Section 54 of CGST Act 2017: Refund of Tax (CHAPTER XI – REFUNDS)

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Meaning of Refund?

As per explanation (1) of sec 54 of the CGST Act, the term "Refund" includes:

1. Refund of tax paid on zero rated supplies of goods or services or both or on "input or input service" (not the capital goods) used in making such zero rated supplies
2. Refund of tax on supply of goods regarded as deemed exports or
3. Refund of unutilised input tax credit as provided under section 54(3).

Ground of refund and the appropriate form

	Nature of refund	Form No
1	Excess balance in Electronic Cash Ledger	GST RFD-01
2	Export of goods-With payment of tax	Shipping Bill
3	Export of Services-With payment of tax	GST RFD-01
4	Export of goods/services without payment of tax, i.e. ITC accumulated	GST RFD-01
5	Supplies made to SEZ Unit or SEZ developer	GST RFD-01
6	Refund of accumulated ITC on account of supplies made to SEZ Unit/SEZ developers	GST RFD-01
7	Supplies made to recipient of Deemed Exports	GST RFD-01
8	On account of assessment/provisional assessment/appeal/any other order including pre-deposit	GST RFD-01
9	ITC accumulated due to inverted tax structure (clause (ii) of proviso to sec 54(3)	GST RFD-01
10	Tax paid on a supply which is not provided either wholly or partially and for which invoice has not been issued	GST RFD-01
11	Refund of excess tax paid by the casual taxable person and non resident taxable persons	GST RFD-01

Refund – Time Limit

Time Limit for Refund

(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:

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.

Relevant Date - Goods

In the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,–

I. if the goods are exported **by sea or air**, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
II. if the goods are exported **by land**, the date on which such goods pass the **frontier**; or
III. if the goods are exported by **post**, the date of dispatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods **regarded as deemed exports** where a refund of tax paid is available in respect of the goods, the date on which the **return relating to such deemed exports is furnished**;

Relevant Date - Service

→In the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of–

(i) receipt of payment in convertible foreign exchange [or in Indian rupees wherever permitted by the Reserve Bank of India, where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

→ in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

Relevant Date - Service

(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

Refund of Unutilised Accumulated ITC

As per Sec 54(3) of GST Act 2017 - A registered person may claim refund of unutilised ITC at the end of any tax period, only in following cases –

i) zero rated supplies made without payment of tax;

ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

No refund of unutilised input tax credit shall be allowed

- Where the goods exported out of India are subjected to export duty:
- the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Notification No 15/2017 CT (Rate) dated 28 June 2017

Services - Notification No 15/2017 CT (Rate) dated 28 June 2017

No refund of unutilised ITC shall be allowed under sec 54(3) of the GST Tax Act, in case of supply of service specified in Schedule II, Item No 5(b)

Schedule II state that following shall be treated as supply of services,

Item No 5(b) - Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed

Notification No 5/2017 CT (Rate) dated 28 June 2017

Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed under section 54 (3)

Notification No 29/2017 dated 22.10.2017

Seeks to amend notification no. 5/2017- central tax(rate) dated 28.06.2017 to give effect to GST council decisions regarding restriction of refund on corduroy fabrics.

Notification No 44/2017 dated 14.11.2017

seeks to amend notification no. 5/2017- Central tax(rate) dated 28.06.2017 to give effect to gst council decisions regarding restriction of ITC on certain fabrics.

