

Tax Alerts

15th March 2018

Circular Update

Circular No. 37/11/2018

The following clarifications have been given with respect to Export related Refund Issues in this circular:

❖ **Refund of GST can be claimed even if Drawback of BCD is availed by the supplier:**

Para 8.0 of 24/24/2017 – GST, dated 21.12.2017, Sec 54(3)(ii) should be read as 54(3)(i).

Supplier availing Drawback of Basic Custom duty claimed shall still be eligible for Claiming refund of IGST/CGST/SGST/UGST/Compensation cess.

Supplier availing drawback of Central tax shall still be eligible for claiming refund of State tax.



❖ **Amendment in export details through table 9 of GSTR-1:**

While processing refund, the tax officer shall take into cognizance amendments/rectifications made through table 9 of GSTR1 with respect to Export details

❖ **Condonation of delay in furnishing LUT:**

Where it has been established that exports are made in terms of provisions of the act ,delay in furnishing LUT may be condoned and facility of export under LUT may be allowed post facto basis depending on the fact and circumstances of each case.

❖ **No GST to be paid on Goods exported after specified time limit:**

Rule 96(A) of CGST Rules provides that IGST has to be paid if the goods were not exported outside India within a period of 3 months from the date of invoice IGST has to be paid for the exports.

It has been clarified now that tax need not be paid as long as goods are being exported outside India even after 3 months. The Jurisdictional commissioner may consider granting extension of time limit for export on post facto basis depending fact and circumstances of each cases.

❖ **Deficiency memo for discrepancy in refund application:**

Deficiency memo is issued in case of deficiency in refund application. Only one deficiency memo in Form GST RFD-03 will be issued for one refund application.

Once deficiency memo is issued, applicant has to file fresh refund application manually in Form RFD-01A. The application should be accompanied with Original ARN, debit entry generated originally and hard copy of the refund application filed earlier.

❖ **Self-declaration for Non Prosecution is not required while filing Refund application:**

Self-declaration to the effect that the claimant has not been prosecuted need not be submitted with every refund claim application where the exports have been made under LUT.

❖ **Refund of transitional credit not allowed:**

The refund formula uses the phrase 'Net ITC' which includes inputs and input services used during the relevant period. It is clarified that transitional credit of duties and taxes paid under existing laws cannot be said to have been included in relevant period and hence cannot be treated as part of 'Net ITC'.

❖ **Discrepancy between values of GST Invoice and Shipping bill values:**

Where there is discrepancy between the value in GST Invoice and Value in shipping bill, Refund will be processed based on the least of the above values.

❖ **Refund of taxes paid under existing laws should be paid only in Cash:**

Refund under existing laws applied through for GST RFD-01A will be rejected. The normal procedure prescribed under existing laws Viz Central Excise Act,1994 and Chapter V of Finance Act 1994 shall be followed for such refund claims.

It is clarified that refund under existing law shall be paid only in cash only and shall not be paid by way of re-credit of CENVAT Credit as per subsection (3) of section 143.

❖ **Period of Refund can be monthly/ Quarterly:**

In cases where exports are not made in the month in which input credit has been availed and Vice versa, Exporter may file refund for one Calendar Month/quarter or by clubbing successive month/ Quarter. The calendar months/ quarters cannot spread across two financial years.

❖ **BRC/FIRC is not required for export of Goods:**

Realisation of Foreign exchange is not a precondition in case of export of Goods. It is sufficient if a statement containing the Shipping Bill/ Bill of Export Number along with Relevant Invoice number and Invoice Date is submitted along with refund application. BRC/ FIRC is not required for export of Goods for processing the refund claim.

❖ **Concessional rate of tax of 0.1% on supplies made to Merchant Exporter is optional:**

Supplies made to merchant exporter is taxable at 0.1%. The said concessional rate of tax is conditional and optional. The option may or may not be availed.

The exporter of good is eligible to claim input credit of such tax (0.1%) paid. The supplier will also be eligible to claim refund on account of inverted tax structure as per proviso to Section 54(3).

However exporter can export such goods only under LUT and not by payment if IGST.

❖ **List of Documents required for Processing refund of Various categories:**

1. For Export of services with payment of tax:

- ✓ Copy of form RFD-01A filed on the portal
- ✓ Copy of statement 2 of form RFD-01A
- ✓ Invoices (Inputs, Input services & capital goods)
- ✓ BRC/FIRC for export of services
- ✓ Undertaking or declaration in Form RFD-01A



2. For Export (Goods/Services) without payment of tax:

- ✓ Copy of form RFD-01A filed on the portal
- ✓ Copy of statement 3 of form RFD-01A
- ✓ Copy of statement 3A of form RFD-01A generated online.
- ✓ Invoices (Inputs, Input services)
- ✓ BRC/FIRC for export of services
- ✓ Undertaking or declaration in Form RFD-01A

About us

D Arvind & Associates LLP (DAA) is a Chartered Accountant Firm founded in 2009 by D Arvind, an Ex-partner of KPMG with a vision to provide to create innovative and insightful solutions to resolve Complex Business & Tax Challenges.

D Arvind, apart from being a Chartered Accountant is also a Company Secretary & Arbitrator, having 30 Years of Experience in Large Industries as Tax & Legal Head and Partner in Big 4 Consulting Firms. This puts him in a unique position to see Complex tax Issues from Business & Solutions perspective.

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DAA | MUMBAI:

BONANZA, Sahar Plaza, Next to
Kohinoor Hotel, J.B. Nagar,
Andheri (E),
Mumbai 400 059

DAA | CHENNAI:

#13, 3rd Floor, Bhagawathi Palace,
J Block, 3rd Avenue,
Anna Nagar (East), Chennai 600
102

DAA | BANGALORE:

No.221, 16th Main Road, 19th
Cross Street, HSR Layout,
Bangalore 560 102
Tel +91 80 5610 2618