

BEFORE THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL

IN THE MATTER OF:

AGRA ENTERPRISES (Appellant)

Versus

ASSISTANT COMMISSIONER, ZONE V, DGST DEPARTMENT, NEW DELHI (Respondent)

**Appeal under Section 112 of the DGST Act, 2017
Assessment Year: 2023-24**

Filed by:

**AGRA ENTERPRISES .
G T ROAD , NEW DELHI**

Through: Adv MONIL AGARWAL & MUKESH KHANDALWAL

Date: 30-06-25

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IN THE COURT OF GOODS AND SERVICES TAX, TRIBUNAL

**IN THE CASE OF M/S AGRA ENTERPRISES , G T ROAD DELHI
GSTIN: 1111111111**

MR R K MISHRA -APPELLANT

Vs.

COMMISSIONER DGST, DELHI – RESPONDANT

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FORM GST APL – 05

[See rule 110(1)]

Appeal to the Appellate Tribunal

1. GSTIN/ Temporary ID /UIN - 11111111111
2. Name of the appellant : AGRA ENTERPRISES
3. Address of the appellant : G T ROAD DELHI
4. Order appealed against: APPELLATE AUTHORITY
5. Order Number XXXXXXXX Date- 15-05-25
6. Name and Address of the Authority passing the order appealed against –
7. Date of communication of the order appealed against – 15-05-25
8. Name of the representative – ADV. MONIL AGARWAL & ADV MUKESH KHANDELWAL
9. Details of the case under dispute: Refund application rejection
 - (i) Brief issue of the case under dispute: - AS PER SEPARATE NOTES ON FACTS ENCL.
 - (ii) Description and classification of goods/ services in dispute “ NA
 - (iii) Period of dispute :LAST QUARTER 23-24(JAN –MARCH 24)
 - (iv) Amount under dispute: 623000

DESCRIPTION	Central Tax	State / UT tax	Integrated tax	Cess
a) Tax/ Cess	NA	NA	500000	NA
b) Interest	NA	NA	123000	NA
c) Penalty	NA	NA	NA	NA
d) Fees	NA	NA	NA	NA
e) Other charges	NA	NA	NA	NA

- (v) Market value of seized goods - NA

10) Whether the appellant wishes to be heard in person? YES

11) Statement of facts : AS PER SEPARATE NOTES ON FACTS ENCLOSED

12) Grounds of appeal: AS PER SEPARATE NOTES ON GROUNDS ENCLOSED

13) Prayer AS PER SEPARATE NOTES ON PRAYER ENCLOSED

14) Details of demand created, disputed and admitted

Particulars of demand	Particulars		Central tax	State/UT tax	Integrated tax	Cess	Total amount	
		a) Tax/Cess			500000		623000	

		Other charges					0	
	Amount under dispute (B)	a) Tax/Cess			500000		623000	623000
		b) Interest			123000		0	
		c) Penalty			0		0	
		d) Fees					0	
		e) Other charges					0	
	Amount admitted (C)	a) Tax/Cess			0		0	0
		b) Interest			0		0	
		c) Penalty			0		0	
		d) Fees					0	

	Amount demanded/ rejected >, if any (A)	b) Interest			0	0	623000
		c) Penalty			0	0	
		d) Fees				0	
		e)					
		e) Other charges				0	

15) Details of payment of admitted amount and pre-deposit: (a) Details of amount payable :

Particulars			Central tax	State/UT Tax	Integrated Tax	Cess	Total amount	
	a) Admitted amount	Tax/ Cess			0		0	0
		Interest			0		0	
		Penalty			0		0	
							0	
		Fees					0	
		Other charges					0	
	b) Pre-deposit [10% of disputed tax/cess but not exceeding Rs.20 crore each in respect of CGST, SGST or cess or not exceeding Rs.40 crore in respect of IGST and Rs.20 crore in respect of cess]	Tax/ Cess			50000		50000	50000

(b) Details of payment of admitted amount and [pre-deposit of 10% of the disputed tax and cess but not exceeding Rs. 50 crore each in respect of CGST, SGST or cess or not exceeding Rs.40 crore in respect of IGST and Rs. 20 crores in respect of cess] NA

Sr. No.	Description	Tax payable	Paid through Cash/ Credit Ledger	Debit entry no.	Amount of tax paid			
					Integrated tax	Central tax	State/UT Tax	CESS
1	2	3	4	5	6	7	8	9
1.	Integrated tax	50000	Cash Ledger	MANXX XX	50000			
			Credit Ledger					
2.	Central tax		Cash Ledger					
			Credit					

			Ledger					
3.	State/UT tax		Cash Ledger					
			Credit Ledger					
4.	CESS		Cash Ledger					
			Credit Ledger					

(c) Interest, penalty, late fee and any other amount payable and paid: 0

Sr. No.	Description	Amount payable				Debit entry no.	Amount paid			
		Integrated Tax	Central tax	State/UT Tax	CESS		Integrated tax	Central Tax	State/UT Tax	CESS
1	2	3	4	5	6	7	8	9	10	11
1.	Interest									
2.	Penalty									
3.	Late fee									
4.	Others (specify)									

16) [Place of supply wise details of the integrated tax paid (admitted amount only) mentioned in the Table in sub-clause (a) of clause 14 (item (a)), if any NA

Place of Supply (Name of State/UT)	Demand	Tax	Interest	Penalty	Other	Total
1	2	3	4	5	6	7 ⁵¹
	Admitted amount [in the Table in sub-clause (a) of clause 14 (item (a))]					

VERIFICATION

I, **MR R K MISHRA** hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed.

Place: New Delhi

Date :30.06.2025

Signature

MR R K MISHRA
PROPRIETOR

FORM GST APL – 02

[See rule 108(3)]

Acknowledgment for submission of appeal

Name of the Applicant – **MR R K MISHRA**

GSTN-11111111111

Your appeal has been successfully filed against ARN xxxxxxxxxxxxxx

1. Reference Number- xxxxxxxxxxxxxx
2. Date of filing – 30-06.2025
3. Time of filing -12:45 P.M.
4. Place of filing – NEW DELHI
5. Name of the person filing the appeal- **R K MISHRA**
6. Amount of pre-deposit- 50000
7. Date of acceptance/rejection of appeal- ACCEPTED
8. Date of appearance Date: Time: 12-07-2025 AT 12:30 P.M.
9. Court Number/ Bench Court: Bench: xxxxxxxx

Place: NEW DELHI

Date:30-06 -2025

SIGNATURE

NAME- XXXXXX

DESIGNATION

On behalf of Appellate Authority/Appellate Tribunal/Commissioner /
Additional or Joint Commissioner

**GOODS AND SERVICES TAX TRIBUNAL FEE
CHALLAN**

Paid on 30-06-2025

TAX PAYABLE	FEE	DEBIT ENTRY	TOTAL
50000	10000	ABEXMXXXX	60000

Rupees 1000 for every 1 Lakh

GOODS AND SERVICES TAX PAYMENT RECEIPT							
CPIN:xxxxxxxx		Deposit Date - 30/06/2025		Deposit Time : 12:53:25		e Scroll:NA	
Payment particulars							
CIN: CXXXXXXXX		Name of the Bank : Bank of Kanyakumari			BRN:XXXXXXXXXX		
Details of tax payer :							
GSTN 07XXXXXXXXXX No.73XXXXXXXXXX		Email ID <u>XXXXXXXX@gmail.com</u>			Mobile		
Name:R.K MISHRA		Address:XXXXXXXXXXXXXXXXXX					
Reason - Any other payment							
Details of Deposit (All amount in Rupess)							
Government	Major Head	Minor Head					
		Tax	Interest	Penalty	Fee	Others	Total
Government of India	CGST						
	IGST	50000					60000
	CESS	-					
	Sub Total	50000	0	0	10000	0	60000
Delhi	SGST						
Total Amount							60000
Total Amount in Words							
Mode of Payment : Net Banking , UBI							

GSTAT FORM-01

(See Rule 29 & 49)

Interlocutory application to the Appellate Tribunal

1. GSTIN / Temporary ID: 11111111111
2. Name of the appellant: **AGRA ENTERPRISES**
3. Address of the appellant: **G T ROAD ,Delhi**
4. Original Appeal No.:- XXXXXX dated 15-05-25
5. Date of Hearing:- NA
6. Name of representative:- ADV MONIL AGARWAL & ADV MUKESH KAHNDELWAL
7. Purpose of Interlocutory application:- Additional Evidence
8. Whether the appellant wishes to be heard in person? Yes
9. Grounds of appeal: ANNEXURE A
10. Statement of facts: ATTACHED WITH GROUNDS OF APPEAL
- 11 Prayer / Relief sought: ATTACHED WITH GROUNDS OF APPEAL

AGRA ENTERPRISES
G T ROAD ,Delhi

Before the Hon'ble Goods and Services Tax Appellate Tribunal

New Delhi

**In the matter of:
AGRA ENTERPRISES
G T ROAD ,Delhi**

...Appellant

Versus

Commissioner DGST

...Respondent

Appeal No. XXXXXX

Date of Hearing: 12-07-2025

Application for Production of Additional Evidence by the Appellant

To,
The Hon'ble Members of the GST Appellate
Tribunal, Delhi

The Appellant respectfully submits as under:

1. That the appellant has filed the above-mentioned appeal before this Hon'ble Tribunal against the order dated 15-05-2025 passed by First Appellate Authority.
2. That during the adjudication/appellate proceedings before the lower authority, the appellant was unable to produce certain relevant documents/evidence due to non-availability of records at the relevant time

3) As per Rule 112 of cgst rules, appellant was prevented by sufficient cause from producing the evidence before first appellate authority.

4) That the following additional evidence/documents are now sought to be produced, which are material and relevant for just and fair disposal of the present appeal:

List of Documents -

- a) **Copy of BRC copy regarding payment for export of goods**
- b) Application given to reserve bank of India in compliance of FED Master Direction No. 16/2015-16 dt 01-01-2016 issued by reserve bank of India **is enclosed**

5) That the said evidence could not be produced earlier due to unavailability of the same.

