

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

TRADE CIRCULAR No. 13/2022

(Corresponding Central Circular No. 181/13/2022-GST)

DATED: 14.11.2022

Subject: Clarification on refund related issues.

Attention is invited to sub-section (3) of section 54 of WBGST Act, 2017, which provides for the refund of unutilized input tax credit in cases where credit is accumulated on account of rate of tax of inputs being higher than the rate of tax on output supplies i.e. on account of inverted duty structure. Sub-rule (5) of rule 89 of WBGST Rules, 2017 prescribes the formula for grant of refund in cases of inverted duty structure. Vide Notification No. 1390-F.T. dated 23.08.2022(w.e.f. 05.07.2022), amendment has been made in the formula prescribed under sub-rule (5) of rule 89 of the WBGST Rules, 2017. Further, vide Notification No.1397-F.T. dated 23.08.2022, which has been made effective from 18.07.2022, the restriction has been placed on refund of unutilised input tax credit on account of inverted duty structure in case of supply of certain goods falling under chapter 15 and 27.

2. Representations have been received from the trade and the field formations seeking clarification on various issues pertaining to the implementation of the above notifications. In order to clarify the issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of his powers conferred by section 168 of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as “WBGST Act”), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1.	Whether the formula prescribed under sub-rule (5) of rule 89 of the WBGST Rules, 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure, as amended vide Notification No. 1390-F.T. dated 23.08.2022 (effective from 05.07.2022), will apply only to the refund applications filed on or after 05.07.2022, or whether the same will also apply in respect of the refund applications filed before 05.07.2022 and pending with the proper officer as on 05.07.2022?	Vide Notification No. 1390-F.T. dated 23.08.2022 (effective from 05.07.2022), amendment has been made in sub-rule (5) of rule 89 of WBGST Rules, 2017, modifying the formula prescribed therein. The said amendment is not clarificatory in nature and is applicable prospectively with effect from 05.07.2022. Accordingly, it is clarified that the said amended formula under sub-rule (5) of rule 89 of the WBGST Rules, 2017 for calculation of refund of input tax credit on account of inverted duty structure would be applicable in respect of refund applications filed on or after 05.07.2022. The refund applications filed before 05.07.2022 will be dealt as per the formula as it existed before the amendment made vide Notification No. 1390-F.T. dated 23.08.2022 (effective from 05.07.2022).

2.	Whether the restriction placed on refund of unutilised input tax credit on account of inverted duty structure in case of certain goods falling under chapter 15 and 27 vide Notification No.1397-F.T. dated 23.08.2022, which has been made effective from 18.07.2022, would apply to the refund applications pending as on 18.07.2022 also or whether the same will apply only to the refund applications filed on or after 18.07.2022 or whether the same will be applicable only to refunds pertaining to prospective tax periods?	<p>Vide Notification No. No.1397-F.T. dated 23.08.2022 ,under the powers conferred by clause (ii) of the first proviso to sub-section (3) of section 54 of the WBGST Act, 2017, certain goods falling under chapter 15 and 27 have been specified in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such specified goods (other than nil rated or fully exempt supplies). The said notification has come into force with effect from 18.07.2022.</p> <p>The restriction imposed vide Notification No. No.1397-F.T. dated 23.08.2022 (w.e.f. 18.07.2022) on refund of unutilised input tax credit on account of inverted duty structure in case of specified goods falling under chapter 15 and 27 would apply prospectively only. Accordingly, it is clarified that the restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18.07.2022, and would not apply to the refund applications filed before 18.07.2022.</p>
----	---	--

3. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Commissioner.

Sd/-
(Khalid Aizaz Anwar)
Commissioner, State Tax,
West Bengal

Memo. No.- 124/CT/PRO
3C/PRO/2022

Date: 14.11.2022

Copy forwarded to the Special Commissioner, State tax /ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/-
(Nabanita Pal)
Special Commissioner, State Tax & PRO