

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015**

TRADE CIRCULAR No. 14/2019 (*Circular No. 94/13/2019-GST*)

DATED: 28.03.2019

Subject: Clarifications on refund related issues.

Various representations have been received seeking clarifications on certain issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations the Commissioner, in exercise of its powers conferred by section 168 (1) of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as “WBGST Act”), hereby clarifies the issues as detailed hereunder:

Sl. No.	Issue	Clarification
1.	Certain registered persons have reversed, through return in FORM GSTR-3B filed for the month of August, 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 1036-F.T. dated 27.07.2018 (<i>20/2018-CT (Rate) dated 26.07.2018</i>) read with circular No. 39/2018 dated 17.09.2018 (<i>56/30/2018-GST dated 24.08.2018</i>) (hereinafter referred to as the “said notification”). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of FORM GST RFD-01A from being higher than the amount of ITC availed in FORM GSTR-3B of the relevant period minus	<p>a) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required to be lapsed in terms of the said notification, is to be claimed under the category “any other” instead of under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure” in FORM GST RFD-01A. It is emphasized that this application for refund should relate to the same tax period in which such reversal has been made.</p> <p>b) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a “refund claim of unutilized ITC on account of accumulation due to inverted tax structure”. On receiving the said application, the proper officer shall himself calculate the refund amount</p>

	<p>the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?</p>	<p>admissible as per rule 89(5) of West Bengal Goods and Services Tax Rules, 2017 (hereinafter referred to as “WBGST Rules”), in the manner detailed in para 3 of Circular No. 42/2018 dated 17.09.2018 (59/33/2018-GST dated 04.09.2018). After calculating the admissible refund amount, as described above, and scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.</p> <p>c) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in FORM GST RFD-01A under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure”.</p>
2.	<p>The clarification at Sl. No. 1 above applies to registered persons who have already reversed the ITC required to be lapsed in terms of the said notification through return in FORM GSTR-3B. What about those registered persons who are yet to perform this reversal?</p>	<p>It is hereby clarified that all those registered persons required to make the reversal in terms of the said notification and who have not yet done so, may reverse the said amount through FORM GST DRC-03 instead of through FORM GSTR-3B.</p>
3.	<p>What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, through the return in FORM GSTR-3B for any month subsequent to</p>	<p>a) As the registered person has reversed the amount of credit to be lapsed in the return in FORM GSTR-3B for a month subsequent to the month of August, 2018 or through FORM</p>

	<p>August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018?</p>	<p>GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018, he shall be liable to pay interest under sub-section (1) of section 50 of the WBGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in FORM GSTR-3B for the month of August, 2018 till the date of reversal of said amount through FORM GSTR-3B or through FORM GST DRC-03, as the case may be.</p> <p>b) The registered person who has reversed the amount of credit to be lapsed in the return in FORM GSTR-3B for any month subsequent to August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f. 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed either through FORM GSTR-3B or FORM GST DRC-03, along with payment of interest as applicable.</p>
4.	<p>How should a merchant exporter claim refund of input tax credit availed on supplies received on which the supplier has availed the benefit of notification No. 1874-F.T. [40/2017-CT(Rate)], dated 23.10.2017, or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R</p>	<p>a) Rule 89(4B) of the WBGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the</p>

	<p>1321(E), dated the 23rd October, 2017 (hereinafter referred to as the “said notifications”)?</p>	<p>said notifications for export of goods, shall be granted.</p> <p>b) This refund of accumulated ITC under rule 89(4B) of the WBGST Rules shall be applied under the category “any other” instead of under the category “refund of unutilized ITC on account of exports without payment of tax” in FORM GST RFD-01A and shall be accompanied by all supporting documents required for substantiating the refund claim under the category “refund of unutilized ITC on account of exports without payment of tax”. After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.</p>
<p>5.</p>	<p>Vide Circular No. 42/2018 dated 17.09.2018 (<i>59/33/2018-GST dated 04.09.2018</i>) it was clarified that after issuance of a deficiency memo, the input tax credit is required to be re-credited through FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund. Accordingly, in several cases, the ITC amounts were re-credited after issuance of deficiency memo. However, it was later represented that the common portal does not allow a taxpayer to file a fresh application for the same period after issuance of a deficiency</p>	<p>In such cases, the claimant may re-submit the refund application manually in FORM GST RFD-01A after correction of deficiencies pointed out in the deficiency memo, using the same ARN. The proper officer shall then proceed to process the refund application as per the existing guidelines. After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said</p>

<p>memo. Therefore, the matter was re-examined and it was subsequently clarified, vide Circular No. 49/2018 dated 21.11.2018 (70/44/2018-GST dated 26.10.2018) that no re-credit should be carried out in such cases and taxpayers should file the rectified application, after issuance of the deficiency memo, under the earlier ARN only. It was also further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out. However, no such clarification has yet been issued and several refund claims are pending on this account.</p>	<p>amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.</p>
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2. Difficulty if any, in the implementation of this Trade Circular may be brought to the notice of the Commissioner.

Sd/-
(Smaraki Mahapatra)
Commissioner, State Tax,
West Bengal

Memo. – 130 CT/PRO
3C/PRO/2019

Date: 28.03.2019

Copy forwarded to the Additional CST/ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/-
(Adesh Kumar)
Special CST & PRO