6) That the production of this additional evidence is essential to substantiate the appellant's contentions to prove that transaction was genuine.

7) That the production of additional evidence is being made in accordance with Rule 5 of the GST Appellate Tribunal (Procedure) Rules, 2023 (or relevant applicable provision).

Prayer

In view of the above, it is most respectfully prayed that this Hon'ble Tribunal may kindly:

- a) Allow the appellant to produce the additional evidence/documents as mentioned above; and
- b) Pass such other order(s) as deemed fit and proper in the interest of justice.

Place: New Delhi

Date: 30-06-2025

Signature of

Appellant Name: R.K

MISHRA

Proprietor

Mobile:73250CXXXX

IN THE GOODS AND SERVICE TAX TRIBUNAL, BENCH NEW**DELHI, NEW DELHI****AGRA ENTERPRISES G T ROAD DELHI****GSTIN: 1111111111****FACTS OF THE CASE**

- 1) That the dealer does business of manufacturing & sale of EV CHARGERS and does export of EV CHARGERS in same condition after importing these goods and even does manufacturing of EV CHARGERS which are sold interstate /intrastate taxable @5% but the goods exported against zero rated were totally purchased from J M Auto Limited, Agra a reputed auto manufacturing part company and the goods purchased were in pursuance of the import order from the importers of UAE and the same goods have been exported and all export documents have been submitted.
- 2) That the refund application RFD 01 under ZERO RATED TRANSACTION for the IV QUARTER 2023-24 was filled vide ARN NO 111111111111 DT 15-01-2025 and complete documents as prescribed under rule 89 of CGST act was enclosed along with application for refund
- 3) That as per provision of rule 90(2) of the CGST act the proper officer after proper scrutinizing the application for its completeness and when the application is found to be complete in terms of sub-rule (2), (3) and (4) of rule 89, an acknowledgement in FORM GST RFD-02 verifying the genuinely of the application along with the complete documents of export sale , purchase , ITC was issued by the proper officer & there after **SHOW CAUSE NOTICE in the prescribed form RFD (08) pointing out DEFICIENCIES in our REFUND APPLICATION was issued on 03-03-25 on following issue :-**

“That YOU HAVE FILED THE APPLICATION UNDER SECTION 54(1) of the DGST ACT CLAIMING A REFUND FOR ZERO RATED TRANSACTIONS FOR 500,000/- IN which YOU HAVE CLAIMED EPORTS MADE TO UAE AND CLAIM THAT PAYMENT HAS BEEN RECEIVED IN CONVERTIBLE FOREIGN EXCHANGE. HOWEVER, NO PROOF OF SUCH PAYMENTS HAS BEEN ANNEXED WITH THIS APPLICATION. IT SEEMS THAT PAYMENT WAS CREDITED IN YOUR BANK ACCOUNT IN INDIAN RUPEES AND HENCE THE PRECONDITION DOES NOT SEEM TO HAVE BEEN SATISFIED IN TERMS OF FIRST PROVISIO TO SUB SECITON (3) OF SECTION 16 OF THE IGST ACT. HENCE, IN THE ABSENCE OF SUCH PROOF STRICTLY AS PER LAW LAID DOWN OTHEREIN, I PROPOSE TO REJECT YOUR REFUND CLAIMS AND PROPOSE TO RAISE A DEMAND @ 5% PERCENT, BEING EV CHARGERS,

WITH INTEREST UNDER SECTION 50 AS PER LAW”

THAT IN THE SHOW CAUSE NOTICE ISSUED WE WERE ASKED TO REPLY TO THIS WITHIN A PERIOD OF 15 DAYS AND COME FOR PERSONAL HEARING BEFORE THE UNDERSIGNED ON 20.3.25 ALONG WITH ALL THE DOCUMENTS AND EXPLANATIONS THERETO

- 4) That in respect to date given in show cause notice of 20-03-25 by which reply to be submitted, the counsels on the **for the applicant** appeared **along with Proprietor of the firm Shri R K Mishra and presented all documents in connection with zero rated exports along with written reply in RFD 09.**

That it was brought to the notice of the jurisdiction officer that the refund is on account of claim of unutilized input tax credit in respect to zero rated export sale & total purchase in respect to the export sale is from J M Auto Limited, Agra a reputed auto manufacturing part company and the goods purchased were in pursuance of the import order from the importers of UAE and the same goods have been exported and all export documents have been already produced & already verified by the department and no short comings in the export documents was found however regarding payment not received from the importers, we placed some documents on record before jurisdiction officer that there is a disputed between the importers and his customs in UAE regarding the technical specifications of the goods ordered by him and exported by the tax payer, hence, payment is delayed , in this regard we submitted the copies of emails and some documents to establish the correctness of this statement given & we also brought to the notice of the jurisdiction officer that we are quite hopeful that the matter will be sorted soon and we are quite optimistic that we will soon receive the payment from the importer .

That it was also brought to the notice of the proper officer that as per provision of rule 89(2)(b) the document required for filling refund has been filled along with refund application & there is no precondition of submission of payment proof in respect of export sale like Bank Realization Certificates or Foreign Inward Remittance Certificates while applying for refund in respect of export of goods under LUT, documents required are mentioned as under:

Rule 89(2)(b) : A statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of Export of goods .

That it was also brought to the notice of the proper officer that demand cannot be raised in respect of our refund application filled as we already moved an application to Authorized Dealer Bank regarding Request for Extension of Time for Realization of Export Proceeds as per RBI REGULATION

That the jurisdiction officer vide order RFD 06 DT 22-03-25 rejected our refund application stating that **he is unable to process this refund and so the refund amount to this extent is hereby rejected under section 54(6) of the DGST Act & furthermore he directed us to deposit the tax on the total turnover of exports i.e. zero- rated transactions , the refund application was rejected solely on the ground that payment for export of goods has not been received as per Circular issued under the provisions of FEMA & as per provision specified in FEMA time has long expired and a period of 30 days is over in terms of section 16(3), first proviso of IGST Act**

- 5) That the refund rejection order RFD 06 was passed in which not only the refund application filed RFD 1 for refund of RS 500000 was rejected but in that order further demand of Rs 623000 was raised and the taxpayer was directed to deposit a sum of Rs 500,000/- (5 @ on total zero rated turnover of Rs 100,00,000/-) plus interest of Rs 123000/- within a period of 30 days from the date of this order so total demand of Rs 623000 was raised in the order passed in RFD 06 .
- 6) That appellant filed an appeal against the impugned order dated 22.3.25 passed by the proper officer Zone V in which not only the refund claims of the appellant amounting to Rs 500000/- was rejected but further demand of Rs 623000 was raised in order in respect of tax assessed on export sale considering that dealer failed to bring on record the proof of payment for zero rated transactions in terms of provisions of Section 16(3) first proviso IGST Act
- 7) That THE JOINT COMMISSIONER (APPEALS) ZONE 5, DGST DEPARTMENT, NEW DELHI rejected the appeal filed vide ORDER DT 15-05-25 UNDER SECTION 107(11) OF THE DGST ACT AGAINST REFUND REJECTION ORDER DATED 22.3.25 FOR THE TAX PERIOD (LAST QUARTER OF 2023-24).
- 8) That JOINT COMMISSIONER (APPEALS) mentioned in the order that appellant has filed an appeal against the impugned order dated 22.3.25 passed on the proper officer Zone V rejecting the refund claims of the appellant amounting to Rs 500000/- regarding zero rated transactions that has been rejected solely by proper officer on the ground that payment for export of goods has not been received as per Circular issued under the provisions of FEMA. As per FEMA time has long expired and a period of 30 days is over in terms of section 16(3), fir proviso of IGST Act

That in appeal order it was mentioned that “the proper officer considered the explanations offered by the appellant where the appellant admitted that the payment of export of goods to UAE has not been received till now due to dispute over technical specifications between the importer and his customers in UAE. Hence, in the absence of payment having not been received the appellant cannot be given refund in terms first proviso to Section 16(3) of IGST ACT. The proper was therefore justified in asking the appellant to deposit tax at the rate prescribed on the entire turnover with interest as per section 50 which is required in terms of the above provision. Hence, on this issue the impugned order of the proper is confirmed.

Hence, the appeal has no merits and is hereby dismissed. The appellant shall deposit a sum of Rs 623000/- within a period of 7 days the condition that was required to be completed before filing of appeal – for which a lenient view has been taken”.

- 9) That the order of the JOINT COMMISSIONER (APPEALS) is highly unjustified as refund has been rejected mentioning the first provision of sec 16(3) whereas under this provision of sec 16(3) no such limitation has been mentioned that “ in the absence of payment having not been received the appellant cannot be given refund in terms first proviso to Section 16(3) of IGST ACT “
- 10) The tax imposed by of appellant court is highly unjustified which was imposed based on wrong presumption that the tax liability on export was admitted amount on account of the appellant failing to bring on record the proof of payment for zero rated transactions in terms of provisions of Section 16(3) first proviso IGST Act

STATEMENT OF FACT

- 1) THAT THE APPELLANT IS AGGRIEVED BY THE ORDER REJECTING THE REFUND ON ZERO RATED EXPORT TRANSACTION AND IMPOSING TAXLIABILITY ON VALUE OF GOODS EXPORTED PRESUMING DOMESTIC SALE BY THE LOWER AUTHORITIES INCLUDING THE ADJUDICATION OFFICER AND THE FIRST APPELALTE AUTHORITY.
- 2) That the order RFD 6 dt 15-05-25 rejecting the refund application RFD 01 under ZERO RATED TRANSACTION for the IV QUARTER 2023-24 filled vide ARN NO 11111111111111 DT 15-01-2025 & also levying tax liability on basis of payment for export of goods has not been received as per Circular issued under the provisions of FEMA is highly unjustified , the tax demand on basis of payment for export of goods has not been received cannot be levied under order passed under rule 92 of the DGST act & as per provision of rule 89(2)(b) the document required for filling refund has been filled along with refund application & there is no precondition of submission of payment proof in respect of export sale like Bank Realization Certificates or Foreign Inward Remittance Certificates while applying for refund in respect of export of goods under LUT .
- 3) **That in the rejection order RFD 06, 2 different issues were considered which are mentioned as under**
 - a) That firstly the proper officer rejected the refund application of Rs 500000=00 on basis of payment for export of goods has not been received
 - b) That secondly the proper officer levying tax liability @5% on value of goods exported of Rs 1000000 on basis of payment for export of goods has not been received.

