

Office of the
Commissioner of State Tax,
(GST), 8th floor, GST Bhavan,
Mazgaon, Mumbai-400010.

TRADE CIRCULAR

To,

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No. JC/HQ-I/GST/Refund/Trade Cir./01/2017-18

Mumbai, Date: 14/11/2018

Trade Cir. No. 33T of 2018

To,

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Subject : Processing of refund under the GST-

Ref.

- (1) Trade Circular No. 49 of 2017 dated 28th Nov. 2017.
- (2) Internal Circular No. 24A of 2017 dated 11th Dec. 2017.
- (3) Internal Circular No. 27A of 2017 dated 30th Dec. 2017.
- (4) Trade Circular 1T of 2018 dated 1st Jan. 2018.
- (5) Trade Circular No. 8T of 2018 dated 21st Feb. 2018.
- (6) Trade Circular No. 17T of 2018 dated 2nd June 2018.
- (7) Internal Circular No. 19A of 2018 dated 18th July 2018
- (8) Trade Circular No. 22T of 2018 dated 1st September 2018.
- (9) CBIC Circular No. 59/33/2018-GST dated 4th September 2018.

Sir/Gentlemen/Madam,

1. Various representations have been received seeking clarification on issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner of State tax, Maharashtra State, in exercise of its powers conferred by section 168 (1) of the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as the “MGST Act”), hereby clarifies the issues as detailed hereunder:

2. Modification in the earlier Trade Circular No. 22T of 2018:

- 2.1. The Trade Circular 22T of 2018 dated 1st September 2018 was issued and the certain instructions about processing of refund under the GST Act were issued.

2.2. Vide said Trade Circular in Paragraph 1.5 and Paragraph 4 instructions were given to the Nodal Officers regarding the information/data about refund i.e. Input Tax Credit, Turn-over in GSTR-1 and GSTR-3B etc. to be provided by the Economic Intelligence Unit (EIU) and the procedure to be followed while carrying out refund Audit, respectively. The said Para's i.e. 1.5 and 4 are hereby deleted and revised instructions with regards to the initiation of Audit is being issued separately.

3. Submission of invoices for processing of claims of refund:

3.1. It was clarified vide Para No. 16 of the Trade Circular No. 17T of 2018 dated the 2nd June 2018 (See Circular No. 37/11/2018-GST dated 15th March, 2018 issued by the CBIC) that since the refund claims were being filed in a semi-electronic environment and the processing was completely based on the information provided by the claimants, it becomes necessary that invoices are scrutinized. Accordingly, it was clarified that the invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax; and invoices relating to inputs and input services were to be submitted for processing of claims for refund of input tax credit where goods or services are exported without payment of integrated tax.

3.2. The claimant shall submit the details of the invoices on the basis of which input tax credit had been availed during the relevant period for which the refund is being claimed, in the format enclosed as **Annexure-A** manually along with the application for refund claim in **FORM GST RFD-01A** and the Application Reference Number (ARN). The claimant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said Annexure for enabling the proper officer to determine the same.

3.3. It may be noted that the methodology and procedure to be followed with regards to the manual processing of GST refund shall be governed by Trade/Internal Circular(s) issued by this office from time to time.

4. System validations in calculating refund amount

4.1. Currently, in case of refund of unutilized input tax credit (ITC for short), the common portal calculates the refundable amount as the least of the following amounts:

- (a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the Maharashtra Goods and Services Tax Rules, 2017 (hereinafter referred to as the “MGST Rules”) [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax + Cess(whenever applicable)];
- (b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
- (c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

4.2. After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the claimant in the following order:

- (a) Integrated tax, to the extent of balance available;
- (b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, State tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

4.3. The procedure described in para 3.2 above, however, is not presently available on the common portal. Till the time such

facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities.

- 4.4. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in **FORM GST RFD-01A** is generated.
- 4.5. Further, it may be noted that the refund application can be filed only after the electronic credit ledger has been debited in the manner specified in para 4.2 (read with para 4.3) above, and the ARN is generated on the common portal.

5. Re-credit of electronic credit ledger in case of rejection of refund claim:

- 5.1. In case of rejection of claim for refund of unutilized input tax credit on account of ineligibility of the said credit under sub-sections (1), (2) or (5) of section 17 of the MGST Act, or under any other provision of the Act and rules made thereunder the proper officer shall order for the rejected amount to be re-credited to the electronic credit ledger of the claimant using **FORM GST RFD-01B**. For recovery of this amount, a demand notice shall have to be simultaneously issued to the claimant under section 73 or 74 of the MGST Act, as the case may be. In case the demand is confirmed by an order issued under sub-section (9) of section 73, or sub-section (9) of section 74 of the MGST Act, as the case may be, the said amount shall be added to the electronic liability register of the claimant through **FORM GST DRC-07**. Alternatively, the claimant can voluntarily pay this amount, along with interest and penalty, if applicable, before service of the demand notice, and intimate the same to the proper officer in **FORM GST DRC-03** in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of

the MGST Act, as the case may be, read with sub-rule (2) of rule 142 of the MGST Rules. In such cases, the need for serving a demand notice will be obviated.

5.2. In case of rejection of claim for refund of unutilized input tax credit, on account of any reason other than the eligibility of credit, the rejected amount shall be re-credited to the electronic credit ledger of the claimant using **FORM GST RFD-01B** only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection or in case he files an appeal, the same is finally decided against the claimant, as has been laid down in rule 93 of the MGST Rules.

5.3. Consider an example where against a refund claim of Rs.100, only Rs. 80 is sanctioned (Rs.15 is rejected on account of ineligible ITC and Rs. 5 is rejected on account of any other reason). As described above, Rs. 15 would be re-credited with simultaneous issue of notice under section 73 or 74 of the MGST Act for recovery of ineligible ITC. Rs. 5 would be re-credited (through **FORM GST RFD-01B**) only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the claimant.

