

From	Karvy Data Management Services Ltd.
Date	March 15, 2018
Subject	Clarifications on exports related refund issues
Category	Circular
Reference	Circular No. 37/11/2018-GST dated 15th March, 2018
Series	Karvy/GST/54

Representations has been made to the Govt. of India by the exporter's community on the undue hardship being faced at their end in getting their refund application processed, causing into an unwanted disruption in their process of business.

With the objective of bringing uniformity of implementation across field formations and reducing the hardships faced by exporters, CBEC clarified few issues vide Circular No. 37/11/2018-GST dated 15th March 2018. The gist of clarification provided by CBEC has been summarized below:

Sl. No	Particulars	Clarification on the issue
1	Non-availment of drawback	<p>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 central tax - Sec. 54(3) of CGST Act 2017</p> <p><u>A supplier availing of drawback only with respect to basic customs duty</u> shall be eligible for refund of unutilized input tax credit of central tax / State tax / Union territory tax / integrated tax / compensation cess under the said provision</p> <p><u>Refund of eligible credit on account of State tax</u> shall be available even if the supplier of goods or services or both has availed of drawback in respect of central tax.</p>

Sl. No	Particulars	Clarification on the issue
2	Amendment through Table 9 of GSTR-1	<p>Where refund claims made by registered persons on account of zero rated supplies are not being processed due to mismatches between data contained in FORM GSTR-1, FORM GSTR-3B and shipping bills/bills of export, <u>he can rectify the same in Table 9 of FORM GSTR-1.</u></p> <p>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.</p> <p>In case of discrepancies between the data furnished by the taxpayer in FORM GSTR-3B and FORM GSTR-1, the <u>Officer shall refer to Circular No. 26/26/2017 – GST dated 29th December, 2017</u> wherein the procedure for rectification of errors made while filing the returns in FORM GSTR-3B has been provided, and shall process the refund application accordingly.</p>
3	Exports without LUT (delay in filing of LUT)	<p>In some cases, <u>zero rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit have been filed.</u></p> <p>In such cases, it is emphasised that the <u>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.</u></p> <p><u>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.</u></p>
4	Exports after specified period	<p>An exporter holding LUT, failing to export <u>GOODS within three months from the date of issue of invoice</u> would be liable to pay the tax due along with the interest as applicable within 15 days from the expiry of three months.</p> <p>An exporter holding LUT, failing to realise export proceedings in convertible foreign exchange in case of <u>SERVICES within one year from the date of issue of invoice</u> would be liable to pay the tax due along with the interest as applicable within 15 days from the expiry of one year.</p> <p><u>On account of failure of export of goods within the specified timeframe mentioned above, it has been clarified that payment of IGST first and claiming refund at a subsequent date should not be insisted upon as long as export has actually taken place.</u></p> <p>The same principle to be followed in case of export of services.</p>

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5	Deficiency memo issued in FORM GST RFD-03 against refund application	<p>If the application for refund filed by a registered person is incomplete, <u>deficiency memo is issued in FORM GST RFD-03. Thereafter, the claimant is required to file a fresh refund application in FORM GST RFD-01A manually after the rectification of the deficiencies.</u></p> <p>It is clarified that there can be only one deficiency memo for one refund application and once such a memo.</p> <p>This fresh application would be accompanied with the <u>original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier.</u></p> <p>Once an application has been submitted afresh, pursuant to a deficiency memo, <u>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.</u></p>
6	Self-declaration for non-prosecution	<p>The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 4th October, 2017, <u>except to those who have been prosecuted for any offence under the CGST 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.</u></p> <p>It is clarified that the <u>requirement of self-declaration with every refund claim to the effect that the claimant has not been prosecuted is already satisfied at the time of submission of LUT.</u> Hence, asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.</p>
7	Refund of transitional credit	<p>Refund of unutilized input tax credit is allowed when zero rated supplies are made without payment of tax and under inverted tax structure</p> <p>While computing eligible refund amount, it is clarified that the phrase "<u>NET ITC</u>" means the ITC 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.</p> <p>Since the transitional credit pertains to duties and taxes paid under the existing laws, <u>the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of "Net ITC".</u></p>