That submission in respect of both the issues will be discussed separately

- 4) That submission of fact in respect of rejection of the refund application of Rs 500000=00 on basis of payment for export of goods has not been received

- a) That the provision of sec 16(3) has been misinterpreted by the jurisdiction officer so rejecting our refund application on basis of this proviso is highly unjustified.
- b) **That the order of the JOINT COMMISSIONER (APPEALS) is highly unjustified as refund has been rejected following the first provision of sec 16(3) where it was mentioned that “in the absence of payment having not been received the appellant cannot be given refund in terms first proviso to Section 16(3) of IGST ACT “**

That the provision of sec 16(3) of the IGST act is as under:-

[(3) A registered person making zero rated supply shall be eligible to claim refund of unutilised Input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:

Provided that the Registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

- c) That the provision of sec 16(3) clearly specifies the case **where the dealer has already been issued the refund** and in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances **where as in our case the refund is not issued until now** so this provision does not apply in our case & **first provision of sec 16(3) has no such provision as mentioned in appeal order “** *in the absence of payment having not been received the appellant cannot be given refund in terms first proviso to Section 16(3) of IGST ACT “* so the provision of sec 16(3) has been misinterpreted by the jurisdiction officer as well as by appellant court so rejection of our refund application on basis of this proviso is highly unjustified .
- d) **That an application to admit additional evidence before the Hon’ble tribunal is also filled along with the appeal in which following additional evidence are enclosed**
 - 1. **Copy of BRC copy regarding payment for export of goods**
 - 2. Application given to reserve bank of India in compliance of FED Master Direction No. 16/2015-16 dt 01- 01-2016 issued by reserve bank of India **is enclosed**
- e) That the payment for export of goods has been received now, in evidence of which the BRC copy along with bank statement is enclosed along with application for additional evidence before the

Hon'ble chairman Tribunal and the provision of extension of the period to receive payment has been provided in **FED Master Direction No. 16/2015-16 dt 01-01-2016** whose point C.20 specifies the provision to extend the period of realization of export proceeds beyond stipulated period of realization from the date of export, up to a period of six months

C.20 Extension of time (i) The Reserve Bank of India has permitted the AD Category – I bank to extend the period of realization of export proceeds beyond stipulated period of realization from the date of export, up to a period of six months, at a time, irrespective of the invoice value of the export subject to the following conditions:

- a) The export transactions covered by the invoices are not under investigation by Directorate of Enforcement / Central Bureau of Investigation or other investigating agencies,
- b) The AD Category – I bank is satisfied that the exporter has not been able to realize export proceeds for reasons beyond his control,
- c) The exporter submits a declaration that the export proceeds will be realized during the extended period,
- d) While considering extension beyond one year from the date of export, the total outstanding of the exporter does not exceed USD one million or 10 per cent of the average export realizations during the preceding three financial years, whichever is higher.

15 Omitted

- e) In cases where the exporter has filed suits abroad against the buyer, extension may be granted irrespective of the amount involved / outstanding.

f) That the order of the **JOINT COMMISSIONER (APPEALS)** is highly unjustified as neither the proper officer nor the appellant court has followed the instruction given by commissioner CGST through various circulars, 2 such circulars are being discussed below as these circulars has discussed the disputed issue regarding realization of convertible foreign exchange in which direction were given that **In case of export of goods, realization of consideration is not a pre-condition for claim of refund**

These 2 circulars are being discussed as under

- 1) That the commissioner CGST has vide its circular no **Circular No. 37/11/2018-GST dt 15-03-2018** has in **para 12** has discussed the disputed issue regarding realization of convertible foreign exchange in which direction was given that **in case of export of goods, realization of consideration is not a pre-condition for claim of refund**

BRC / FIRC for export of goods: It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. **In case of export of goods, realization of consideration is not a pre-condition.** In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

- 2) That the commissioner CGST has vide its circular no Circular No. 125/44/2019 - GST dt 18-11-2019 has in **para 48** has discussed the disputed issue regarding realization of convertible foreign exchange in which direction were given that **In case of export of goods, realization of consideration is not a pre-condition for claim of refund**

BRC / FIRC for export of goods: It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. **In case of export of goods, realization of consideration is not a pre-condition.** In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon

That in this circular ANX A has also been attached which specifies the List of all statements/declarations /undertakings/certificates and other supporting documents to be provided along with the refund application, the documents required for refund on zero rated export is disclosed as under: -

Sl. No.	Type of Refund	Declaration/Statement/Undertaking/ Certificates to be filled online	Supporting documents to be additionally uploaded
	Refund of unutilized ITC on account of exports without payment of tax	Declaration under second and third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Statement of invoices (Annexure-B)
		Statement 3 under rule 89(2)(b) and rule 89(2)(c)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Statement 3A under rule 89(4)	<u>BRC/FIRC in case of export of services and shipping bill (only in case of exports made through non-EDI ports) in case of goods</u>

That in this circular Annexure-B has been attached which specifies Statement of invoices to be submitted with application for refund of unutilized ITC

Sr. No	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Type	Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Ces s	Eligible for ITC	Amou nt of eligibl e ITC	Wheth er invoice s include d in GSTR2A Y/N
			Invo ice No.	Dat e	Valu e								

g) That refund should have been sanction following the provision of act & rules & various direction given by commissioner time to time, & even after proper inspection no short comings have been mentioned in the documents submitted as required to claim refund u/s 54(3)i, but instead the show cause notice RFD 08 was issued on points which were irrelevant to claim refund u/s 54(3)

h) That even though no short coming were found in the refund application & refund application & documents submitted was properly uploaded following the provision of act & rules & various direction given by commissioner time to time, the jurisdiction officer rejected the refund application only on the basis of payment not received, which was highly unjustified.

i) That Under the Foreign Exchange Management Act (FEMA), the prescribed period for realizing and repatriating foreign exchange from export proceeds is 9 months from the date of export., The Reserve Bank of India (RBI) can write off the requirement of realization of export proceeds under specific conditions, primarily when the exporter has made genuine efforts to recover the dues but has been unsuccessful due to circumstances beyond their control. This usually involves situations where the overseas buyer has become insolvent, cannot be traced, or when the goods were destroyed or auctioned in the importing.

j) That the provision for **Recovery of refund of unutilized input tax credit paid on export of goods where export proceeds not realised** has been provided in rule 96B where it has been provided that sale proceeds in respect of such export goods have not been realised within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period which the amount refunded shall be recovered in accordance with the provisions of ²[section 73 or section 74 or section 74A] of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50

That in the refund rejection order the demand has been generated in order passed RFD 06, which is against the provision of GST act & rules as also provided under rule 96B, so the demand mentioned in the order should kindly be knocked off

Under Rule 96B(1) of the CGST Rules, if the sale proceeds from the export of goods are not realized within the period prescribed under FEMA, the refund granted to the exporter is generally liable to be recovered along with interest. However, if the Reserve Bank of India permits a write-off of the unrealized proceeds based on the merits of the case, such refund will not be subject to recovery. In this context, a write-off permitted by an Authorized Dealer (AD)

Category – I bank under the delegated authority of the RBI is treated as a valid write-off under this rule

Hence, for protection from refund recovery under Rule 96B, ensure the AD bank issues a formal write-off letter as per FEMA.

k) That Circular No.135/05/2020 - GST dt 31-3-2020 was issued by commissioner in respect of direction to be followed while giving refund & in this circular instruction was given that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant , **so in our case also this issue has been properly examined by the issuing officer as discussed in point no B of the specking order ,so no dispute is there on issue of the amount claimed by us in refund application**

l) That circular dt Circular No. 197/09/2023- GST dt 17-07-23 was issued to clarify the refund process after the insertion of clause (aa) in sub-section (2) of section 16 of the CGST Act, 2017 w.e.f. 1st January, 2022 vide Notification No. 39/2021- Central Tax dated 21.12.2021, and the amendment in Rule 36(4) of the Central Goods and Services Tax Rules, 1997 (hereinafter referred to as “CGST Rules”) w.e.f. 1st January, 2022 vide Notification No. 40/2021- Central Tax dated 29.12.2021, refund was to be sanctioned on the basis of ITC that available as per FORM GSTR-2B of the applicant. & vide circular dt Circular No. 197/09/2023- GST dt 17-07-23 the guidelines were given by commissioner to all the authorities that “ since availment of input tax credit has been linked with FORM GSTR-2B w.e.f. 01.01.2022, availability of refund of the accumulated input tax credit under section 54(3) of CGST Act for a tax period shall be restricted to input tax credit as per those invoices, the details of which are reflected in FORM GSTR-2B of the applicant for the said tax period or for any of the previous tax periods and on which the input tax credit is available to the applicant “ **so in our case also this issue has been properly examined by the issuing officer as discussed in point no B of the specking order ,so no dispute is there on issue of the ITC eligible claimed by us in refund application**

m) That as per direction given in above circular , Section 42 of CGST Act has been omitted w.e.f. 1st October, 2022 vide Notification No. 18/2022-CT dated 28.09.2022. Further, an amendment has also been made in Section 41 of the CGST Act, wherein the concept of provisionally accepted input tax credit has been done away with. Besides, FORM GSTR-2 and FORM GSTR-3 have also been omitted from CGST Rules. In view of this, reference to section 42, FORM GSTR-2 and FORM GSTR-3 is being deleted from the said para in the Circular as well as from the said undertaking. Para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 & the undertaking in FORM GST RFD-01 may, therefore, be read as follows

undertaking Para 7: ““The applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid

back to the Government with interest in case it is found subsequently that the requirements of clause (c) of subsection (2) of section 16 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim 1`f refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of subsection (2) of section 16 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim.