6. Scope of rule 96(10) of the MGST Rules:

6.1. Rule 96(10) of the MGST Rules, as amended retrospectively by notification No. 39/2018-State Tax, dated 18.09.2018 provides that registered persons, including importers, who are directly purchasing/importing supplies on which the benefit of reduced tax incidence or no tax incidence under certain specified notifications has been availed, shall not be eligible for refund of integrated tax paid on export of goods or services. For example, an importer (X) who is importing goods under the benefit of Advance Authorization/EPCG, is directly purchasing /importing supplies on which the benefit of reduced/Nil

incidence of tax under the specified notifications has been availed. In this case, the restriction under rule 96(10) of the MGST Rules is applicable to X. However, if X supplies the said goods, after importation, to a domestic buyer (Y), on payment of full tax, then Y can rightfully export these goods under payment of integrated tax and claim refund of the integrated tax so paid. However, in the said example if Y purchases these goods from X after availing the benefit of specified notifications, then Y also will not be eligible to claim refund of integrated tax paid on export of goods or services.

- 6.2. Overall, it is clarified that the restriction under rule 96(10) of the MGST Rules, as amended retrospectively by notification No. 39/2018-State Tax, dated 18.09.2018, applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed.

7. Disbursal of refund amount after sanctioning by the proper officer:

- 7.1. A few cases have come to notice where a tax authority, after receiving a sanction order from the counterpart tax authority (Centre or State), has refused to disburse the relevant sanctioned amount calling into question the validity of the sanction order on certain grounds. E.g. a tax officer of one administration has sanctioned, on a provisional basis, 90 per cent. of the amount claimed in a refund application for unutilized ITC on account of exports. On receipt of the provisional sanction order, the tax officer of the counterpart administration has observed that the provisional refund of input tax credit has been incorrectly sanctioned for ineligible input tax credit and has therefore, refused to disburse the tax amount pertaining to the same.
- 7.2. It is clarified that the remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order and not in withholding of the disbursement of the

sanctioned amount. If any discrepancy is noticed by the disbursing authority, the same should be brought to the notice of the counterpart refund sanctioning authority, the concerned counterpart reviewing authority and the nodal officer, but the disbursal of the refund should not be withheld. It is hereby clarified that neither the State nor the Central tax authorities shall refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except under sub-section (11) of section 54 of the MGST Act. It is further clarified that any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.

8. Status of refund claim after issuance of deficiency memo:

- 8.1. Rule 90(3) of the MGST Rules provides that where any deficiencies in the application for refund are noticed, the proper officer shall communicate the deficiencies to the claimant in **FORM GST RFD-03**, requiring him to file a fresh refund application after rectification of such deficiencies. Further, rule 93(1) of the MGST Rules provides that where any deficiencies have been communicated under rule 90(3), the amount debited under rule 89 (3) shall be re-credited to the electronic credit ledger. Therefore, the intent of the law is very clear that in case a deficiency memo in **FORM GST RFD-03** has been issued, the refund claim will have to be filed afresh.
- 8.2. It has been learnt that certain field formations are issuing show cause notices to the claimants in cases where the refund application is not re-submitted after the issuance of a deficiency memo. These show-cause-notices are being subsequently adjudicated and orders are being passed in **FORM GST RFD-04/06**. It is clarified that show-cause-notices are not required to be issued where deficiency memos have been issued. A refund application which is re-submitted after the issuance of

a deficiency memo shall have to be treated as a fresh application. No order in **FORM GST RFD-04/06** can be issued in respect of an application against which a deficiency memo has been issued and which has not been resubmitted subsequently.

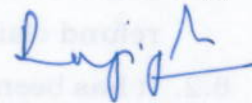
9. Treatment of refund applications where the amount claimed is less than rupees one thousand:

9.1. Sub-section (14) of section 54 of the MGST Act provides that no refund under sub-section (5) or sub-section (6) of section 54 shall be paid to an applicant, if the amount is less than one thousand rupees.

9.2. In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. All field formations are requested to reject claims of refund from the electronic credit ledger for less than one thousand rupees and re-credit such amount by issuing an order in **FORM GST RFD-01B**.

10. This Trade Circular is clarificatory in nature and hence cannot be made use of for interpretation of provisions of the law. Difficulty if any, in the implementation of this Circular may be brought to the notice of the office of the Commissioner of State Tax, Maharashtra.

Yours faithfully,



(Rajiv Jalota)

Commissioner of State Tax (GST)
Maharashtra State, Mumbai.

Annexure-A

**Format for Statement of Invoices to be submitted with application for refund in
FORM GST RFD-01A**

S. No.	GSTIN of the supplier	Name of the Supplier	Invoice Details			Type		C T	ST / UT	IT	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	Date	Value	Input/ input service/ capital goods	Description						
1	2	3	4	5	6	7	9	10	11	12			
						Inputs					Y / N / Partially		
						Capital Goods							
						Input Services							

No. JC/HQ-I/GST/Refund/Trade Cir./01/2017-18 Mumbai, Date: 14.11.2018 .

Trade Circular No. 33 T of 2018

Copy forwarded for information and necessary action to,-

- (1) The Joint Commissioner of State Tax, (MAHAVIKAS) with a request to upload this Trade Circular on MGSTD web-site.
- (2) Deputy Secretary, Finance Department, Mantralaya, Mumbai.
- (3) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.


(Shriram H. Umale)

Joint Commissioner of State Tax
(HQ)-01, Maharashtra State,
Mazgaon, Mumbai.