(ii) Goods notification no 5/2017 & 19- C.T. (rate)

S.No	Tariff item, heading , subheading or chapter	Description of goods
~~1~~	~~5007~~	~~Woven fabrics of silk or of silk waste~~
~~2~~	~~5111 to 5113~~	~~Woven fabrics of wool or of animal hair~~
~~3~~	~~5208 to 5212~~	~~Woven fabrics of cotton~~
~~4~~	~~5309 to 5311~~	~~Woven fabrics of other vegetable textile fibres, paper yarn~~
~~5~~	~~5407, 5408~~	~~Woven fabrics of manmade textile materials~~
~~6~~	~~5512 to 5516~~	~~Woven fabrics of manmade staple fibres~~
~~6A*~~	~~5608~~	~~Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets of textile materials~~
~~6B~~	~~5801~~	~~Corduroy fabrics~~
~~6C~~	~~5806~~	~~Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)"~~
~~7~~	~~60~~	~~Knitted or crocheted fabrics [All goods]~~

8	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
10	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)
12	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
13	8606	Railway or tramway goods vans and wagons, not self-propelled
14	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
15	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing

Furnishing of documentary evidence to claim refund Section 54(4)

The application shall be accompanied by-

1. Such documentary evidence as may be prescribed to establish that a refund is due to the applicant: and
2. Such documentary or other evidence (including the documents referred to in sec 33) as the applicant may furnish to establish → the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from or paid by him and the incidence of such tax and interest had not been passed on to any other person

However where the amount claimed as refunded is less than INR 2 Lacs, it shall not be necessary for the applicant to furnish any documentary and other evidence but he may file a declaration based on the documentary or other evidence available with him, certifying that incidence of such tax

DETERMINATION OF AMOUNT OF REFUND [RULE 89(5)]

Refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:

Maximum refund amount ={(turnover of inverted rated supply of goods or services) x net ITC/Adjusted Total Turnover} – tax payable on such inverted rated supply of goods

TERM	MEANING
NET ITC	ITC availed on inputs and input services during the relevant period
Adjusted total turnover	The turnover in a state/UT excluding the value of exempted supplies other than zero rated supplies, during the relevant period
Relevant period	The period which the claim has been filed

Neither sub-section nor the afore-stated formula allows refund towards input tax credit on capital goods

Procedure for claiming refund

[section 54(4) read with rule 89 of the GST rule]

(i) Application shall file an application in **form GST RFD-01**

(ii) refund application has to be supported by prescribed documents evidencing fact that the refund is due to the applicant

As per rule 89(2)(h), the applicant shall file statement 1 of annexure 1 of form GST RFD-01 CONTAINING THE NUMBER AND DATE OF INVOICES RECEVED AND ISSUED DURING A TAX period as under:

Turnover of invested rated supply of goods	Tax payable on such inverted rates supply of goods	Adjusted total turnover	Net input tax credit	Maximum refund amount to be claimed [1x4/3)-2]
1	2	3	4	5

Changes in formula of Refund for Inverted Structure - Rule 89 (5)

OLD Rule 89(5)

In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula –

Maximum Refund Amount = {(Turnover of inverted rated supply of goods) x Net ITC ÷ Adjusted Total Turnover} – tax payable on such inverted rated supply of goods

Explanation.- For the purposes of this sub rule, the expressions "Net ITC" and "Adjusted Total turnover" shall have the same meanings as assigned to them in sub-rule (4).

(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;

Vide NN 21/2018 dt 18 April'18

in rule 89, for sub-rule (5), the following shall be substituted, namely:-

"(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:- Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

Explanation:- For the purposes of this sub-rule, the expressions –

(a) Net ITC shall mean input tax credit availed **ON INPUTS** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

(b) Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4)."

Vide NN 26/2018 dt 19 June'18 with effect from 01st July, 2017, in rule 89, for sub-rule (5), the following shall be substituted, namely:-

"(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:- Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

Explanation:- For the purposes of this sub-rule, the expressions –

(a) Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

(b) Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4)."

(iii) He shall also give declaration in **form GST RFD-01,** as under:

Declaration [Section 54(3)(ii)]

I hereby declare that the refund of input tax credit claimed in the application does not include ITC availed on goods or services used for making 'nil' rate or fully exempt supplies.