Undertaking in FORM GST RFD 01:- "I hereby undertake to pay back to the Government the amount of refund sanctioned along with interest in case it is found subsequently that the requirements of **clause (c) of subsection (2) of section 16 of the CGST/ SGST Act have not been complied with in respect of the amount**

That the under taking required in refund application has not been violated as clause (c) of subsection (2) of section 16 of the CGST/ SGST Act have been complied & no mention of this being non complied in mentioned in order

- n) That the ITC has been claimed as per provision of sec 16 of the IGST act & sale has been done as per provision of sec 68 of the act & sale done to all these dealer is verified with stock register RG1
- o) That the proper officer should have taken into cognizance various Statutory provisions relating to refunds as in GST Chapter XI of the CGST Act, 2017, in Sections 54 to 56 deal with refunds under GST & the procedure for claiming refunds is contained in Chapter X of the CGST Rules 2017 under Rules 89 to 97A where provision has been made in these rules that in case of refund claim on account of export of goods without payment of tax, the Shipping bill details shall be checked by the proper officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number, and date & the information contained in Table 9 of FORM GSTR-1 of the relevant tax period, as well as that of the subsequent tax periods, should also be taken into cognizance, wherever applicable.
- p) That in case of export of goods, realization of consideration is not a pre-condition as provision has been provided in rule 89 (2) of the CGST Rules where just a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services However, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

- q) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.
- An undertaking to the above effect has been inserted in the FormGST RFD-01.
- r) **That the rate of tax on “EV CHARGERS “ is 5 % & the refund is claimed of the balance input tax amount as the input tax is claimed as per provision of sec 16 of the act and no short coming regarding verification of input tax or any irregularities in the amount of input tax claimed has been pointed out by the jurisdiction officer**
- s) That even though no short coming were found in the refund application & refund application & documents submitted was properly uploaded following the provision of act & rules & various direction given by commissioner time to time ,the jurisdiction officer rejected the refund application only on the basis of payment regarding export not received , which was highly unjustified

AGRA ENTERPRISES
G T ROAD DELHI
GSTIN: - 111111111111

GROUND OF APPEAL

1. That the order RFD 6 dt 15-05-25 rejecting the refund application RFD 01 under ZERO RATED TRANSACTION for the IV QUARTER 2023-24 filled vide ARN NO 111111111111 DT 15-01-2025 & also levying tax liability on basis of payment for export of goods has not been received as per Circular issued under the provisions of FEMA is highly unjustified , the tax demand on basis of payment for export of goods has not been received cannot be levied under order passed under rule 92 of the DGST act & as per provision of rule 89(2)(b) the document required for filling refund has been filled along with refund application & there is no precondition of submission of payment proof in respect of export sale like Bank Realization Certificates or Foreign Inward Remittance Certificates while applying for refund in respect of export of goods under LUT .

2. That in the rejection order RFD 06, 2 different issues were considered which are mentioned as under

- a) That firstly the proper officer rejected the refund application of Rs 500000=00 on basis of payment for export of goods has not been received
- b) That secondly the proper officer levying tax liability @5% on value of goods exported of Rs 1000000 on basis of payment for export of goods has not been received.

That submission in respect of both the issues has already been discussed separately in statement of facts.

3. That the provision of sec 16(3) has been misinterpreted by the jurisdiction officer so rejecting our refund application on basis of this proviso is highly unjustified.

4. ***That the proper officer unjustifiably rejected our refund application vide order RFD 06 DT 15-05-25 & in that order raised the demand of tax and interest of Rs 623000 rejecting the refund application RFD 01 under ZERO RATED TRANSACTION for the IV QUARTER 2023-24 filled vide ARN NO 111111111111 DT 15-01-2025*** **whereas under DGST act the provision of demand has been specified under sec 73 read with rule 142 of the CSGT act** as the order DRC 07 referred to in sub-rule (5) shall be treated as the notice for recovery , so there is no provision under DGST act to initiate recovery vide order RFD 06 ,so the order RFD 06 imposing tax and interest is highly unjustified and liable to quashed.

5. That the order of the JOINT COMMISSIONER (APPEALS) is highly unjustified as refund has been rejected misinterpreting the first provision of sec 16(3) and reading the

provision in correctly as in order it was mentioned that sec 16(3) specifies that “in the absence of payment having not been received the appellant cannot be given refund in terms first proviso to Section 16(3) of IGST ACT “whereas there is no such limitation mentioned in sec 16(3) while considering refund application so the order is not justified in eye of law.

6. *That the proper officer & JOINT COMMISSIONER (APPEALS) pass the order RFD 06 on the basis of payment of export remittance not received , even though no short coming was pointed out in refund application made as per provision of sec 54(3)i under zero rated export refund ,which was highly unjustified so the impugned order liable to quashed or set aside.*
7. *That the rejection of refund application was highly unjustified the refund application was made as per provision of section 54(4)(a), where it is prescribed that application for refund should be accompanied by documentary evidence to establish that refund is due to the applicant. The documents in this regard are prescribed in Rule 89(2). As per Rule 89(2), the above application(s) shall be accompanied by following documentary evidences (as mentioned in point no. 8 below) to establish that refund is due to the applicant & all these documents were submitted as required with our application but it was not considered before rejection of application.*
8. That the refund application was made as per provision of rule 89 & under provision of rule 89 the Explanation was given that .– For the purposes of this rule89(1) - The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD-01, as applicable, to establish that a refund is due to the applicant, namely:
 - (a.....
 - (b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of Export of goods
9. That the impugned order imposing tax liability and interest of Rs 623000 is highly unjustified as the proper officer shall issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD- 09 within a period of fifteen days of the receipt of such notice and after considering the reply can only reject the refund in FORM RFD 06 mentioning the , for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, the said order shall be made available to the applicant electronically
10. That HIGH COURT OF DELHI in case of **Rajiv Sharma v. Union of India Vibhu Bakhru AND Sachin Datta, JJ, W.P. (C) NO. 9381 OF 2023 JULY 26, 2024** has held that ***as per Circular No. 125/44/2019-GST furnishing of BRCs is not a necessary condition for claiming refund in case of export of goods - Thus, in view of aforementioned circular, assesses claim for refund of ITC could not be rejected by proper officer on ground of non-furnishing of BRCs***

Refund of ITC - Zero rated supply/export - Period November, 2021
 - Petitioner-assessee, a Hindu Undivided Family, was engaged in business

of trading and export of automotive spare parts, automobile components and other allied products - Assessee had exported goods without payment of tax and was entitled to refund of accumulated ITC in respect of zero-rated supply under section 16 - Assessee filed application for refund of accumulated Input Tax Credit (ITC) - Assessee's application for refund was rejected for two reasons - Firstly, that assessee had not provided Bank Realization Certificates (BRCs) for relevant period, and secondly, bank statements and ledger accounts of suppliers were found to be incomplete - As per assessee's response in Form GST RFD-09 assessee had provided bank statements and had also provided details of suppliers as was evident from assessee's response - However, adjudicating authority stated that ledger accounts provided by assessee were incomplete and hence, payments against inward supplies could not be verified with bank statements, it thus, rejected assessee's application for refund - HELD : Regarding first reason of rejecting refund, as per Circular No. 125/44/2019-GST furnishing of BRCs is not a necessary condition for claiming refund in case of export of goods - Thus, in view of aforementioned circular, assessee's claim for refund of ITC could not be rejected by proper officer on ground of non-furnishing of BRCs - Regarding second reason of rejecting refund, it was apparent that adjudicating authority had some apprehension as to whether assessee had made payment for supplies in respect of which it had claimed refund of accumulated ITC - Thus, matter was to be remanded back to adjudicating authority for decision afresh on aforementioned limited question and impugned refund rejection order was to be set aside [Section 54 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017] [Paras 25, 26, 30 and 31] [In favour of assessee]

11. **That RAJASTHAN HIGH COURT in D.B. CIVIL WRIT PETITION NO.17061/2023 in case of Maple Luxury Homes V/s State of Rajasthan, Through The Assistant Commissioner State Tax and Ors ,order dt 08-4- 24**

Issue Addressed: Whether an order passed under GST RFD 06 for rejecting the refund claim is valid if no proper reason for rejecting the refund claim has been given by the proper officer to the petitioner.

Issues Involved: Petitioner is involved in the construction and development business, he paid tax on advance consideration received in GSTR 3B; later, the supply did not take place as the booking for the flat got cancelled. Though notice for show cause for tax refund was issued under GST RFD 08, it was a mere formality as no reason for rejecting the refund was stated by the proper officer. On speculative basis, the petitioner submitted reply. His application for refund of tax was rejected by the proper officer under form GST RFD 06.

Analysis & Conclusion: Rule 92(3) of CGST Rules, 2017 states that where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in FORM GST RFD-08 to the applicant, on which the applicant has to reply in Form GST-09. In the given case, no proper reason as to rejection of refund claim was given by the proper officer to the petitioner in the notice GST RFD-08. Issuance of show cause notice was an empty formality by the authority without giving the assessee a chance to reply to rejection of refund claim. Thus the order is set aside.

- 12 That Delhi High Court in case of SK Creations , W. P. (C) 8306/2023 ,order dt 29-05-24 set aside both the Order-in-Original and the Order-in-Appeal to the extent they rejected the part refund claim, noting that the export proceeds had been realized in INR.**

Issues Involved :- The petitioner challenged the rejection of part of their refund claim, which was denied on the grounds of non-realization of export proceeds.

