

GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

Office of the
Commissioner of Commercial Taxes
Telangana State:: Hyderabad

Circular

CCT's Ref No: BII(3)/104/2021,

Dt. 22-02-2022

Sub:- AG Audit -Draft Subject Specific Compliance Audit report on 'Refunds under Goods and Service Tax' proposed for inclusion in the Audit report of the Comptroller and Auditor General of India for the year ended 31st March,2020 (Revenue Sector) - instructions issued - Regarding.

Ref:- 1. Deputy Accountant General (AMG-III), D.O. No. AG(Audit)/AMG III/ Reports(RS)/AR 19-20/SSCAGST Refunds /116, Dt. 17-08-2021.
2. CBIC Circular No: 125/44/2019, dt:18-11-2019..

The AG Audit has conducted Subject Specific Compliance Audit on Refunds under Goods and Service Tax Act and observed certain deviations.

In view of the above, the following instructions are issued.

- 1) It is observed that, after filling Refund Application in Form RFD-01, Acknowledgements are issued with inordinate delay. The proper officers are instructed to scrutinize the applications for its completeness and issue acknowledgement within (15) days from the date of application. In case any deficiencies are noticed, deficiency memo shall be issued within (15) days from the date of application.
- 2) In case of refund on account of zero rated supplies, as per section 54 (6) read with rule 91 (2) of TGST Rules 2017, Provisional refund has to be issued within one (1) week from the date of acknowledgement. However, it is observed that, there are delays in issuing provisional refund orders. Hence, it is instructed to adhere to the prescribed time limit.
- 3) The refund order shall be issued in form GST RFD-06 within sixty (60) days from the date of refund application. It is noticed that in some cases the refund orders were issued with much delay. In case the eligible refund is not sanctioned within the stipulated time, interest will be attracted and the officers concerned will be held responsible. Hence, it is instructed to examine the refund application and sanction eligible refund within prescribed period.
- 4) In case of refund of accumulated ITC on account of export of goods / services without payment of tax, ITC on Capital Goods is not eligible for refund as per Rule 89 (4) of TGST Rules, 2017. In certain cases, the ITC on Capital Goods was included in "Net ITC" and refund was sanctioned. The

proper officers are instructed to examine the Input Tax Credit details keeping in view Rule 89 (4) while processing and sanctioning refunds.

- 5) In certain refund cases of zero-rated supplies, discrepancies were noticed in adoption of zero-rated supplies turnover/adjusted total turnover. It resulted in Excess/ Incorrect grant of refund. The proper officers are instructed to examine the turnovers keeping in view Rule 89 (4) while processing refunds.
- 6) In case the rate of tax on outward supplies and inward supplies is same, refund cannot be claimed under Inverted tax structure. It will not fit in refund category of Inverted tax Structure as per Section 54 (3) (ii) of CGST/TGST Act 2017. It is noticed in certain cases, erroneous refunds were sanctioned on non-inverted tax structure supplies. Hence, the proper officers are instructed to verify the same while sanctioning Refunds.
- 7) In case of refund of accumulated ITC on account of Inverted tax structure, ITC on Capital Goods and Input services are not eligible for refund as per Rule 89 (5). In certain cases, the ITC on Capital Goods and Input services were included in "Net ITC" and resulted in erroneous refund. Hence, the proper officers are instructed to examine the Input Tax Credit details keeping in view Rule 89 (5) while sanctioning refund.
- 8) In certain refund cases of Inverted tax structure, discrepancies were noticed in adoption of Inverted tax turnover/adjusted total turnover in contravention of Rule 89 (5). It resulted in grant of erroneous refund. Hence, the proper officers are instructed to examine the turnover details keeping in view Rule 89 (5) while sanctioning refund.
- 9) In certain refund cases of SEZ Supplies, discrepancies were noticed in adoption of adjusted total turnover and resulted in erroneous grant of refund. Hence, the proper officers are instructed to examine the turnover details keeping in view Rule 89 (4) while sanctioning refund.
- 10) As per instructions issued in CBIC Circular No. 14/14/2017-GST dt. 06.11.2017, the refund applications pertaining to supplies of Goods to SEZ shall be accompanied by the documentary proof, i.e., "Endorsement by the Specified Officer of the SEZ indicating that goods have been admitted in full in the SEZ for authorized operations". However, in certain cases, it is noticed that the refunds were sanctioned without obtaining such documentary proof. Hence, the proper officers are instructed to obtain such documentary proof as mentioned in the circular while sanctioning the refund.
- 11) As per instructions issued in CBIC Circular No. 14/14/2017-GST dt. 06.11.2017, the refund applications under the category of Deemed Export Supplies shall be accompanied by the documentary proof, i.e., "Form A, undertaking by the recipient of Deemed export supplies" However, in certain cases, it is noticed that the refunds were sanctioned without obtaining such

documentary proof. The proper officers are instructed to obtain such documentary proof as mentioned in the circular while sanctioning the refund

