

F. No. CBEC-20/08/02/2020-GST / 1377-78
dt 28.11.2022

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th November, 2022

To,

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

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Customs (All)

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Manner of processing and sanction of IGST refunds, withheld in terms of clause (c) of sub-rule (4) of rule 96, transmitted to the jurisdictional GST authorities under sub-rule (5A) of rule 96 of the CGST Rules, 2017– regarding

Attention is invited to Standard Operating Procedures (SOPs) for verification of risky exporters and their suppliers dated 23.01.2020 issued to CGST and Customs formations as well as Directorate General of Analytics and Risk Management (DGARM) and SOP dated 20.05.2020 issued to CGST formations and DGARM vide F. No. CBEC-20/16/07/2020-GST which provided for the procedure to be followed for verification of the risky exporters and their suppliers. The said SOPs provided that DGARM would identify the exporters and their suppliers on the basis of risk parameters, approved by the Competent Authority and would forward the list of such exporters to the Risk Management Centre for Customs (RMCC) for putting alert in the system. In such cases, the Customs field formations were required to conduct the detailed examination of the export goods of such identified exporters. Further, the jurisdictional CGST formations were required to conduct detailed verification of such identified exporters and their suppliers and forward the verification report to DGARM. On receipt of verification report from CGST formations, DGARM was required to take a decision for issuance of NOC or otherwise. In cases where NOC has been issued by DGARM, the same was communicated to the Customs authorities at the port of export for release of withheld IGST refunds of such exporter. Further, DGARM was also required to review whether the exporters can be removed from the list of identified exporters.

2. However, rule 96 of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as 'CGST Rules') has been amended retrospectively w.e.f. 01.07.2017 to provide for withholding of IGST refund in cases where the verification of credentials of the exporter, identified on the basis of data analytic including the availment of ITC by the exporter is considered essential before grant of refund. Clause (c) of sub-rule (4) of rule 96 is reproduced below:

(c) the Commissioner in the Board or an officer authorised by the Board, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue.

2.1 Accordingly, Principal Director General/ Director General of Directorate General of Analytics and Risk Management (DGARM), CBIC, New Delhi has been authorised by the Board to exercise the functions under clause (c) of sub-rule (4) of rule 96 of the CGST Rules vide Order No. 01/2022-GST dated 21.07.2022 issued vide CBIC-20023/04/2021-GST.

2.2 Further, sub-rule (5A) has been inserted in rule 96 to provide for transmission of IGST refunds, withheld in terms of provisions of clause (c) of sub-rule (4) of rule 96 of the CGST Rules, as system generated refund in Form GST RFD-01 and to provide that the said system generated form shall be deemed to be the application for refund in such cases and such application for refund shall be deemed to have been filed on the date of such transmission on the portal. In addition, sub-rule (5C) has also been inserted in rule 96 to provide that such system generated refund in FORM GST RFD-01 have to be dealt with in accordance with rule 89 i.e. in a manner similar to other GST RFD-01 refund claims.

3. In view of the aforesaid amendments, certain changes have been made in the alert module on ICES for which an Advisory No. 14 dated 29/09/2022 has been issued by DG Systems to all the system managers. In the said advisory, it has been *inter-alia* informed that a new role for putting an all-India suspension, either on IEC or GSTIN of the exporter as the case may be, to withhold IGST refunds has been developed for officers of DGARM. An option to revoke the said alert has also been made available to DGARM officers. Further, instructions have also been issued by DG Systems vide F. No. DGSYS/APP/ICES/GEN/41/2022 dated 29.09.2022 to the Customs field formations regarding the procedure to be followed by them in respect of IGST refunds withheld due to DGARM alerts on risky exporters.

