

## An Analysis on Proposed Refund Process under GST:

This diction is in reference to the “**Report of The Joint Committee on Business Processes for GST on Refund Processes**” published by the Empowered Committee of State Finance Ministers in August 2015. Suggestions have also been invited for the improvement of business processes discussed in this report.

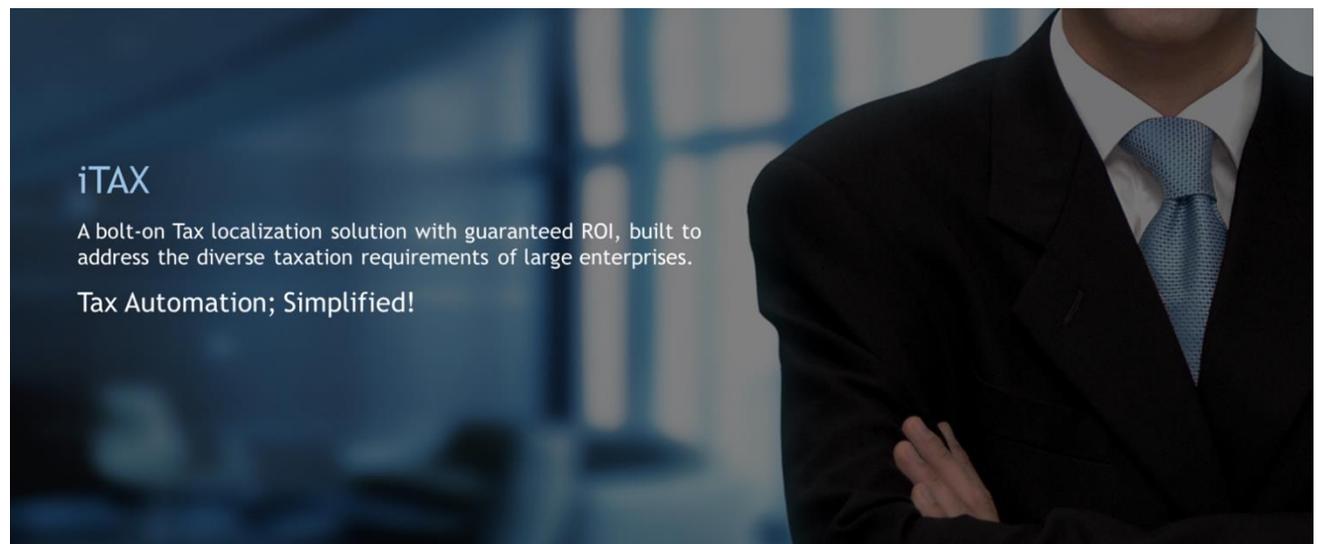
According to the report, GST law shall provide for the cases in which refund claim can be filed. It states some of such cases as:

- Excess payment of tax by mistake;
- Export of goods and services under rebate claim;
- Refund of accumulated credit in case of exports;
- Finalization of provisional assessment;
- Refund of pre-deposit where the demand is dropped wholly or partly;
- Refund of tax payment made by embassies or UN bodies;
- Credit accumulation due to output tax being nil or concessional; etc.

The refund mechanism as proposed in the GST model for all the cases except Exports (where some major changes have been proposed) are more or less the same. However, one major change is that the refund procedure is going to be simplified and online filing of refund application will be made available for all cases excluding few cases for which the refund process shall be exceptionally provided.

Further, where the tax amount has been mentioned wrongly, either it can be refunded or would automatically be carried forward. This will remain as an option to the tax payer. Automatic carry forward would be allowed only if the excess payment was on account of a return and not on account of any other liability.

Further, the excess payment should not be due to difference in opinion, i.e. difference should not be on account of interpretation of a notification. In this situation, it has been proposed that the return may also be treated as refund application if the GST law so provides.



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At present, under the Service Tax law, excess payment of Service Tax, if any, has to be intimated to the Superintendent and must reflect in the corresponding ST-3 return. There have been cases where show-cause notices have been issued for disallowing the carry forward of excess paid service tax as no intimation was filed within prescribed time and/or it was not mentioned in the ST-3 return.

The proposed provision under GST law will eliminate the unnecessary litigation on account of technical lapses like this.

The most commonly known refund claim is that filed by the exporters, whether it is rebate claim or refund of accumulated credit. Present refund mechanism involves filing of bulk sets of export documents; thereby involving a sheer wastage of time, money and energy. The division offices are burdened with tons of papers which are to be preserved for no use in future. Also, it is said that it is feasible for exporters to keep a dedicated person for doing photocopies of export documents.

During the GST regime, one can expect lesser document filing for the purpose of export as most of the filing will be online. Following are the key features of newly proposed refund mechanism applicable to exporters under GST era:

1. In IGST Model, details of invoice wise sale/purchase can be filed online alongwith the monthly returns to GST network (GSTN);
2. These details will be linked to customs network (ICEGATE);
3. Therefore, the details of basic export documents such as Invoice No., Packing List, etc. as submitted to GSTN can be verified with those available at ICEGATE;
4. Thus there would be no need of submitting the same manually;
5. The refund application will be submitted online within the time prescribed under GST law which is proposed as one year from relevant date;
6. Definition of relevant date is to be prescribed by GST law;
7. Mate's Receipt and Bill of Lading are the crucial documents evidencing the factum of export;
8. Thus the scanned copies of Mate's Receipt and Bill of Lading are required to be submitted along with the refund application;
9. Bank Realization Certificate (BRC) may not be available at the time of filing the refund application;
10. Thus the same shall be submitted subsequently to GSTN;
11. There will be inbuilt feature in the GSTN to track those export invoices against which BRC has not been submitted within due time;
12. This feature will send alert to respective officer for taking the appropriate action;
13. The time limit for granting refund has been fixed as three months from the date of filing of application;
14. There shall be inbuilt feature in GSTN to link the refund sanctioned with blocking of carry forward of input tax credit in the return/cash ledger;
15. Thus, double benefit could not be taken by the exporters
16. In case of export of service, only two documents will remain available - Invoice and BRC;
17. Further, since no additional data will remain available in ICEGATE, the refund in case of export of service will be required to be filed manually after the realization of export proceeds;