After verifying that the proceeds were received in INR, the court set aside both the Order-in-Original and the Order-in-Appeal.

13 That CGST-APPEALS, JAIPUR in 39 (JPM) CGST/JPR/2020 in case of Baba Super Minerals Pvt. Ltd, order dt 27-04-20 has held that The export related refunds should not be rejected due to minor procedural lapse or non-substantive errors or omission which can be rectified subsequently.

14 That Gujarat High Court (2019) 29 GSTL 587 in case of GOLDEN COTTON INDUSTRIES has held that “Reasons to believe” - “Belief” is mental operation of accepting fact as true - Without any fact, no belief can be formed. Though it is *not* necessary for Proper Officer to state reasons for his belief, but if it is challenged, he must disclose materials upon which his belief was formed.

15 That the Allahabad high court in case of M/s Samsung India electronics pvt ltd has where the refund was rejected has held that “the order rejecting the refund claim of the assessee was palpably erroneous since the department earlier granted a refund on the same fact and circumstances.

FOR AGRA ENTERPRISES

MR R K MISHRA
Proprietor

AGRA ENTERPRISES
G T ROAD DELHI
GSTIN: - 111111111111

Prayers

- i. In view of the above factual and legal matrix the appellant respectfully prays that the refund of ITC claimed on goods exported under zero rated export be allowed.
- ii. In view of the above factual and legal matrix the tax imposed on export sale be kindly be knocked off as there is no provision under the act to impose tax vide order under RFD 06 & moreover the payment has now been received
- iii. Any other order as this Hon'ble Tribunal may find fit and proper be also allowed in favor of the appellant.

FOR AGRA ENTERPRISES

MR R K MISHRA
Proprietor

BEFORE THE JOINT COMMISSIONER (APPEALS) ZONE 5, DGST DEPARTMENT, NEW DELHI.

MR R K MISHRA
Proprietor
AGRA ENTERPRISES
G T ROAD
DELHI
GSTIN NO. 111111111111

APPELALTE ORDR UNDER SECTION 107(11) OF THE DGST ACT AGAINST REFUND REJECTION ORDER DATED 22.3.25 FOR THE TAX PERIOD (LAST QUARTER OF 2023-24).

The above -named appellant has filed an appeal against the impugned order dated 22.3.25 passed on the proper officer Zone V rejecting the refund claims of the the appellant amounting to Rs 500000/- refund for zero rated transactions that has been rejected solely on the ground that payment for export of goods has not been received as per Circular issued under the provisions of FEMA. As per FEMA time has long expired and a period of 30 days is over in terms of section 16(3), fir proviso of IGST Act. This is an admitted fact. The total refund involved on this score is Rs 5,00,000/-

When questioned why there is no pre-deposit required, the counsel explained that this is a case of refund and hence there could not be any demand. However, when the impugned order was examined there is a demand of Rs 6,23,000/- on which the appellant was to clear the stand whether this is admitted or not admitted. IN my view this is an admitted amount as the appellant failed to bring on record the proof of payment for zero rated transactions in terms of provisions of Section 16(3) first proviso IGST Act, hence the total amount of demand of tax plus interest becomes automatically payable. The appellant is directed to deposit this amount and this appellate order shall be subject to deposit of this amount. Though this should have been deposited at the time of filing of appeal, still giving benefit of doubt, the appellant is given one more opportunity to fulfill the conditions of Section 107(6) of the DGST Act. If this money is not deposited the appeal order shall not be given effect to. The appellant has undertaken to deposit this money.

The proper officer considered the explanations offered by the appellant. The appellant admitted that the payment of export of goods to UAE has not been received till now due to dispute over technical specifications between the importer and his customers in UAE. Hence, in the absence of payment having not been received the appellant cannot be given refund in terms first proviso to Section 16(3) of IGST ACT. The proper was therefore justified in asking the appellant to deposit tax at the rate prescribed on the entire turnover with interest as per section 50 which is required in terms of the above provision. Hence, on this issue the impugned order of the proper is confirmed.

Hence, the appeal has no merits and is hereby dismissed. The appellant shall deposit a sum of Rs 623000/- within a period of 7 days the condition that was required to be completed before filing of appeal – for which a lenient view has been taken.

Digitally signed
Zonal Commissioner (Appeals)

BEFORE THE PROPER OFFICER, ZONE 5, DGST DEPARTMENT, NEW DELHI.

MR R K MISHRA
Proprietor
AGRA ENTERPRISES
G T ROAD
DELHI
GSTIN NO. 111111111111

DIN NO.... 1234567890

3.3.25

SHOW CAUSE NOTICE IN THE PRESCRIBED FORM RFD 02 POINTING OUT DEFICIENCIES IN YOUR REFUND APPLICATION FOR THE ASSESMENT YEAR (LAST QUARTER) 2023-24 DATED 15-01-25

WHEREAS YOU HAVE FILED THE ABOVE APPLICATION UNDER SECTION 54(1) of the DGST ACT CLAIMING A REFUND OF RS 5,00,000/-: (FIVE Lakhs only)

1. FOR ZERO RATED TRANSACTIONS FOR 500,000/-. YOU HAVE CLAIMED EPORTS MADE TO UAE AND CLAIM THAT PAYMENT HAS BEEN RECEIVED IN CONVERTIBLE FOREIGN EXCHANGE. HOWEVER, NO PROOF OF SUCH PAYMENTS HAS BEEN ANNEXED WITH THIS APPLICATION. IT SEEMS THAT PAYMENT WAS CREDITED IN YOUR BANK ACCOUNT IN INDIAN RUPEES AND HENCE THE PRECONDITION DOES NOT SEEM TO HAVE BEEN SATISFIED IN TERMS OF FIRST PROVISIO TO SUB SECITON (3) OF SECTION 16 OF THE IGST ACT. HENCE, IN THE ABSENCE OF SUCH PROOF STRICTLY AS PER LAW LAID DOWN THEREIN I PROPOSE TO REJECT YOUR REFUND CLAIMS AND PROPOSE TO RAISE A DEMAND @ 5v PERCENT, BEING EV CHARGERS, WITH INTEREST UNDER SECITON 50 AS PER LAW.

YOU ARE REQUESTED TO REPLY TO THIS WITHIN A PERIOD OF 15 DAYS AND COME FOR PERSONAL HEARING BEFORE THE UNDERSIGNED ON 20.3.25 ALONG WITH ALL THE DOCUMENTS AND EXPLANTIONS THERETO.

DIGITALLY SIGNED
ASSISTANT COMMISSIONER, ZONE V

BEFORE THE PROPER OFFICER, ZONE 5, DGST DEPARTMENT, NEW DELHI.

MR R K MISHRA
Proprietor
AGRA ENTERPRISES
G T ROAD
DELHI
GSTIN NO. 111111111111

DIN NO.... 1234567890

22. 3.25

Present Shri Monil agarwal & Mukesh Khandelwal, Counsel's for the applicant along with power attorney. Taken on record.

The Proprietor of the firm Shri R K Mishra is also present.

The applicant has filed all documents in connection with zero rated exports and the same seem to be in order. The refund is on account of claim of unutilized input tax credit. The total purchase is from J M Auto Limited, Agra a reputed auto manufacturing part company and the goods purchased were in pursuance of the import order from the importers of UAE and the same goods have been exported and all export documents have been produced. The documents, after examination, seem to be in order. However, on payment from the importers, the tax payer has placed some documents on record that there is a disputed between the importer and his customs in. UAE regarding the technical specifications of the goods ordered by him and exported by the tax payer. Hence, payment is delayed. The taxpayer has shown the emails and some documents. However, in the absence of proof of payment as required by Section 16(3) first proviso to IGST Act , which has been discussed with his counsel, I am unable to process this refund and refund amount to this extent is hereby rejected under section 54(6) of the DGST Act. In view of this the taxpayer is also directed to deposit the tax on the total turnover of exports i.e. zero- rated transactions AND HENCE REFUND OF RS 500000/- IS REJECTED AND THE TAXAPAYER IS DIRECTED TO DEPOSIT THE TAX AT THE RATE OF 5 PERCENT WITH INTEREST AS CALCULATED BELOW.

I am not satisfied on this issue. Hence, the refund on this score is rejected as nothing could be approved in terms of legal interpretation of section 54(3)(ii) of the DGST Act.

In view of the above , the refund application of the applicant is hereby rejected on the above grounds.

The taxpayer is directed to deposit a sum of Rs 500,000/- (5 @ on total zero rated turnover of Rs 100,00,000/-) plus interest of Rs 123000/- within a period of 30 days from the date of this order.

DIGITALLY SIGNED
ASSISTANT COMMISSIONER ZONE V

AGRA ENTERPRISES , GT ROAD DELHI
GST NO - 1111111111

15-12-2024

To,
The ICICI MANAGER
DELHI

Subject: Request for Extension of Time for Realization of Export Proceeds

Dear Sir/Madam,

This letter is to request an extension of time for the realization of export proceeds related to the following transactions:

Invoice No.	Shipping Bill No.	Date of Export	Invoice Amount (USD)	Reason for Delay
INVOICE NO XXXXXXXXX]	[Insert Shipping Bill Number]	[25-03-2024]	[10000000]	

The delay in realization is due to fact that payment of export of goods to UAE has not been received till now due to dispute over technical specifications between the importer and his customers in UAE. We are in constant communication with the buyer and are confident that the payment will be realized by 15-06-2025

We hereby declare that:

1. The above transactions do not involve any contravention or evasion of the provisions of FEMA 1999 or any related rules and regulations [1].
2. The said export transactions are not under investigation by any enforcement agency [3].
3. We undertake to realize the shipping bill against export proceeds within the extended period [3].
4. [If applicable, include the Chartered Accountant's certificate about the outstanding amount]
5. We have enclosed the following documents in support of our request: [List the attached documents]

We kindly request you to forward our application to the {Link: Reserve Bank of India (RBI) <https://rbi.org.in/commonperson/English/Scripts/Notification.aspx?Id=851>} under the applicable provisions and grant us an extension of time for the realization of the export proceeds [2].