Signature
NAME-

Designation/ status

(iv) An acknowledgement for the receipt of the application for refund shall be issued in **form GST RFD-02**

MANNER OF ALLOWING REFUND

The electronic credit ledger shall be debited by the application by an amount equal to the refund so claimed

Refund to Export of Goods and/or services

Rule 96A of CGST Rules – Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking

(1) Any registered person supply goods or services for export without payment of IGST shall furnish, prior to export, a bond or a Letter of Undertaking in **FORM GST RFD-11** to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest within a period of —

(a) fifteen days after the expiry of three months ***(Inserted vide Notification No. 47/2017-Central Tax dt 18.10.2017)*** from the date of issue of the invoice for export, if the goods are not exported out of India; or

(b) fifteen days after the expiry of one year, 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.

(2) The details of the export invoices contained in **FORM GSTR-1** shall be electronically transmitted to the system designated by Customs

[Provided that where the date for furnishing the details of outward supplies in **FORM GSTR-1** for a tax period has been extended the supplier shall furnish the information relating to exports as specified in **Table 6A** of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

Provided further that the information in **Table 6A** furnished under the first proviso shall be auto-drafted in FORM GSTR-1 for the said tax period.] ***(Inserted vide Notification No. 51/2017-Central tax dt 28.10.2017)***

Rule 96A of CGST Rules – Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking

(3) Where the goods are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

(4) The export as allowed under bond or Letter of Undertaking withdrawn in terms of sub-rule (3) shall be restored immediately when the registered person pays the amount due.

(5) The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond. Vide Notification No 37/2017- Central Tax dated 4th Oct 2017 requirement of filling of bond has been dispensed with except in case of specified defaulting exporters.

(6) The provisions of sub rule (1) shall apply, mutatis mutandis, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax."

Provisional refund to exporter of goods or services Sec 54(6)

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 (90%) 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.

Remaining 10% may be refunded after due verification of documents.

Other Requirements

1. Filling of correct EGM is a must for treating shipping bill or bill of export as a refund of claim

2. Details of zero rated supply declared in Table 6A of return in form GSTR-1 are matched electronically with the corresponding details available in Customs System.

3. Valid Return in Form GSTR 3 or Form GSTR 3B-It is also another pre-condition for considering shipping bill/bill of export as claim for refund.

Refund in case of deemed export of goods

Deemed Export

Deemed Export means such supplies of goods as may be notified u/s 147 of the CGST Act. As per Sec 147 the Govt may on the recommendation of the council certain supply of goods as deemed export where Goods supplied do not leave India and Payment for such supplies is received either in Indian rupees or in convertible foreign exchange If such goods are manufactured in India.

The Govt vide Notification No 48/2017 Central Tax dated 18 Oct 2017 has notified following supplies as deemed export:

S.No	Description of supply
1	Supply of goods by a registered person against Advance Authorisation
2	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3	Supply of goods by a registered person to Export Oriented Unit
4	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

Filling of application along with documents to claim refund

Proviso to Rule 89(1), the application for refund shall be filled –

(a) the recipient of deemed export supplies; or

(b) 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] ***(Substituted vide Notification No 47/2017-Central Tax dated 18.10.2017 for "Provided also that in respect of supplies regarded as deemed exports, the application shall be filed by the recipient of deemed export supplies")***

Applicant shall file an application in Form GST RFD-01 electronically through common portal

Rule 97A and Form GST RFD-01A for manual filling of application of refund have been inserted vide Notification No. 55-Central Tax dated 15th Nov 2017

Filling of application along with documents to claim refund

DECLARATION [rule 89(2)(g)]

(For recipients of deemed export)

I hereby declare that the refund has been claimed only for those invoices which have been reported in statement of inward supplies filed in Form GSTR-2 for the tax period for which refund is being claimed and the amount does not exceed the amount of input tax credit availed in the valid return filed for the said tax period.

Signature

Name –

Designation / Status

As per Rule 89(2) (g) 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.