18. In GST regime exports are proposed to be zero rated, i.e. the export goods will not suffer any actual tax liability although the inputs for them would be tax paid, which would subsequently be neutralized;
19. Exports will be treated as inter-state supply of goods, thus, IGST will be paid by the tax payer in case the tax is paid at the time of export;
20. This IGST can be claimed as refund by the procedure detailed as above;
21. The refund procedure prescribed above allows the time limit to grant refund as three months from the date of filing the application;
22. During GST regime, once the export is done, the drawback is allowed in the bank account of the exporter which means there will be no need of filing the application separately.

It is the policy of the Government to promote the export of goods. Due to this, export goods are not burdened with any of the taxes and duties. For fulfilling this purpose, Government has announced few policies and has left exporters with many options to make their goods tax/duty-free. Under GST regime, the supplier of goods will be required to pay the GST on the inputs so procured and in no case duty free inputs shall be allowed. Thus, the no. of formalities which are required to be fulfilled under present situation will not be there in the GST era and the exporters will be left with only two options as discussed above.

#### [Refund against Deemed exports: specifically provided under GST era:](#)

1. Deemed export refers to the situations provided in chapter 8 of the Foreign Trade Policy;
2. These situations include supply of goods to 100% EOU, SEZ, Projects under international competitive bidding, etc.;
3. The supplier can claim the refund of terminal excise duty or drawback of duty paid on inputs used in manufacture of such goods as per provisions of Foreign Trade Policy;
4. However, it is worth mentioning here that this has been an issue on fire since inception as there was no corresponding provision in the Central Excise Act or rules framed thereunder;
5. Few show-cause notices have been issued round the corners of country denying the refund claims so filed for deemed exports which were rigorously denied by the lower authorities on the grounds that the deemed exports are not real exports, thus, provisions of rule 5 of the Cenvat Credit Rules, 2004 are not applicable on them.
6. However, Tribunals have allowed the refund claims so filed in respect of deemed exports on the grounds that deemed exports are to be treated at par with the real exports for the purpose of rule 5 of the Cenvat Credit

#### [Refund during Deemed Exports:](#)

#### [References:](#)

1. COMMISSIONER OF C. EX., SURAT VERSUS SHILPA COPPER WIRE INDUSTRIES [2008 (226) E.L.T. 228 (Tri. - Ahmd.)]; as affirmed by Gujarat High Court in the citation as 2011 (269) E.L.T. 17 (Guj.)
2. NBM INDUSTRIES VERSUS COMMISSIONER OF CENTRAL EXCISE, RAJKOT [2009 (246) E.L.T. 252 (Tri. - Ahmd.)] as affirmed by Gujarat High Court having citation as [2012 (276) E.L.T. 9 (Guj.)]
3. COMMISSIONER OF C. EX., AHMEDABAD VERSUS RANGDHARA POLYMERS [2011 (264) E.L.T. 275 (Tri. - Ahmd.)] as affirmed by High court under citation Commissioner of Central Excise & Customs, Ahmedabad-II Vs Rangdhara Polymers [2012-TIOL-1076-HC-AHM-CX]

It is clear that the department is reluctant to allow the refund claim in case of deemed exports since there is no specific provision in the Central Excise law. However, Tribunal judgments have been passed in favour of assesseees, thereby allowing the refund claim in case of deemed exports.

Due to the above stated litigation, the report of the Joint Committee has proposed that under GST regime, deemed export shall be kept at par with normal exports.

Therefore, all the procedures applicable in case of normal exports shall be applicable in case of deemed exports also; subject to following exceptions:

1. The supplier of goods in course of deemed export will be required to pay IGST and will be able to claim refund only if he has not collected the same. Also, it would have to be checked that receiver of goods has not claimed the input tax credit;
2. For claiming the refund on deemed exports, a simple application will be required to file along with certificate from Chartered Accountant certifying that the burden of GST has not been passed.

GST law may also provide a threshold below which no such certificate shall be required and self-certification would be sufficient for claiming the refund. Thus providing the specific provision in case of deemed exports will put a full stop on the litigation ongoing in current scenario.

Tax refund for international tourists:

1. Tax refund for international tourists' scheme provide an opportunity to foreign tourists to buy goods manufactured during their stay in any country; and
2. Claim the refund of tax suffered by such goods at the time of their exit from that country;
3. About 52 countries are following this practice to encourage the sale of their goods to foreign tourists who visit their country and buy goods manufactured there;
4. In India, this scheme will be implemented through retailers who shall be specifically registered for the purpose of this scheme;
5. The refund would be available at designated ports and airports;
6. Part of refund claim will be deducted as handling fees for such services rendered;
7. This scheme will obviously boost the Indian products in international market;
8. Since incidence of duty will not be there, they will also be cost effective to the tourist.

## Summary:

- Exporters earn valuable foreign exchange for our country. Therefore, it is necessary to take care of exporters;
- The Government is trying to simplify the refund related procedures by encouraging the online filing of refund claim under GST regime;
- Also, doing away cumbersome procedures related to export and bringing new schemes for export promotion is a step forward to take the country from the group of developing nations to a developed one;
- The joint committee's report on the refund process is the one drafted with due care and diligence, truly meeting the needs of exporters and other tax payers too