

Office of the
Commissioner of State Tax,
(GST), 8th floor, GST Bhavan,
Mazgaon, Mumbai-400010.

TRADE CIRCULAR

To,

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No. JC/HQ-I/GST/Refund/Trade Cir./01/2017-18

Mumbai, Date: 15.11.2018

Trade Cir. No. 34 T of 2018

To,

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Subject : Clarification on certain issues related to refund:

Ref.

- (1) Trade Circular No. 49 of 2017 dated 28th Nov. 2017.
- (2) Internal Circular No. 24A of 2017 dated 11th Dec. 2017.
- (3) Internal Circular No. 27A of 2017 dated 30th Dec. 2017.
- (4) Trade Circular 1T of 2018 dated 1st Jan. 2018.
- (5) Trade Circular No. 8T of 2018 dated 21st Feb. 2018.
- (6) Trade Circular No. 17T of 2018 dated 2nd June 2018.
- (7) Internal Circular No. 19A of 2018 dated 18th July 2018
- (8) Trade Circular No. 22T of 2018 dated 1st September 2018
- (9) CBIC Circular No. 59/33/2018-GST dated 4th September 2018.
- (10) CBIC Circular No. 70/44/2018-GST dated 26th October 2018.
- (11) Trade Circular 33T of 2018 dated the 14th November 2018.

Sir/Gentlemen/Madam,

1. Various representations have been received seeking clarification 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 of State tax, in exercise of its powers conferred by section 168 (1) of the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as the "MGST Act"), hereby clarifies the issues as detailed hereunder:

2. Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:

2.1. Para 8.1 of Trade Circular No. 33T of 2018 dated 14th November 2018 (Please see Para 7.1 of circular No.

59/33/2018-GST dated the 4th September, 2018) clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim. In para 7.2 of the said circular, the practise being followed in the field formations was elaborated and it was clarified that show cause notices are not required to be issued (and consequently no orders are required to be issued in **FORM GST RFD-04/06**) in cases where refund application is not re-submitted after the issuance of a deficiency memo (in **FORM GST RFD-03**). It was also clarified that once a deficiency memo has been issued against an application for refund, the amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Maharashtra Goods and Services Tax Rules, 2017 (hereinafter referred to as the "MGST Rules") is required to be re-credited to the electronic credit ledger of the applicant by using **FORM GST RFD-01B** and the taxpayer is expected to file a fresh application for refund.

- 2.2. The issue has been re-examined and it has been observed that presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in **FORM GST RFD-03** is issued to taxpayers, re-credit in the electronic credit ledger (using **FORM GST RFD-01B**) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

3. Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:

3.1. Sub-rule (10) of Rule 96 of the Maharashtra Goods and Services Tax Rules, 2017 (hereinafter referred to as "said sub-rule"), restricts exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations have been received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the IGST paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, had accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the MGST Rules prospectively in order to enable such exporters to avail the said facility notification No. 54/2018 – State Tax dated the 19th October, 2018 has been issued to carry out the changes recommended by the GST Council. Alongside the amendment carried out in the said sub-rule through the notification No. 39/2018- State Tax dated 18th September, 2018 has been rescinded vide notification No. 53/2018 – State Tax dated the 19th October, 2018.

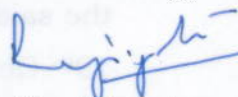
3.2. For removal of doubts, it is clarified that the net effect of these changes would be that any exporter who himself/herself imported any inputs/capital goods in terms of notification No. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification No. 54/2018 – State Tax dated the 19th October, 2018 referred to above.

3.3. Further, after the issuance of notification No. 54/2018 – State Tax dated the 9th October, 2018 , exporters who are importing

goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-State Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule. All clarifications issued in this regard vide any Circular issued earlier are hereby superseded.

4. This Trade Circular is clarificatory in nature and hence cannot be made use of interpretation of provisions of the law. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Office of Commissioner of Sales Tax, Maharashtra State.

Yours faithfully,



(Rajiv Jalota)

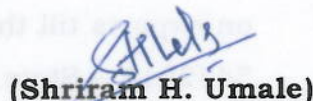
Commissioner of State Tax (GST)
Maharashtra State, Mumbai.

No. JC/HQ-I/GST/Refund/Trade Cir./01/2017-18 Mumbai, Date: 15.11.2018.

Trade Circular No. 34T of 2018

Copy forwarded for information and necessary action to,-

- (1) The Joint Commissioner of State Tax, (MAHAVIKAS) with a request to upload this Trade Circular on MGSTD web-site.
- (2) Deputy Secretary, Finance Department, Mantralaya, Mumbai.
- (3) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.



(Shriram H. Umale)
Joint Commissioner of State Tax
(HQ)-01, Maharashtra State,
Mazgaon, Mumbai.