Documents to be furnished as evidence to claim refund (Inserted vide Notification No 49/2017-Central Tax dated 18 Oct 2017

Table

S.No.	Evidence
(1)	(2)
1.	Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
2.	An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
3.	An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

REFUND TO UNITED NATION ORGANISATIONS, EMBASSIES, DIPLOMATS,AND OTHER PERSONS NOTIFIED UNDER SEC 55

ENTITLEMENT OF CLAIMING REFUNDS

AS PER SEC 55 the central/state governments may, on the recommendation of the council, by notification, specify –

- any specialized agency of the united nations organization or any multilateral financial institution and organization notified under the united nations
- consulate; or
- Embassy of foreign countries; and
- Any other person or class of persons as may be specified in this behalf,

Submission of return [section 25(9) read with rule 82]

Every person who has been issued unique identity number (UIN) and claim refund of the taxes paid on his **inward** supplies, shall furnish the details of such inward supplies of taxable goods or services in **form GSTR-11**, along with application for such refund claim, either directly or through a facilitation center.

Components: details of inward supplies (invoices, debit/credit notes) received.

UIN holder shall file return in form GSTR-11 on quarterly basis; or otherwise as and when required o filed by proper officer;

GSTR-11 WILL BE POPULATED FROM GSTR-1. UIN holder will not be allowed to add or modify any details in form GST-11(INSTRUCTION to the form GSTR-11)

PROCEDURE OF CLAIMING REFUND [RULE 95]

(I) An application for refund of tax and/or interest shall be made to the proper officer **within 6 months** from the last day of the quarter in which such supply was received.

(II) the refund shall be submitted in form GST RFD-10 once in quarter. Electronically on the common portal.

(III) It shall be filed along with a statement of the inward supplies of goods and/or services in **form GSTR-11**, prepaid on the basis of the statement of the output supplies furnished by the corresponding suppliers in **form GSTR-1** ;

TIME LIMIT

An application for refund of tax and/or interest shall be made to the proper officer of the IGST/CGST/SGST within 6 months from the last day of the quarter in which such supply was received. [sec 54(2)]

Extension for Refund Application u/s 55 by Notified Agencies
Notification No. 20/2018 – Central Tax 28th March, 2018

Whereas, the facility for filing the claim of refunds under section 55 of the said Act has been made available on the common portal recently;

Now, therefore, in exercise of the powers conferred by section 148 of the said Act, the Central Government, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, before the expiry of eighteen months from the last date of the quarter in which such supply was received

Refund to casual or non-resident taxable person

[section54(13) read with rule 89(1)]

Procedure of claiming refund

(I) The application for refund by the casual/non-resident taxable person under sec27(2) shall be made after adjusting the tax payable by the applicant out of the advance tax deposited by him at the time of registration or extension.

(II) Applicant shall also file an application in form GST RFD-01, ELECTRONICALLY, through the common portal.

(iii) further, a self-declaration or, as the case may be, certificate by the chartered accountant or the cost accountant,

Disposal of refund application

If on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly

the application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within **15 days** of filling of the said application, scrutinize the application for its completeness.

Where the application is found to be complete in term of provision of rule 89(2),(3) &(4), an acknowledgement in **form GST RFD-02** shall be made available to the applicant through the common portal electronically clearly indicating the date of filing of the claim. The time period specified in sec 54(7)[60days] shall be calculated from such date of filling.

Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement shall be issued in **form GST RFD -02** CLEARLY indicating the date of filing of the claim for refund. The time period specified in sec 54(7) shall be calculated from such date of filing.

where any deficiency are noticed the proper officer shall communicate the deficiencies to the applicant in **form GST RFD-03** through the common portal electronically, requiring him to file a fresh refund applicant after rectification of such deficiencies

Corrigendum dated 18th July, 2019 to Circular No. 45/19/2018GST

- Para 4.2 of the circular substituted as below:
- For the tax periods commencing from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in FORM GST RFD-01A on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/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.
- Earlier the above was allowed for period only up to 30.06.2018


Thank You