Thank you for your time and consideration.

Sincerely,
[R.K MISHRA /PROPRITER]
[AGRA ENTERPRISES]
[IEC Number XXXXXXXXXXXX]
[MOBILE NO 73XXXXXXXXXX]

BANK REALISATION CERTIFICATE

Statement of Bank Realisation

BRC **DIRECTORATE GENERAL OF FOREIGN TRADE**

STATEMENT OF BANK REALISATION

1	Firm's Name	JONES TRADERS
2	Address	SARV COMPLEX, MIRA, HUBBAINI CROSSING NAI KI MANDI AGRA U/P 282010
3	IEC	0609001442
4	Shipping Bill No	4267560
5	Shipping Bill Date	04.03.2013
6	Shipping Bill Port	INNSA1
7	Bank's Name	THE JAMMU AND KASHMIR BANK AGRA GAMAI COMPLEX HINGKI MANDI MUNICIPAL NO 8213 AGRA UTTAR PRADESH
8	Bank's File no and Upload Date	JAKA000000012122013001 Upload date:12.12.2013
9	Bill ID no	AGM001491/12
10	Bank Realisation Certificate No	JAKA0MOGHUTD000001313 Dated 11.12.2013
11	Date of realisation of money by bank	11.06.2013
12	Realised value in Foreign Currency	27520.67
13	Currency of realisation	USD
14	Date & time of printing	15 Feb. 2014 1:31:32 PM

About the statement

- This statement is machine generated from the DGFT website. It reproduces the information (as available on the date and time of printing of this statement) received by DGFT from the bank in secured electronic mode. This information can be verified by accessing the DGFT website (<http://dgft.gov.in>).

Circular No. 37/11/2018-GST F. No.349/47/2017-GST

Government of India Ministry of Finance Department of Revenue Central Board of Excise and Customs GST Policy Wing New Delhi, Dated the 15th March, 2018 To, The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All) The Principal Directors General/ Directors General (All) Madam/Sir,

Subject: **Clarifications on exports related refund issues**- regarding Board vide Circular No. 17/17/2017 – GST dated 15th November 2017 and Circular No. 24/24/2017 – GST dated 21st December 2017 clarified various issues in relation to processing of claims for refund. Since then, several representations have been received seeking further clarifications on issues relating to refund. In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (CGST Act), hereby clarifies the issues raised as below:

. 4. **Exports without LUT**: Export of goods or services can be made without payment of integrated tax under the provisions of rule 96A of the Central Goods and Services Tax Rules, 2017 (the CGST Rules). Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has already been specified vide Circular No. 8/8/2017 –GST dated 4th October, 2017. It has been brought to the notice of the Board that in some cases, such zero rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit have been filed. 4.1. In this regard, it is emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

5. Exports after specified period: Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further Page 3 of 8 period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

5.1 It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should 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. The same principle should be followed in case of export of services.

6. Deficiency memo: It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in FORM GST RFD-02 should be issued. Rule 90 (3) of the CGST Rules provides for communication in FORM GST RFD-03 (deficiency memo) where deficiencies are noticed. The said sub-rule also provides that once the deficiency memo has been issued, the claimant is required to file a fresh refund application after the rectification of the deficiencies.

6.1. In this connection, a clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the CGST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. It is therefore, clarified that 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. This fresh application would be accompanied with the original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original memo remain unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently. Page 4 of 8

7. Self-declaration for non-prosecution: It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the claimant has not been prosecuted.

7.1. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017-Central Tax dated 4th October, 2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 4th October, 2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond.

7.2. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.

8. Refund of transitional credit:

Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act.

These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under subrules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC'.

9. Discrepancy between values of GST invoice and shipping bill/bill of export: It has been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are

not being processed. The matter has been examined and it is clarified that the zero rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under Page 5 of 8 section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export.

9.1 During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

10. Refund of taxes paid under existing laws: Sub-sections (3), (4) and (5) of section 142 of the CGST Act provide that refunds of tax/duty paid under the existing law shall be disposed of in accordance with the provisions of the existing law. It is observed that certain taxpayers have applied for such refund claims in FORM GST RFD-01A also. In this regard, the field formations are advised to reject such applications and pass a rejection order in FORM GST PMT-03 and communicate the same on the common portal in FORM GST RFD-01B. The procedures laid down under the existing laws viz., Central Excise Act, 1944 and Chapter V of the Finance Act, 1994 read with above referred sub-sections of section 142 of the CGST Act shall be followed while processing such refund claims.

10.1 Furthermore, it has been brought to the notice of the Board that the field formations are rejecting, withholding or re-crediting CENVAT credit, while processing claims of refund filed under the existing laws. In this regard, attention is invited to sub-section (3) of section 142 of the CGST Act which provides that the amount of refund arising out of such claims shall be refunded in cash. Further, the first proviso to the said sub-section provides that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse and therefore, will not be transitioned into GST. Furthermore, it should be ensured that no refund of the amount of CENVAT credit is granted in case the said amount has been transitioned under GST. The field formations are advised to process such refund applications accordingly.

11. Filing frequency of Refunds: Various representations have been made to the Board regarding the period for which refund applications can be filed. Section 2(107) of the CGST Act defines the term "tax period" as the period for which the return is required to be furnished. The terms 'Net ITC' and 'turnover of zero rated supply of goods/services' are used in the context of the relevant period in rule 89(4) of CGST Rules. The phrase 'relevant period' has been defined in the said sub-rule as 'the period for which the claim has been filed'.

11.1 In many scenarios, 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 Page 6 of 8 in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.

11.2 In this regard, it is hereby clarified that the 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.

12. **BRC / FIRC for export of goods:** It is clarified that the realization of convertible foreign

exchange is one of the conditions for export of services. **In case of export of goods, realization of consideration is not a pre-condition.** In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realisation Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

13. Supplies to Merchant Exporters: Notification No. 40/2017 – Central Tax (Rate), dated 23rd October 2017 and notification No. 41/2017 – Integrated Tax (Rate) dated 23rd October 2017 provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications. 13.1 It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate. 13.2 It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of integrated tax. In this connection, notification No. 3/2018-Central Tax, dated 23.01.2018 may be referred. Page 7 of 8 14. Requirement of invoices for processing of claims for refund: It has been brought to the notice of the Board that for processing of refund claims, copies of invoices and other additional information are being insisted upon by many field formations.

14.1 It was envisaged that only the specified statements would be required for processing of refund claims because the details of outward supplies and inward supplies would be available on the common portal which would be matched. Most of the other information like shipping bills details etc. would also be available because of the linkage of the common portal with the Customs system. However, because of delays in operationalizing the requisite modules on the common portal, in many cases, suppliers' invoices on the basis of which the exporter is claiming refund may not be available on the system. For processing of refund claims of input tax credit, verifying the invoice details is quintessential. In a completely electronic environment, the information of the recipients' invoices would be dependent upon the suppliers' information, thus putting an in-built check-and-balance in the system. However, as the refund claims are being filed by the recipient in a semi-electronic environment and is completely based on the information provided by them, it is necessary that invoices are scrutinized.

14.2 A list of documents required for processing the various categories of refund claims on exports is provided in the Table below. Apart from the documents listed in the Table below, no other documents should be called for from the taxpayers, unless the same are not available with the officers electronically: Table 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 Page 8 of 8 15. These instructions shall apply to exports made on or after 1st July, 2017. It is also advised that refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.

16. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

17. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow. (Upender Gupta) Commissioner (GST)

Circular No. 125/44/2019 - GST

CBEC-20/16/04/18-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 18th November, 2019

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All) / The Principal Director Generals/ Director Generals (All)
The Principal Chief Controller of Accounts (CBIC)

Madam/Sir,

Clarifications on issues related to making zero-rated supplies

44. Export of goods or services can be made without payment of Integrated tax under the provisions of rule 96A of the CGST Rules. Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has been specified vide Circular No. 8/8/2017 –GST dated 4.10.2017. It has been brought to the notice of the Board that in some cases, such zero-rated supplies were made before filing the LUT and refund claims for unutilized input tax credit got filed. In this regard, it is emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

45. Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of Integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange. It has been reported that the exporters have been asked to pay Integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, payment of Integrated tax first and claiming refund at a subsequent date should 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.

The same principle should be followed in case of export of services.

46. It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the applicant has not been prosecuted. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 04.10.2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 04.10.2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.

47. It has also been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero-rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are meant for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund.

48. It is clarified that the realization of consideration in convertible foreign exchange
It is clarified that the realization of consideration in convertible foreign exchange, or in Indian rupees wherever permitted by Reserve Bank of India, is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

49. As per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. In terms of section 2 (47) of the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of Integrated tax. However, in case of zero-rated supply of

exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of Integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, the exporter would be eligible for refund of unutilized input tax credit of Central tax, State tax, Union Territory tax, Integrated tax and compensation cess in such cases.

Section 16 of IGST act : Zero rated supply.

(1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—

(a) Export of goods or services or both; or

(b) supply of goods or services or both ¹[for authorised operations] to a Special Economic Zone developer or a Special Economic Zone unit.

(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an Exempt supply.

²(3) A registered person making zero rated supply shall be eligible to claim refund of unutilised Input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:

Provided that the Registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify—

(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid ³[in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder];

(ii) a class of goods or services ⁴[or both, on zero rated supply of which, the supplier may pay integrated tax and claim the refund of tax so paid, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder].]

³(5) Notwithstanding anything contained in sub-sections (3) and (4), no refund of unutilised Input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods are subjected to export duty.]

Corresponding Section in IGST Act, 2017 - Section 020

Section 54 of CGST act . Refund of tax.