- 12) It is observed that, in deemed exports, refund of ITC was granted on capital goods in contravention of Government of Telangana G.O. Ms No. 289 Dt.18.12.2017. The refund on input supplies received by a STP unit under deemed export category is limited to supply of goods only, but not capital goods. Hence it is instructed to examine the nature of goods while processing and sanctioning refunds.
- 13) In certain cases, Excess/Incorrect/erroneous refund was granted due to
- a) Allowance of time barred Refund claims in contravention of Explanation to Section 54 of CGST/TGST Act 2017
 - b) Allowance of ITC on time barred invoices in contravention of Section 16 (4) of CGST/TGST Act.
 - c) Allowance of input invoices which are not reflected in GSTR-2A Return in contravention of CBIC Circular No.135/05/2020-GST,dt.31.03.2020.
 - d) Inclusion of ineligible ITC (under Sec 17(5)) in Net ITC
 - e) Excess adoption of ITC than declared in GSTR -3B Returns/ITC as per the statement of input supply invoices enclosed.
 - f) Non restriction of ITC in case of certain purchases which were returned by the Refund applicant (received credit Notes)
 - g) Non-reversal of credit on Exempt supplies in contravention of Section 17 (2) of TGST Act.
 - h) Non-adjustment of arrears while granting refund in contravention of Rule 92 (1).
 - i) Granting refund of ITC in case of export of goods without payment of tax without filing LTU.

The proper officers are instructed to verify the refund claims thoroughly including the above issues and pass orders in time to curtail erroneous refunds and interest on delay of refunds.

- 14) Further in certain cases, it is noticed the following irregularities in processing of refund claims.
- a) Non- submission of Input Supplies statement in prescribed Format i.e. Annexure-B by the refund applicants. In certain cases, the statement of invoices is enclosed without following the proforma in Annexure-B
 - b) In certain other cases also, while filing refund applications on other refund categories such as refund due to 'deemed exports', 'excess payment of tax', 'any other' reason, the required statements / declaration and supporting documents are not enclosed along with refund application.
 - c) Non-submission of Form GSTR-2A by the refund applicants.
 - d) Non-submission of Output Supplies Statement by the refund applicants.
 - e) Non-submission of Shipping Bill Statements (when the refund is on account of Export of Goods) by the refund applicants.

- f) Non-submission of BRC/FIRC Copies (when the refund is on account of Export of Services) by the refund applicants.

To process the refund and to issue refund sanction order, verification of these documents is necessary. Hence all proper officers are instructed to verify whether all the required documents / statements / certificates and supporting documents specific to the refund category such as statements 1 to 7 under Rule 89, declarations under section 54, Form GSTR 2-A, statement of invoices in Annexure-B, BRC/FIRC etc., are attached to the Refund application.

In case any of the required statements / declarations or supporting documents are not enclosed, or enclosed but not in the prescribed format, then action shall be taken by issuing deficiency memo as per Rule 90(3) of TGST / CGST Rules, 2017.

- 15) This office has observed that, in certain cases, refund applications were filed under "any other" category and claimed the refund of blocked credits i.e., tax paid by refund applicant on inward supplies of goods or services which fall under Section 17(5) of CGST / TGST Act. Under the provisions of CGST/TGST Act 2017, blocked credits are not refundable. Hence, all the proper officers are instructed to verify the refund applications under "any other" category on the claims of blocked credits while processing refunds.
- 16) Further, while issuing the refund sanction orders, the proper officers are not discussing the facts, details and reasons for sanction of refund, rather simply issuing refund sanction order in Form GST RFD-06. The proper officers are instructed to discuss the facts and arrive the quantum of refund to be sanctioned. A speaking order shall be attached to the Refund sanction order in Form GST RFD-06.

In view of the above, all the proper officers are directed to follow the above instructions scrupulously and any deviation in the matter will be viewed seriously. All the Joint Commissioners(ST) are requested to supervise and conduct regular reviews on this subject and submit compliance report.

Sd/-Neetu Prasad
Commissioner (ST)

To,
All the Joint Commissioners (ST)
All the Deputy Commissioners (ST)
All the Assistant Commissioners (ST)