# L&S UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

8 JULY 2022

INDIRECT TAX

# Refund of unutilized ITC on account of export of electricity

UPDATE NO. 32 OF 2022

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SINCE 1985

**Manner of filing refund of unutilized ITC on account of export of electricity – Circular No. 175/07/2022-GST, dated 6 July 2022**

# BACKGROUND

- The exporters of electricity were facing issues for filing refund claim of unutilised ITC in the absence of shipping bill/bill of export. In order to facilitate claim of refund to exporters of electricity, Notification No. 14/2022-Central Tax, dated 5 July 2022 has amended Rule 89 of the CGST Rules.

- Circular No. 175/07/2022-GST has been issued to clarify various issues and procedure for filing of refund claim pertaining to export of electricity.

## A. Form and documents

- Application for refund is to be filed electronically under "**Any Other**" category in Form GST RFD-01 on the portal (till the time necessary changes are carried out on the portal).

- "**Export of electricity- without payment of tax (accumulated ITC)**" has to be mentioned in the remark column of the application.

- The electronic credit ledger is not required to be debited at the time of making the application.

- ***Documents to be uploaded with application of refund in FORM GST RFD-01***
    i. **Statement 3B of FORM GST RFD-01** (in pdf format) to be uploaded, with details containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per the agreement.

    ii. Copy of **statement of scheduled energy** for electricity exported by the Generation Plants in format Annexure-I (attached with the Circular) issued as part of Regional Energy Account (**'REA'**) by Regional Power Committee Secretariat (**'RPC'**)

    iii. Copy of the **relevant agreement(s)** detailing the tariff per unit for the electricity exported.

    iv. **Statement 3A** (in pdf) giving details of calculation of the refund amount.

## B. Relevant Date

- The 'relevant date' (for calculation of limitation period of two years under Section 54 of the CGST Act) shall be the last date of the month, in which the electricity has been exported as per the REA.

## C. Calculation of refund amount

- Refund of unutilised ITC on account of export of electricity would be calculated as per rule 89(4) of the CGST Rules under the following formula:

  *Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of service) * Net ITC / Adjusted Total Turnover*

- The Adjusted Total Turnover will be as per clause (E) of sub-rule (4) of Rule 89 of the CGST Rules. This will exclude the turnover of electricity supplied domestically being exempted supply.

- The turnover of export of electricity = energy exported during the period of refund * tariff per unit

- In case different quantum of electricity exported is mentioned on the invoice and the statement of scheduled energy (as reflecting under REA), the lower of the two values shall be considered for calculating the turnover of export of electricity.

## D. Other clarifications

- Upon scrutiny of the application for completeness and eligibility, if proper officer is satisfied that the whole or part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit in the electronic credit ledger through Form GST DRC-03.

- The refund order in Form GST RFD-06 and the payment order in Form GST RFD-05 shall be issued on receipt of proof of debit in the electronic credit ledger.

## L&S comments:

- The circular clarifies various issues and procedures for filing refund of unutilised ITC pertaining to export of electricity.
- The requirement of debiting the electronic credit ledger for claiming refund of unutilised ITC on account of export of electricity has been deferred from the date of application till the scrutiny of specified officer.
- There is no clarity on maintaining balance in the electronic credit ledger till the time refund is sanctioned.

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