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application **before the expiry of two years** from the relevant date in such form and manner **as may be prescribed**: [See Rule 89]

Provided that a Registered person, claiming refund of any balance in the Electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in ⁵[such form and] manner **as may be prescribed**.

(2) A specialised agency of the **United Nations Organisation or any Multilateral Financial Institution and Organisation** notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of ⁶[two years] from the last day of the quarter in which such supply was received.

(3) Subject to the provisions of sub-section (10), a Registered person **may claim refund of any unutilised Input tax credit at the end of any Tax period**:

Provided that **no refund of unutilised Input tax credit shall be allowed** in cases other than—

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council: (For Goods) (For Services)

¹⁰~~**Provided further** that **no refund of unutilised Input tax credit shall be allowed** in cases where the goods exported out of India are subjected to **export duty**;~~

Provided also that **no refund of Input tax credit** shall be allowed, if the supplier of goods or services or both **avails of drawback** in respect of central tax or claims refund of the integrated tax paid on such supplies.

(4) The application shall be accompanied by—

(a) such documentary evidence as **may be prescribed** to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is **less than two lakh rupees**, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the Proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57. [See Rule 92]

(6) Notwithstanding anything contained in sub-section (5), the Proper officer may, in the case of any claim for refund on account of Zero-rated supply of goods or services or both made by Registered persons, other than such category of Registered persons as may be notified by the Government on the recommendations of the Council, refund on a **provisional basis, ninety per cent. of the total amount so claimed**, ⁹~~[excluding the amount of Input tax credit provisionally accepted,]~~ in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The Proper officer shall issue the order under sub-section (5) **within sixty days** from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

- (a) refund of tax paid on ¹[export] of goods or services or both or on inputs or input services used in making such ¹[exports];
- (b) refund of unutilised Input tax credit under sub-section (3);
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) refund of tax in pursuance of section 77;
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, **by notification**, specify.

⁴[(8A) The Government may disburse the refund of the State tax in such manner as may be prescribed.]

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due ⁷[~~under sub-section (3)~~] to a Registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the Proper officer may—

- (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;
- (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the Taxable person is liable to pay but which remains unpaid under this Act or under the Existing law.

Explanation.—For the purposes of this sub-section, the expression "specified date" shall mean the last date for filing an appeal under this Act.

(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of

malfeasance or fraud committed, he may, after giving the Taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) Where a refund is withheld under sub-section (11), the Taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual Taxable person or a non-resident Taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(14) Notwithstanding anything contained in this section, **no refund** under sub-section (5) or sub-section (6) shall be paid to an applicant, if the **amount is less than one thousand rupees**.

¹¹[(15) Notwithstanding anything contained in this section, no refund of unutilised Input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods is subjected to export duty.]

Explanation.—For the purposes of this section,—

(1) "refund" includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as Deemed exports, or refund of unutilised Input tax credit as provided under sub-section (3).

(2) "relevant date" means—

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

- (ii) if the goods are exported by land, the date on which such goods pass the frontier; or
- (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
- (b) in the case of supply of goods regarded as Deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such Deemed exports is furnished;
- ⁸[(ba) in case of Zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;]
- (c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—
 - (i) receipt of payment in convertible foreign exchange ²[or in Indian rupees wherever permitted by the Reserve Bank of India], where the supply of services had been completed prior to the receipt of such payment; or
 - (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;
- (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
- ³[(e) in the case of refund of unutilised Input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;]
- (f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
- (g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- (h) in any other case, the date of payment of tax.

Rule 92. Order sanctioning refund.-

(1) Where, upon examination of the application, the Proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in FORM GST RFD-06 sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him on a provisional **basis** under sub-section (6) of section 54, amount adjusted against any outstanding demand under the Act or under any Existing law and the balance amount refundable:

~~**6[Provided** that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any Existing law, an order giving details of the adjustment shall be issued in Part A of FORM GST RFD-07.]~~

5[(1A) Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the Proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in FORM RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any Existing law and the balance amount refundable and for the remaining amount which has been debited from the Electronic credit ledger for making payment of such tax, the Proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input tax credit in Electronic credit ledger.]

(2) Where the Proper officer or the Commissioner is of the opinion that the amount of refund is liable to be withheld under the provisions of sub-section (10) or, as the case may be, sub-section (11) of section 54, he shall pass an order in **7[Part A]** of FORM GST RFD-07 informing him the reasons for withholding of such refund.

8[Provided that where the Proper officer or the Commissioner is satisfied that the refund is no longer liable to be withheld, he may pass an order for release of withheld refund in Part B of **FORM GST RFD-07**.]

(3) Where the Proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD-09 within a period of fifteen days of the receipt of such

notice and after considering the reply, make an order in FORM GST RFD-06 sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, mutatis mutandis, apply to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.

(4) Where the Proper officer is satisfied that the amount refundable under sub-rule (1) ⁵[or sub-rule (1A)] or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue a ²[payment order] in FORM GST RFD-05 for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund refund ³[on the **basis** of a consolidated payment advice].

¹[**Provided** that the order issued in FORM GST RFD-06 shall not be required to be revalidated by the Proper officer:

Provided further that the ²[payment order] in FORM GST RFD-05 shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said ²[payment order] was issued.]

³[(4A) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (4).]

(5) Where the Proper officer is satisfied that the amount refundable under sub-rule (1) ⁵[or sub-rule (1A)] or sub-rule (2) is not payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue ⁴[a payment order] in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund.

Rule 90 of CGST ACT : . Acknowledgement.-

(1) Where the application relates to a claim for refund from the Electronic cash ledger, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the Common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(2) The application for refund, other than claim for refund from Electronic cash ledger, shall be forwarded to the Proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4) of rule 89, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the Common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(3) Where any deficiencies are noticed, the Proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the Common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.

¹[**Provided** that the time period, from the date of filing of the refund claim in **FORM GST RFD-01** till the date of communication of the deficiencies in **FORM GST RFD-03** by the Proper officer, shall be excluded from the period of two years as specified under sub-section (1) of Section 54, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.]

(4) Where deficiencies have been communicated in FORM GST RFD-03 under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under this rule along with the deficiencies communicated under sub-rule (3).

¹[(5) The applicant may, at any time before issuance of provisional refund sanction order in **FORM GST RFD-04** or final refund sanction order in **FORM GST RFD-06** or payment order in **FORM GST RFD-05** or refund withhold order in **FORM GST RFD-07** or notice in **FORM GST RFD-08**, in respect of any refund application filed in **FORM GST RFD-01**, withdraw the said application for refund by filing an application in **FORM GST RFD-01W**.

(6) On submission of application for withdrawal of refund in **FORM GST RFD-01W**, any amount debited by the applicant from electronic credit ledger or Electronic cash ledger, as the case may be, while filing application for refund in **FORM GST RFD-01**, shall be credited back to the ledger from which such debit was made.]

CHAPTER X

REFUND

Rule 89 OF CGST ACT : Application for refund of tax, interest, penalty, fees or any other amount.-

(1) Any person, except the persons covered under notification issued under section 55, claiming refund ¹⁶[any balance in the Electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 or] of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file ¹²[, subject to the provisions of rule 10B,] an application electronically in FORM GST RFD-01 through the Common portal, either directly or through a Facilitation Centre notified by the Commissioner:

~~¹⁷[**Provided** that any claim for refund relating to balance in the Electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant Tax period in FORM GSTR-3 or FORM GSTR-4 or FORM GSTR-7, as the case may be:]~~

¹⁸[**Provided** that] in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the –

(a) supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorised operations, as endorsed by the specified officer of the Zone;

(b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone:

²[¹⁹[**Provided further** that] in respect of supplies regarded as Deemed exports, the application may be filed by, -

(a) the recipient of deemed export supplies; or

(b) the supplier of deemed export supplies in cases where the recipient does not avail of Input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund]:

Provided also that refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed ²⁴[only after the last return required to be furnished by him has been so furnished].

¹⁴[*Explanation.*-For the purposes of this sub-rule, “specified officer” means a “specified officer” or an “authorised officer” as defined under rule 2 of the Special Economic Zone Rules, 2006.]

¹³[(1A) Any person, claiming refund under section 77 of the Act of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an

inter-State supply, may, before the expiry of a period of two years from the date of payment of the tax on the inter-State supply, file an application electronically in **FORM GST RFD-01** through the Common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that the said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of two years from the date on which this sub-rule comes into force.]

²³[(1B) Any person, claiming refund of additional integrated tax paid on account of upward revision in price of the goods subsequent to exports, and on which the refund of integrated tax paid at the time of export of such goods has already been sanctioned as per rule 96, may file an application for such refund of additional integrated tax paid, electronically in FORM GST RFD-01 through the common portal, subject to the provisions of rule 10B, before the expiry of two years from the relevant date as per clause (a) of Explanation (2) of section 54:

Provided that the said application for refund can, in cases where the relevant date as per clause (a) of Explanation (2) of section 54 of the Act was before the date on which this sub-rule comes into force, be filed before the expiry of two years from the date on which this sub-rule comes into force.]

