

# Amendment to Refund Provisions

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# Introduction

- Few key amendments have been made to the refund provisions through Notification No 16/2020 – C. T. dated 23.03.2020 relating to the refund provisions
- Also a Circular has been issued on 31.03.2020 clarifying certain points
- This note brings out the impact of such amendment and clarifications in a detailed manner

# Refund Formula

Before Amendment

Post Amendment

$$\text{Refund Amount} = \frac{[\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}]}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

**Turnover of zero-rated supply of goods**  
= the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both

**No restriction in the maximum amount of turnover**

**Turnover of zero-rated supply of goods**  
= The value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking **or** the value which is **1.5 times the value of like goods domestically supplied** by the same or, similarly placed, supplier, as declared by the supplier, **whichever is less**, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

# Refund Formula

## Adjusted Total Turnover

- The turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services
- The turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services
- Excluding –  
The value of exempt supplies other than zero-rated supplies;  
and  
The turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any



The Adjusted total turnover formula does not refer to turnover of zero rated supply of goods – Hence, this will result in selecting different amount as numerator and denominator and thereby restricting the refund

# Illustration 1

## Current Method

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4
31,00,00,000	3,90,00,000	38,00,00,000	3,18,15,789
<b>Eligible Refund</b>			<b>3,18,15,789</b>

## Amended Method

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4
16,46,00,000	3,90,00,000	38,00,00,000	1,68,93,158
<b>Eligible Refund</b>			<b>1,68,93,158</b>

### Presumptions:

- Goods exports vs services exports ratio – 80:20
- Value of similar goods supplied domestically – 18% of Adjusted total turnover

**Negative Impact –  
Reduction in refund  
by Rs. -1,49,22,632**

# Illustration 2

## Current Method

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4
31,00,00,000	3,90,00,000	38,00,00,000	3,18,15,789
<b>Eligible Refund</b>			<b>3,18,15,789</b>

## Presumptions:

- 100% export of goods
- Value of similar goods supplied domestically – 20% of Adjusted total turnover

## Amended Method

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4
11,40,00,000	3,90,00,000	38,00,00,000	1,17,00,000
<b>Eligible Refund</b>			<b>1,17,00,000</b>

**Negative Impact –  
Reduction in refund  
by Rs. -2,01,15,789**

# Amendment to Rule 96

- An explanation has been added to Rule 96 (10).
- Rule 96 (10) restricts the export on payment of IGST for the persons who import the goods by claiming the benefit of customs exemption like import under EPCG, Advance Authorisation and 100% EOU.
- The explanation, which has been added with retrospective effect from 23.10.2017, provides that if the exporter had imported the goods by paying IGST but claimed the exemption only in respect of BCD, then the restriction provided under Rule 96 (10) shall not apply.
- In other words, if a person pays IGST on import and claims exemption only BCD, then he is eligible to export goods on payment of IGST.

# Amendment to provisions relating to realisation

- Till now there was no requirement to realise the export proceeds in case of refund on zero rated supply of goods
- W.e.f. 01.04.2020, Rule 96B has been inserted, which provides the following:
  - In case where the refund is claimed on account of exports of goods, the exporter shall realise the sales proceeds of the goods within the time allowed under FEMA, including the extended period;
  - In case where the realisation does not happen, the exporter shall deposit the refund amount to the extent of the unrealised amount along with applicable interest within 30 days of the expiry of the said period;
  - If the amount is not deposited, it shall be recovered as per section 73/74 along with interest;
  - Where the write off of the exports is allowed on merits by RBI, then the refund amount shall not be recovered
  - In case where the refund amount is recovered but the exporter realises the export proceeds within the time permitted by RBI, then the exporter shall submit the proof of realisation within 3 months from the date of realisation and then, the refund amount shall be paid back to the exporter



# Few points/issues

- The notification is effective from 23.03.2020 – Hence, all applications filed after 23.03.2020 would get covered under the amended provisions
- Restricting 1.5 times of the export value will have considerable negative impact for the exporters who do not have considerable domestic supply or engaged only in export of goods. Similarly, the aspect of determining the value of similar goods could also lead to lot of confusions.
- The provision provides that the domestic supplies of similar goods by similarly placed exporter could also be taken into account. However, it is not clear how to determine the similarly placed supplier and also, how to get the value of domestic supply from him.
- With regard to the amendment relating to the realisation, the IGST Act, which defines export of goods and provides for benefit of refunds, does not put any condition that the consideration should be realised. Hence, the provisions could be litigated as unconstitutional.
- Assuming that the provisions should be complied with, obtaining extension from RBI would be a very crucial aspect. Mere applying for extension would not be sufficient. There should be formal approval by the RBI if the refund claimed should be validated.

# Clarification issued through Circular No.135/05/2020 – GST dated 31.03.2020

- Bunching of refund applications across the FYs allowed.
- It is clarified that when the rate of tax is reduced, then such cases shall not get covered under inverted duty structure
- Any refund of tax paid on supplies other than zero rated supplies will now be admissible proportionately in the respective original mode of payment i.e. through cash and credit ledgers.
- **Refund shall allowed only to the extent of the invoices appearing in GSTR2A**
- **Now it is required to mention HSN/SAC code which is mentioned on the inward invoices. In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.**



# Thank you

## Contacts:

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