

GOODS & SERVICE TAX (GST)

FREQUENTLY ASKED QUESTION ON GST REFUND

1. What is refund in GST?

Ans. Refund has been discussed in section 54 of the CGST/TSGST Act. "Refund" includes

- (a) any balance amount in the electronic cash ledger so claimed in the returns,
- (b) any unutilized input tax credit in respect of
 - (i) zero rated supplies made without payment of tax or,
 - (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),
- (c) tax paid by specialized agency of United Nations or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries on any inward supply.

2. Can unutilized Input tax credit be allowed as refund?

Ans. Unutilized input tax credit can be allowed as refund in accordance with the provisions of sub-section (3) of section 54 in the following situations: -

- (i) Zero rated supplies made without payment of tax;
- (ii) Where credit has accumulated on account of rate of tax on inputs being higher than the rate of taxes on output supplies (other than nil rated or fully exempt supplies). However, no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty, and also in the case where 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.

3. Will unutilized ITC at the end of the financial year (after introduction of GST) be refunded?

Ans. There is no such provision to allow refund of such unutilized ITC at the end of the financial year in the GST Law. It shall be carried forward to the next financial year.

4. Suppose a taxable person has paid IGST/ CGST/SGST mistakenly as an Interstate/intrastate supply, but the nature of which is subsequently clarified. Can the CGST/SGST be adjusted against wrongly paid IGST or vice versa?

Ans. The taxable person cannot adjust CGST/SGST or IGST with the wrongly paid IGST or CGST/SGST but he is entitled to refund of the tax so paid wrongly - Sec.77 of the CGST/TSGST Act.

5. What is the time limit for taking refund?

Ans. A person claiming refund is required to file an application before the expiry of two years from the "relevant date" as given in the Explanation to section 54 of the CGST/TSGST Act.

6. In case the tax has been passed on to the consumer, whether refund will be sanctioned?

Ans. Yes, the amount so refunded shall be credited to the Consumer Welfare Fund - Section 57 of the CGST/TSGST Act.

7. Is there any time limit for sanctioning of refund?

Ans. Yes, refund has to be sanctioned within 60 days from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest at the rate notified not exceeding 6% will have to be paid in accordance with section 56 of the CGST/TSGST Act. However, in case where provisional refund to the extent of 90% of the amount claimed is refundable in respect of zero-rated supplies made by certain categories of registered persons in terms of sub-section (6) of section 54 of the CGST/TSGST Act, the provisional refund has to be given within 7 days from the date of acknowledgement of the claim of refund.

8. Can refund be withheld by the department?

Ans. Yes, the proper officer can withhold refund of accumulated ITC under Section 54(3) in the following circumstances:

- i. If the person has failed to furnish any return till he files such return;
- ii. If the registered taxable person is required to pay any tax, interest or penalty which has not been stayed by the Appellate Authority/Tribunal/ Court, till he pays such tax, interest or penalty; The proper officer can also deduct unpaid taxes, interest, penalty, late fee, if any, from the refundable amount – Section 54(10) (b) of the CGST/TSGST Act.

The Commissioner can withhold any refund, if, the order of refund is under appeal and he is of the opinion that grant of such refund will adversely affect revenue in the said appeal on account of malfeasance or fraud committed - Sec.54 (11) of the CGST/TSGST Act.

9. Where the refund is withheld under Section 54(11) of the CGST/TSGST Act, will the taxable person be given interest?

Ans. If as a result of appeal or further proceeding the taxable person becomes entitled to refund, then he shall also be entitled to interest at the rate notified not exceeding 6% [section 54(12) of the CGST/TSGST Act].

10. Is there any minimum threshold for refund?

Ans. No refund shall be granted if the amount is less than Rs.1000/-. [Sec.54 (14) of the CGST/TSGST Act].

11. In case of refund under exports, whether BRC is necessary for granting refund?

Ans. In case of refund on account of export of goods, the refund rules do not prescribe BRC as a necessary document for filing of refund claim. However, for export of services details of BRC is required to be submitted along with the application for refund.

12. Is refund linked to a tax period or relevant period under GST Law?

Ans. Refund is related to “relevant period” and not to “tax period”. 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 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.

13. Can the exporter file refund claims by clubbing successive calendar months/quarter or should the claim be filed on a monthly basis?

Ans. 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

14. Can refund claims be filed even if GSTR-1/3B for the particular period has not been filed?

Ans. No. Refund claim for a tax period can be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

15. What are the situations in which refund of accumulated ITC is allowed under GST?

Ans. Refund of accumulated ITC is allowed only when the credit accumulation is on account of zero rated supply or on account of inverted rate structure.