

Refund of unutilised Input Tax Credit (ITC)

Accumulation of Input Tax Credit happens when the tax paid on inputs is more than the output tax liability. Such accumulation will have to be carried over to the next financial year till such time as it can be utilised by the registered person for payment of output tax liability. However, the GST Law permits refund of unutilised ITC in two scenarios, namely if such credit accumulation is on account of zero rated supplies or on account of inverted duty structure, subject to certain exceptions.

As per Section 54(3) of the WBGST Act, 2017, a registered person may claim refund of unutilised input tax credit at the end of any tax period. A tax period is the period for which return is required to be furnished. Thus, a taxpayer can claim refund of unutilised ITC on monthly basis.

Refund of unutilised input tax credit is allowed only in following two cases

a) **Zero rated supplies made without payment of tax:** As per Section 16(3) of the IGST Act, 2017, a registered person making zero rated supply is eligible to claim refund under either of the following options, namely: –

- Supply of goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
- Supply of goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied.

The first category pertains to refund of unutilised ITC for which the registered person has to supply under Bond/LUT (as prescribed in Rule 96A of WBGST Rules) and in the second category supply has been made after payment of Tax (IGST). In both the cases, refund can be applied under Section 54 of the WBGST Act, 2017 read with Rule 89 or Rule 96, as the case may be, of the WBGST Rules, 2017.

b) **Inverted duty structure:** 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.

In such cases also, refund can be applied under Section 54 of the WBGST Act, 2017 read with Rule 89 of the WBGST Rules, 2017.

It should be noted that no refund of unutilised input tax credit is allowed in cases where the goods exported out of India are subjected to export duty. Further, no refund of input tax credit is 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.

Refund of ITC on account of zero-rated supplies

The application filed for refund of unutilized ITC on account of zero-rated supplies (with payment of tax or without payment of tax under Bond/LUT) has to be accompanied by documentary evidence as may be prescribed to establish that a refunds due to the applicant; and such documentary or other evidence (including the documents referred to in section 33 of the WBGST Act, 2017) as the applicant may furnish to establish that the amount of tax and

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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.

Rule 89(2) of the WBGST Rules, 2017, specifies documents to be attached with the refund application in case of different types of Refund applicants.

However, it has been provided under section 54(4) of the WBGST Act, 2017, 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.

It has also been provided under section 54(6) of the WBGST Act, 2017, that in cases where the 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 maybe notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted; and the final order shall be issued within sixty days from the date of receipt of application complete in all respects (section 54(7) of the WBGST Act, 2017 refers).

Rule 91 of WBGST Rules, 2017 provide that the provisional refund is to be granted within 7 days from the date of acknowledgement of the refund claim. An order for provisional refund is to be issued in Form GST RFD 04 along with payment advice in the name of the claimant in Form GST RFD 05. The amount will be electronically credited to the claimant's bank account. The rules also prescribe the provisional refund will not be granted to if the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, been prosecuted for any offence under the Act or under an earlier law where the amount of tax evaded exceeds two hundred and fifty lakh rupees;

It may also be noted that by default, the refund is to be credited to the Consumer Welfare Fund, except in the cases below:-

- (a) 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;
- (b) Refund of unutilised input tax credit under section 54(3) of the WBGST Act, 2017;
- (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.

Formula for grant of refund in cases where the refund of accumulated Input Tax Credit is on account of zero rated supply is based on the following:

Refund Amount = $(\text{turnover of zero rated supply of goods} + \text{turnover of zero rated supply of services}) \times \text{Net ITC} / \text{Adjusted total turnover}$

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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;
- (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;
- (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;
- (E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under subsection (112) of section 2, 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.

Refund of ITC on account of inverted duty structure.

As per Section 54(3), refund of accumulated ITC will be granted where the credit accumulation has taken place on account of inverted duty structure. However, the Government also has the power to notify supplies where refund of ITC will not be admissible even if such credit accumulation is on account of an inverted duty structure. In exercise of the powers conferred by this section, the government has issued Notification 1139 F.T. (Central Notn. no.15/2017-Central Tax (Rate)) dated 28th June 2017 wherein it has been notified that no refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 of the said West Bengal Goods and Services Tax Act, in case of supply of **services** specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act. The supplies specified under item 5(b) of Schedule II are construction services.

In respect of **goods**, the state government has issued Notification no. 1129 F.T. (Central Notn. No. 5/2017- Central Tax (Rate)) dated 28th June 2017. The government has notified the following goods in respect of which unutilized ITC will not be admissible as refund: -

Sr. No	Tariff item, heading, sub-heading or Chapter	Description of Goods
1	5007	Woven fabrics of silk or of silk waste
2	5111 to 5113	Woven fabrics of wool or of animal hair

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3	5208 to 5212	Woven fabrics of cotton
4	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5	5407, 5408	Woven fabrics of manmade textile materials
6	5512 to 5516	Woven fabrics of manmade staple fibres
7	60	Knitted or crocheted fabrics [All goods]
8	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
10	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track liners, testing coaches and track inspection vehicles)
12	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
13	8606	Railway or tramway goods vans and wagons, not self-propelled
14	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, Bissell-bogies, axles and wheels, and parts thereof
15	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing

Further, Rule 89(2)(h) of WBGST Rules, 2017 stipulate that refund claim on account of accumulated ITC (where such accumulation is on account of inverted duty structure) has to be accompanied by a statement containing the number and date of invoices received and issued during a tax period. Rule 89(3) of WBGST Rules, 2017 also provide that where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant in an amount equal to the refund so claimed.

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Provisions similar for refund of accumulated ITC for both types of Refund Applicants (suppliers making zero-rated / inverted duty supplies)

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 as per Rule 89(3) of WBGST Rules, 2017.

Also, interest will be paid for any delay in sanctioning of Refund beyond the mandated period of 60 days (as per Rule 94 of WBGST Rules, 2017).

The refund and/or interest sanctioned, if any, will be directly credited to the bank account of the applicant.

Conclusion

The GST Law provides for multiple options to the zero-rated suppliers to claim refund of taxes paid on the input side. One of the options is export under bond or LUT and claim refund of unutilised ITC. The law also provides for refund of unutilised ITC where credit accumulation is on account of inverted duty structure, subject to certain riders. Time lines have been set for processing of refund claims and claims not settled within 60 days will be paid with interest @6%. Moreover, 90% of the claim would be paid within 7 days of acknowledgement of claim on provisional basis. Claims are to be filed with minimum documentation and the refund amount will be credited directly to the claimant's bank account. The process is online and hassle free and with minimum interface with tax authorities.

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