GST and exempted goods without payment of integrated tax.
- Restriction imposed under Rule 96(10) of the Central Goods and Services Tax Rules 2017 is not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for their outward supplies.

<sup>[1]</sup> Circular No. 45/19/2018-GST dated 30 May 2018

## Background

- Central Board of Indirect Taxes and Customs (CBIC) had clarified various issues in relation to exports related refund issues, vide Circular No. 17/17/2017 – GST dated 15 November 2017, Circular No. 24/24/2017 – GST dated 21 December 2017 and No. 37/11/2018 – GST dated 15 March 2018.
- Further, representations have been received by CBIC seeking clarifications on other issues relating to refund.
- In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the law across field formations, CBIC, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (CGST Act) has issued further clarifications vide the circular.

## Clarifications

Claim for refund filed by an Input Service Distributor (ISD), composition dealer or a non-resident (NR) taxable person

- The Circular clarifies that the filing of Form GSTR-1 and Form GSTR-3B is not mandatory in case of a claim for refund of balance in the electronic cash ledger, filed by an ISD or a composition taxpayer or a claim for refund of balance in the electronic cash and/or credit ledger by a NR taxable person.
- The applicable returns as filed, i.e., Form GSTR-6 by ISD, Form GSTR-4 by a composition taxpayer and Form GSTR-5 by a NR taxable person, will be sufficient for claiming refund.

Refund of integrated GST (IGST) paid on zero-rated supplies made to a Special Economic Zone (SEZ) unit or developer

- Certain taxpayers erroneously declared zero rated supplies made to a SEZ unit/developer on payment of IGST, as outward taxable supplies other than zero-rated in respective GSTR-3B returns whereas the details were correctly reported in corresponding GSTR-1 returns and the tax liabilities were duly discharged.
- Such tax payers were unable to file Form GST RFD-01A for refund of IGST paid on the zero-rated supplies made to a SEZ. This was due to an in-built validation check in the GST portal which restricts the refund amount claimed (IGST /cess) to the amount of IGST /cess mentioned under column 3.1(b) of Form GSTR-3B (zero-rated supplies) filed for the corresponding tax period.
- In view of the above difficulty faced, the circular clarifies that such taxpayers will be now able to file the refund application subject to the condition that the amount of refund of IGST /cess claimed will not be more than the aggregate amount of IGST /cess mentioned in the Table

under columns 3.1(a), 3.1(b) and 3.1(c) of Form GSTR-3B filed for the corresponding tax period.

- This facility is available only for tax periods commencing from 1 July 2017 to 31 March 2018.

Refund of unutilized Input Tax Credit (ITC) of compensation cess available even if the final product is not subject to the levy of compensation cess

- The circular clarifies that a registered person making zero rated supply of aluminium products under bond/Letter of Undertaking (LUT) may claim refund of unutilized credit of compensation cess paid on inputs.
- However, in case of zero-rated supply on payment of IGST, credit of the compensation cess paid on inputs cannot be utilized for payment of IGST in view of the restrictions specified under proviso to section 11(2) of the GST (Compensation) Act, 2017. The said proviso allows the utilization of the ITC of cess only for the payment of cess on the outward supplies.
- Accordingly, the same cannot be claimed as refund of compensation cess in case of zero-rated supply on payment of tax.

Zero-rated supply of exempted or non-GST goods

- The Circular clarifies that LUT/bond is not required in respect of export of non-GST and exempted goods without payment of integrated tax. Such tax payers are required to comply with the requirements prescribed under the previous regime (i.e. Central Excise Act, 1944 or the Value Added Tax law of the respective State) or under the Customs Act, 1962, if any.
- It is also clarified therein that the exporter would also be eligible for refund of unutilized ITC of CGST, SGST, UTGST, IGST and compensation cess.

Scope of the restriction imposed by Rule 96(10)

- As per Rule 96(10) of the CGST Rules, persons claiming refund of IGST paid on exports should not have received supplies from a supplier who has availed the benefits of supply of goods without payment of tax or at reduced rate of tax through notification nos. 48/2017-Central Tax dated 18 October 2017, 40/2017-Central Tax (Rate) dated 23 October 2017, 41/2017-Integrated Tax (Rate) dated 23 October 2017, 78/2017-Customs dated 13 October 2017 or 79/2017-Customs dated 13 October 2017.
- The circular clarifies that such restriction is to ensure that the exporter does not utilize the ITC availed on other domestic supplies received for while exporting goods on payment of IGST.
- The circular further clarifies the said restriction is not applicable to an exporter who has procured goods from

suppliers who have not availed the benefits of the above specified notifications for their outward supplies.

- Further, the restriction is also not applicable to an exporter who has procured goods from suppliers who have, in turn, received goods from other registered persons availing the benefits of the notifications. This is because the exporter did not directly procure these goods without payment of tax or at reduced rate of tax.
- The circular also clarifies a situation where a manufacturer imports capital goods by availing the benefit of Notification No. 78 or 79/2017-Customs. Thereafter, the goods manufactured from such capital goods may be supplied to an exporter and the restriction does not apply to such inward supplies of the exporter.

## Comments

The Circular issued by CBIC is an attempt to proactively address the concerns of exporters.

Clarifications regarding refund of ITC of cess, non-requirement of LUT/bond for exports of non-GST or exempted goods and claiming of ITC thereof should be beneficial to the exporters and help reduce the strain on working capital.

Exporters exporting goods where the inputs are subject to cess could consider opting for export under LUT/bond to explore possibility of refund of input cess.

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