(2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD-01, as applicable, to establish that a refund is due to the applicant, namely:-

(a) the reference number of the order and a copy of the order passed by the Proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in subsection (6) of section 107 and sub-section (8) of section 112 claimed as refund;

(b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of Export of goods ¹⁴[, other than electricity];

¹⁴[(ba) a statement containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement, along with the copy of statement of scheduled energy for exported electricity by Generation Plants issued by the Regional Power Committee Secretariat as a part of the Regional Energy Account (REA) under clause (nnn) of sub-regulation 1 of Regulation 2 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 and the copy of agreement detailing the tariff per unit, in case where refund is on account of export of electricity;]

²³[(bb) a statement containing the number and date of export invoices along with copy of such invoices, the number and date of shipping bills or bills of export along with copy of such shipping

bills or bills of export, the number and date of Bank Realisation Certificate or foreign inward remittance certificate in respect of such shipping bills or bills of export along with copy of such Bank Realisation Certificate or foreign inward remittance certificate issued by Authorised Dealer-I Bank, the details of refund already sanctioned under sub-rule (3) of rule 96, the number and date of relevant supplementary invoices or debit notes issued subsequent to the upward revision in prices along with copy of such supplementary invoices or debit notes, the details of payment of additional amount of integrated tax, in respect of which such refund is claimed, along with proof of payment of such additional amount of integrated tax and interest paid thereon, the number and date of foreign inward remittance certificate issued by Authorised Dealer-I Bank in respect of additional foreign exchange remittance received in respect of upward revision in price of exports along with copy of such foreign inward remittance certificate, along with a certificate issued by a practicing chartered accountant or a cost accountant to the effect that the said additional foreign exchange remittance is on account of such upward revision in price of the goods subsequent to exports and copy of contract or other documents, as applicable, indicating requirement for the revision in price of exported goods and the price revision thereof, in a case where the refund is on account of upward revision in price of such goods subsequent to exports;

(bc) a reconciliation statement, reconciling the value of supplies declared in supplementary invoices, debit notes or credit notes issued along with relevant details of Bank Realisation Certificate or foreign inward remittance certificate issued by Authorised Dealer-I Bank, in a case where the refund is on account of upward revision in price of such goods subsequent to exports;]

(c) a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the Export of services;

(d) a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;

(e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;

¹⁰[(f) a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer, in a case where the refund is on account of supply of

- goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer;
- (g) a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of Deemed exports;
- (h) a statement containing the number and the date of the invoices received and issued during a Tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;
- (i) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment;
- (j) a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;
- (k) a statement showing the details of the amount of claim on account of excess payment of tax ²²[and interest, if any, or any other amount paid];
- ²⁰[(ka) a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in a case where the refund is claimed by an unRegistered person where the agreement or contract for supply of service has been cancelled or terminated;
- (kb) a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing Credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unRegistered person where the agreement or contract for supply of service has been cancelled or terminated;]
- (l) a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:

Provided that a declaration is not required to be furnished in respect of the cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;

(m) a Certificate in Annexure 2 of FORM GST RFD-01 issued by a Chartered accountant or a Cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:

Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of subsection (8) of section 54;

²⁰**[Provided further** that a certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax.]

Explanation.— For the purposes of this rule-

(i) in case of refunds referred to in clause (c) of sub-section (8) of section 54, the expression “invoice” means invoice conforming to the provisions contained in section 31;

(ii) where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

(3) Where the application relates to refund of Input tax credit, the Electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed.

³[(4) In the case of Zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of subsection (3) of section 16 of the **Integrated Goods and Services Tax Act, 2017** (13 of 2017), refund of Input tax credit shall be granted as per the following formula –

Refund Amount = (Turnover of Zero-rated supply of goods + Turnover of Zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where, -

(A) "**Refund amount**" means the maximum refund that is admissible;

(B) "**Net ITC**" means Input tax credit availed on inputs and input services during the relevant period ²⁴~~[other than the Input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both];~~

¹¹[(C) "**Turnover of Zero-rated supply of goods**" means 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, ²⁴~~[other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both];~~

(D) "Turnover of Zero-rated supply of services" means the value of Zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for Zero-rated supply of services and Zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for Zero-rated supply of services for which the supply of services has not been completed during the relevant period;

⁷**[(E) "Adjusted Total Turnover"** means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of Zero-rated supply of services determined in terms of clause (D) above and non-Zero-rated supply of services,

²⁵[excluding the value of exempt supplies other than zero-rated supplies during the relevant period].]

(F) "Relevant period" means the period for which the claim has been filed.

¹⁴[*Explanation.* – For the purposes of this sub-rule, the value of goods exported out of India shall be taken as –

(i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or

(ii) the value declared in tax invoice or bill of supply,

whichever is less.]

DEMANDS AND RECOVERY

⁴[Rule 142 OF CGST ACT : Notice and order for demand of amounts payable under the Act.-

(1) The Proper officer shall serve, along with the

(a) notice issued under section 52 or section 73 or section 74 ¹³[or section 74A] or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74 ¹³[or sub-section (3) of section 74A], a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable.

⁵[(1A) The ⁶[Proper officer may], before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of section 73 or sub-section (1) of section 74 ¹³[or sub-section (1) of section 74A], as the case may be, ⁷[communicate] the details of any tax, interest and penalty as **ascertained** by the said officer, in **Part A** of FORM GST DRC-01A.]

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of Section 73 ¹⁴[or clause (i) of sub-section (8) of section 74A, as the case may be, or tax, interest and penalty in accordance with the provisions of subsection (5) of section 74 or clause (i) of sub-section (9) of section 74A], or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act ⁵[, whether on his own ascertainment or, as communicated by the Proper officer under sub-rule (1A),] ¹⁴[he shall inform the proper officer of such payment in FORM GST DRC-03 and an acknowledgement, in FORM GST DRC-04 shall be made available to the person through the common portal electronically.].

⁵[(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in **Part B** of **FORM GST DRC-01A** ¹²[and thereafter the proper officer may issue an intimation in Part-C of FORM GST DRC-01A, accepting the payment or the submissions or both, as the case may be, made by the said person].]

¹²[(2B) Where an amount of tax, interest, penalty or any other amount payable by a person under section 52 or section 73 or section 74 ¹³[or section 74A] or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, has been paid by the said person through an intimation in FORM GST DRC-03 under sub-rule (2), instead of crediting the said amount in the electronic liability register in FORM GST PMT-01 against the debit entry created for the said demand, the said person may file an application in FORM GST DRC-03A

electronically on the common portal, and the amount so paid and intimated through FORM GST DRC-03 shall be credited in Electronic Liability Register in FORM GST PMT-01 against the debit entry created for the said demand, as if the said payment was made towards the said demand on the date of such intimation made through FORM GST DRC-03:

Provided that where an order in FORM GST DRC-05 has been issued in terms of sub-rule (3) concluding the proceedings, in respect of the payment of an amount in FORM GST DRC-03, an application in FORM GST DRC-03A cannot be filed by the said person in respect of the said payment.]

¹⁵[(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or under clause (ii) of sub-section (8) of section 74A, as the case may be, or tax, interest and penalty under sub-section (8) of section 74 or under clause (ii) of sub-section (9) of section 74A, as the case may be, within the period specified therein, or where the person concerned makes payment of the amount referred to in sub-section (1) of section 129 within seven days of the notice issued under sub-section (3) of that Section but before the issuance of order under the said sub-section (3), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an intimation in FORM GST DRC-05 concluding the proceedings in respect of the said notice.]

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 ¹³[or sub-section (6) of section 74A] or sub-section (3) of section 76 or the reply to any notice issued under any section whose summary has been uploaded electronically in **FORM GST DRC-01** under sub-rule (1) shall be furnished in **FORM GST DRC-06**.

(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 ¹³[or section 74A] or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of ⁹[tax, interest and penalty, as the case may be, payable by the person concerned].

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the Proper officer in **FORM GST DRC-08**.

VAKALATNAMA

BEFORE THE Commercial TAX OFFICER/A.C./D.C./J.C./COMMISSNOR/ DGST TRIBUNAL
INCOME-TAX OFFICER/D.C./TRIBUNAL

ASSESSMENT YEAR...2023-24.....

M/S AGRA ENTERPRISES

.....

.....ASSESSEE/APPELLANTS/APPLICANTS

V/S

.....DEFENDANT.....

I/WE....R.N MISHRA

Hereby Authorize:

MONIL AGARWAL (ADVOCATE) (REG.NO. 7016)

MOB. 9359927813

MUKESH KHANDALWAL (ADVOCATE) (REG.NO.

MOB. 9045073661

To represent me/us in connection with my our Income-tax/Trade-tax/Commercial-tax/Wealth-tax/Gift-tax Assessment/Appeal/Inquiry/Review/Tribunal proceeding for the Assessment year 200 – 200 he is authorized to produce accounts and document connected there with. He can file and take back papers. He is also authorized to take copies of Assessment orders. Appellate orders, review orders. Tribunal orders and all others orders passed under the Act. His explanation and statements will be binding on me/us. He can take refund voucher on my/our behalf, which may be given to him on my/our responsibility even uncrossed. He is authorized to handover their brief to any body also to represent me/us to which I/we agree and have no objection. On non-payment of fees or any part there of he will be entitled not to appear and prosecute the case. He is further authorized to inspect files and receive Forms C. 38, 32 and other prescribed Forms under the Act on my/our behalf.

Dated.....200

R.N MISHRA

(Assessee/Appellants/Applicants

Signature...ADV MONIL AGARWAL
ADV MUKESH KHANDALWAL

Accepted

)

GSTAT FORM-04

(see rule 72)

Memorandum of appearance

To The Registrar,

The Goods and Services Tax Appellate Tribunal

In the matter of R.K. MISHRA Proprietor of M/s **AGRA ENTERPRISES**.
Petitioner. Vs. Joint Commissioner (Appeals) Respondent (Appeal No
xxxxxxx of 2025) Sir, Please take notice that I, ADV MONIL AGARWAL & ADV
MUKESH KHANDALWAL , authorized representative/ practicing Chartered
Accountant, duly authorized to enter appearance, and do hereby enter
appearance, on behalf R.K MISHRA petitioner in the above-mentioned
petition. A copy of the authorisation/vakalatnama issued by the Appellant
authorizing me to enter appearance and to act for every purpose connected
with the proceedings for the said party is enclosed, duly signed by me for
identification.

Dated 30-06-25

Yours sincerely,

ADV MONIL AGARWAL

ADD : 1, NEHRU NAGAR ,
AGRA

ADV MUKES KHANDALWAL

ADD : BALKESHWAR ,
AGRA