4. DGARM on the basis of data analysis and risk parameters, would identify the exporters where verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund. DGARM would then place an all-India alert on such exporter on Indian Customs EDI system along with the reasons for putting the said alert. Once an alert is placed on an exporter, the IGST refunds of such exporters would be withheld and the data in respect of Shipping Bills filed by such exporter, for which

IGST Scroll could not be generated due to DGARM alert, along with the reasons thereof would be transmitted to GSTN through ICEGATE for generation of refund claims in FORM GST RFD-01 in terms of provisions of sub-rule (5A) of rule 96. Besides, the past cases where the exporter was identified as risky, which could not be processed due to pending verification or due to receipt of negative report, would also be transmitted to GSTN through ICEGATE for generation of refund claims in FORM GST RFD-01 in terms of provisions of sub-rule (5A) of rule 96.

5. Such refund claims will be made available to the jurisdictional proper officer on back-office system under the category "**Any other (GST paid on export of goods)**" with the remarks "**Refund of IGST paid on export of goods (Refund not processed by ICEGATE)**". Further, the risk parameters, on basis of which the exporter has been identified as risky by DGARM, would be shared with the jurisdictional tax officers along with the system generated refund claim in **FORM GST RFD-01**. In cases where the verification report in respect of the exporter has already been submitted to DGARM by the jurisdictional CGST authorities, the details of the same would also be shared with the jurisdictional proper officer, along with the said system generated refund claim in **FORM GST RFD-01**. Transmission of such IGST refunds to the jurisdictional proper officers, withheld on account of identification of exporter as risky by DGARM, is being initiated on the portal.

6. On receipt of such refunds, the jurisdictional proper officer shall immediately process such refund claims in a manner similar to other RFD-01 refunds filed under the provisions of rule 89 of the CGST Rules, 2017.

7. However, it may be noted that as these refund claims have been generated by the system on the basis of Shipping Bills/ Bills of Export filed by the exporter, these claims would be auto-acknowledged by the system and no Deficiency Memo in Form GST RFD-03 can be issued against such system generated Form GST RFD-01 refund claims.

8. The proper officer shall ascertain the genuineness of the exporter & verify the correctness of availment and utilisation of ITC by the exporter and exercise due diligence in processing the said refund claims to safeguard interest of revenue. The proper officer may conduct the physical verification of places of business of the exporter, if required, to ensure that the exporter is existing at his declared place of business and is functional/active.

9. The proper officer shall pass a detailed speaking order in respect of the refund claim and shall duly upload the same along with the refund sanction order in **Form GST RFD-06** on the portal in terms of Instruction No. 03/2022-GST dated 14.06.2022. **The officer will also follow the timelines for processing of the refund claim** in terms of provisions of sub-section (7) of section 54 of the CGST Act. It is needless to mention that the procedure of review and post-audit as prescribed in para 2.2 of Instruction No. 03/2022-GST dated 14.06.2022 will also be applicable to such refund claims.

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10. In cases where the detailed investigation of the exporter or his suppliers is required to be conducted to verify the genuineness and correctness of ITC availed by the exporter, the matter may be examined, if required, for resorting to provisions of sub-section (11) of section 54 of the CGST Act, 2017 for withholding of the refund.

11. Further, the proper officer would also be required to provide feedback on the common portal while issuing refund sanction order in **FORM GST RFD-06** as with recommendation as to whether the alert against the said taxpayer need to be continued or whether the same can be removed. The functionality for the same would be available on the system in due course.

12. GSTN shall transmit the data regarding the outcome of processing of refund by the proper officer, along with the feedback received from the proper officer on the requirement of removal or continuation of alert, to DGARM for necessary action for removal or continuation of alert.

13. The Zonal Principal Chief Commissioners/ Chief Commissioners are requested to closely monitor the progress of disposal of such transmitted refund claims to ensure that due verification has been conducted before sanction and the refunds have been processed in a timely manner.

14. In view of the above, the SOPs dated 23.01.2020 and 20.05.2020 prescribing the procedure to be followed for verification of the risky exporters and their suppliers, are hereby superseded.

15. Difficulty, if any, in implementation of these instructions may please be brought to the notice of the Board.

Sanjay Mangal
28/11/2022

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Copy to:

1. The Joint Secretary, GST Council Secretariat, New Delhi for circulation of the same to all states for information please.