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8	Discrepancy between values of GST invoice and shipping bill/bill of export	<p>On account of refund application being made for the unutilized input tax credit on account of export of goods, <u>in case where, 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.</u></p> <p>The value recorded in the GST invoice should normally be the transaction value and <u>such transaction value should normally be recorded in the corresponding shipping bill / bill of export.</u></p> <p>During the processing of the refund claim, <u>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.</u></p>
9	Refund of taxes paid under existing laws	<p>Sec. 142 of CGST Act 2017 provides that refunds of tax/duty paid under the existing law shall be disposed of in accordance with the provisions of the existing law.</p> <p><u>Taxpayers who have applied for refund of transitional credit under GST regime in FORM GST RFD-01A will be rejected and a rejection order in FORM GST PMT-03 will be passed.</u></p> <p>Such rejection communication will go to the taxpayer in FORM GST RFD-01B.</p> <p>The amount of refund arising out of such claims shall be refunded in cash.</p> <p>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.</p> <p>No refund of the amount of CENVAT credit is granted in case the said amount has been transitioned under GST.</p> <p>The phrase 'relevant period' has been defined in sub-rule 89(4) of CGST Rules 2017 as <u>the period for which the claim has been filed.</u></p>

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10	Filing frequency of Refunds	<p>It is clarified that the exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters.</p> <p>The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years.</p>
11	BRC / FIRC for export of goods	<p>The realization of convertible foreign exchange <u>is one of the conditions for export of services</u>. In case of export of goods, realization of consideration is not a pre-condition.</p> <p>It is therefore clarified that <u>insistence by officers to provide 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</u></p>
12	Supplies to Merchant Exporters	<p>Notification No. 40/2017-CT (Rate) dt. 23.10.2017 and Notification No. 41/2017-IT (Rate) dt. 23.10.2017 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.</p> <p>It is clarified that the benefit of supplies at concessional rate <u>is subject to certain conditions and the said benefit is optional</u>.</p> <p>It is also clarified that the <u>exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him</u>.</p> <p><u>The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure</u>.</p> <p><u>Exporter of such goods can export the goods only under LUT / bond and cannot export on payment of integrated tax - Refer Notification No. 03/2018-CT dt. 23.01.2018.</u></p>
13	Requirement of invoices for processing of claims for refund	<p><u>Suppliers' invoices on the basis of which the exporter is claiming refund may not be available on the system</u>. For processing of refund claims of input tax credit, verifying the invoice details is quintessential.</p> <p><u>Apart from the documents listed in the Table below, no other documents should be called for from the taxpayers, unless the same are not available with the officers electronically:</u></p>

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 3 of FORM RFD-01A ✓ Invoices w.r.t. input and input services ✓ BRC/FIRC for export of services ✓ Undertaking / Declaration in FORM RFD-01A

The instructions of this circular 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.

Link to access Circular No. 37/11/2018-GST dated 15th March 2018: <http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-37-cgst.pdf>

About KARVY DATA MANAGEMENT SERVICES LTD.

Karvy Data Management Services Limited (KDMSL), a GST Suvidha Provider which has developed ASP Solution for easing GST compliance for tax payers. Easy to use interfaces are made available at the disposal of the tax payers to simplify their compliances in terms of dashboards, MIS, returns, payments, refunds and other compliance process. So, 'HELP US HELP YOU' we offer following services for GST - GSP & ASP Services (on cloud or on premises) with ERP Integration and Vendor Management Solution. We also offer managed services for Outsourced GST Compliance which will take care of end to end compliances.

In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi and Kolkata. For more information about KDMSL service offerings, visit www.karvygst.com

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