L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

L&S GST Update
No. 6 of 2018,
dated 19-3-2018

Refund on account of exports - Clarifications

Circular No. 37/11/2018 dated 15.03.2018 - Clarifications

CBEC has issued Circular No. 37/11/2018-GST dated 15.03.2018 in continuation to Circular No. 17/17/2017 and Circular No. 24/24/2017 which clarifies the following:

- **Exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters. The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years. This is to avoid the following situations**:
  - Exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed.
  - Similarly, there may be cases where exports may have been made in a period but no input tax credit has been availed in the said period
- In case lower rate of duty drawback is claimed i.e. drawback pertaining to customs portion, refund under Section 54(3) of CGST Act can be availed by the exporter.

- Refund of SGST shall be available even if the supplier of goods or services or both has availed of drawback in respect of CGST.
- Benefits of zero rating may not be denied to the exports (without payment of IGST) made before filing the LUT. **The delay in furnishing of LUT in such cases may be condoned.**
- As long as goods have actually been exported even after a period of three months (as envisaged under Rule 96A(1)), payment of IGST first and claiming refund at a subsequent date may not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case.
- There can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application, manually in FORM GST RFD-01A.
- Self–declaration for non-prosecution is not required with every refund claim (under LUT).

- **Transitional credit will not form part of 'Net ITC' as contemplated under Rule 89(4) and (5) of CGST Rules.**
- The value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export will be examined and the lower of the two values will be sanctioned as refund.
- Refunds of tax/duty paid under the erstwhile law under Section 142 shall not be filed under GST in Form GST RFD-1A and all such applications shall be rejected.
- Proof of realization of export proceeds for processing of refund claims related to **export of goods** has not been envisaged in the law and will not be insisted upon.
- Person supplying the goods to a merchant exporter @ 0.1% is eligible for refund on account of inverted tax structure. Further, such merchant exporter can export such goods only under LUT / bond and cannot export on payment of IGST.

- Exhaustive list of documents required for processing the various categories of refund claims on exports is provided in the Table below:

Type of Refund	Documents
Export of Services with payment of tax (Refund of IGST paid on export of services)	-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)	-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

- Refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.

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