

NO.F.1-11(8)-TAX/GST/2021/40239-42
GOVERNMENT OF TRIPURA
OFFICE OF THE CHIEF COMMISSIONER OF STATE TAX
PANDIT NEHRU COMPLEX, GURKHABASTI
AGARTALA, TRIPURA WEST, PIN-799006.

Dated, Agartala, the 19th November, 2021.

Circular No. 22/2021 – GST (State)

To
The Additional Commissioner of State Tax/
Deputy Commissioner of State Tax/
Assistant Commissioner of State Tax (CDC)-I / II/
Superintendent of State Tax (All)/
Inspector of State Tax (All)


Subject: Clarification on certain refund related issues- reg.

Madam / Sir,

The Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, GST Policy Wing vide Circular No. 166/22/2021–GST dated 17th November, 2021 has issued a clarification on certain refund related issues, in order to ensure uniformity in the implementation of the provisions of law across the field formations, which is annexed herewith.

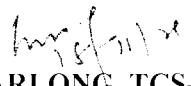
In exercise of powers conferred by section 168 of the Tripura State Goods and Services Tax Act, 2017 (Tripura Act No. 9 of 2017) for the purpose of uniformity in the implementation of the Act it is instructed to follow the clarification issued vide Circular No. 166/22/2021–GST dated 17th November, 2021 by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, GST Policy Wing.

Encls.: Circular No. 166/22/2021–GST.


(L.T. DARLONG, TCS-SSG)
Chief Commissioner of State Tax
Government of Tripura

Copy to:

1. The P.S. to the Secretary, Finance, Government of Tripura for favour of kind information to the Secretary, Finance.
2. The Assistant Statistical Officer, Statistical Section, O/o the Commissioner of Taxes & Excise, Agartala with request to upload the Circular in the Official website www.tripurataxes.nic.in.
3. Guard File.


(L.T. DARLONG, TCS-SSG)
Chief Commissioner of State Tax
Government of Tripura

F.No. CBIC-20021/4/2021-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 17th Nov, 2021

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification on certain refund related issues- reg.

Various representations have been received from taxpayers and other stakeholders seeking clarification in respect of certain issues relating to refund. The issues have been examined. In order 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 (hereinafter referred to as “CGST Act”), hereby clarifies each of these issues as under:

S. No.	Issue	Clarification
1.	Whether the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?	No, the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.
2.	Whether certification/ declaration under Rule 89(2)(l) or 89(2)(m) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in	No, furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as

	electronic cash ledger?	unjust enrichment clause is not applicable in such cases.
3.	Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51 /52 of the CGST Act can be refunded as excess balance in cash ledger?	<p>The amount deducted/collected as TDS/TCS by TDS/ TCS deductors under the provisions of section 51 /52 of the CGST Act, as the case may be, and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose for discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers.</p> <p>Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act.</p>
4.	Whether relevant date for the refund of tax paid on supplies regarded as deemed export by recipient is to be determined as per clause (b) of Explanation (2) under section 54 of CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining relevant date for such refunds?	<p>Clause (b) of Explanation (2) under Section 54 of CGST Act reads as under:</p> <p><i>“(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;”</i></p> <p>On perusal of the above, it is clear that clause (b) of Explanation (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports,</p>

		<p>irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.</p> <p>Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.</p>
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2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

3. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Sanjay Mangal)
Principal Commissioner