



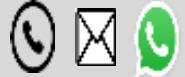
Lawgics

By Nidhi, Advocate



Serial No. 056
Dt.: 28-03-2023

In Continuation to
Serial No. 055
Dt.: 27-03-2023



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Section 54(4) read with Rule 89(2) to 89(5)

Section 54(4)	<p>The application shall be accompanied by—</p> <p>(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and</p> <p>(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and 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:</p> <p>Provided 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.</p>
Section 54(4) Interpretation	<p><u>Documents required for Refund</u></p> <p>Any claimant of refund shall furnish required document in support of his due claim of refund along with evidence that incidence of tax has not been passed on to any other person.</p> <p>However, if refund claim is less than Rs. 2 Lacs, then No evidence is required but only the declaration stating that incidence of tax has not been passed on to any other person would be sufficient.</p> <p>These evidences and the declaration need to be filed along with RFD-01.</p>
Rule 89(2)(a)	<p>The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD-01, as applicable, to establish that a refund is due to the applicant, namely:</p> <p>(a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in sub-section (6) of section 107 and sub-section (8) of section 112 claimed as refund;</p>
Rule 89(2)(a) Interpretation	<p><u>Documentary evidence for Refund on account of an order passed by any officer or appellate authority:</u></p> <p>In such cases, the applicant shall provide a reference number of such order and shall upload a copy of such order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund, along with RFD-01.</p>

Rule 89(2)(b) and 89(2)(ba)	<p>(b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods; other than electricity.</p> <p>(ba) a statement containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement, along with the copy of statement of scheduled energy for exported electricity by Generation Plants issued by the Regional Power Committee Secretariat as a part of the Regional Energy Account (REA) under clause (nnn) of sub-regulation 1 of Regulation 2 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 and the copy of agreement detailing the tariff per unit, in case where refund is on account of export of electricity.</p>
Rule 89(2)(b) and 89(2)(ba) Interpretation	<p><u>Documentary evidence for Refund on Exports of Goods:</u></p> <ul style="list-style-type: none"> • <u>For Goods other than Electricity:</u> A statement containing number and date of shipping bill and the number and the date of the relevant export invoices, along with RFD-01. • <u>For Electricity:</u> a statement containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement, along with the copy of statement of scheduled energy for exported electricity by Generation Plants and the copy of agreement detailing the tariff per unit, along with RFD-01.
Rule 89(2)(c)	a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the export of services
Rule 89(2)(c) Interpretation	<p><u>Documentary evidence for Refund on Export of Services:</u></p> <p>A statement containing Number and date of invoices and the BRC/FIRC shall be filed, along with RFD-01</p>
Rule (89)(2)(d)	a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer
Rule (89)(2)(d) Interpretation	<p><u>Documentary evidence for Refund on Supply of Goods to SEZ unit or SEZ Developer:</u></p> <p>A statement containing number and date of Invoices along with the evidence regarding endorsement to SEZ unit or SEZ developer is required.</p>
Rule 89(2)(e)	a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer
Rule 89(2)(e) Interpretation	<p><u>Documentary evidence for Refund on Supply of services to SEZ unit or SEZ Developer:</u></p> <p>A statement containing number and date of Invoices, the evidence regarding endorsement to SEZ unit or SEZ developer along with payment proof authorized by an officer in this behalf, is required.</p>
Rule 89(2)(f)	a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer, in a case where the refund is on account of supply of goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer
Rule 89(2)(f) Interpretation	<p><u>Additional documentary evidence for Refund on Supply of goods/services to SEZ unit or SEZ Developer:</u></p> <p>Additionally, a declaration stating the fact that tax has not been collected from the SEZ unit or the SEZ developer, is required.</p>
Rule 89(2)(g)	a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports

Rule 89(2)(g) Interpretation	<u>Documentary evidence for Refund on account of Deemed Exports:</u> A statement containing number and date of Invoices along with other documents as notified for this purpose. Till now, no such documents have been notified by the government.
Rule 89(2)(h)	a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies
Rule 89(2)(h) Interpretation	<u>Documentary evidence for Refunds on account of Inverted Duty Structure:</u> A statement containing number and date of invoices of all supplies <u>received</u> and <u>made</u> during the relevant period. No refund is allowed in case outward supplies are Nil rated or fully exempted supply.
Rule 89(2)(i)	the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment
Rule 89(2)(i) Interpretation	<u>Documentary evidence for Refund on account of Final assessment order:</u> In such cases, the applicant shall provide a reference number of such order and shall upload a copy of such order along with RFD-01.
Rule 89(2)(j)	a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply
Rule 89(2)(j) Interpretation	<u>Documentary evidence for Refund on account of tax erroneously paid under wrong head:</u> A statement containing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply.
Rule 89(2)(k), 89(2)(ka) and 89(2)(kb)	(k) a statement showing the details of the amount of claim on account of excess payment of tax (ka) a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated; (kb) a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated;
Rule 89(2)(k), 89(2)(ka) and 89(2)(kb) Interpretation	<u>Documentary evidence for Refund on account of excess deposit of tax or where refund is claimed by an unregistered person in case the agreement or contract for supply of service has been cancelled or terminated:</u> A statement explaining such excess deposit of amount of tax, is required along with RFD-01. <u>In a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated, the following is required:-</u> a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement/registered agreement/contract, entered with the

	supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof along with a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices.
Rule 89(2)(l)	<p>A declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:</p> <p>Provided that a declaration is not required to be furnished in respect of the cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54</p>
Rule 89(2)(l) Interpretation	<p><u>Declaration where refund amount does not exceed Rs. 2 Lakh:</u></p> <p>Besides the other Documentary evidence for claim of Refund as discussed above, an additional declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, is required <u>where refund amount does not exceed Rs. 2 Lakh.</u></p> <p>However, no such declaration is required to be filed in following cases:</p> <ul style="list-style-type: none"> ➤ IGST paid on Exports supplies ➤ Exports supplies without payment of tax ➤ Inverted Duty Structure ➤ Tax paid on advance and subsequently such advance is refunded ➤ Erroneously paid under wrong head
Rule 89(2)(m)	<p>a Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:</p> <p>Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;</p> <p>Provided further that a certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax.</p> <p>Explanation. – For the purposes of this rule-</p> <ol style="list-style-type: none"> i. in case of refunds referred to in clause (c) of sub-section (8) of section 54, the expression “invoice” means invoice conforming to the provisions contained in section 31; ii. where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.
Rule 89(2)(m) Interpretation	<p><u>Certification by CA/CMA if Refund claimed Exceeds Rs. 2 Lakh:</u></p> <p>Any person filing Refund in RFD-01 for amount exceeding Rs. 2 Lakh needs to file a CA or CMA Certificate to the effect that the incidence of tax, interest or any other amount claimed as Refund has not been passed on to any other person.</p> <p>However, no such certificate is required to be filed in following cases:</p> <ul style="list-style-type: none"> ➤ IGST paid on Exports supplies ➤ Exports supplies without payment of tax ➤ Inverted Duty Structure ➤ Tax paid on advance and subsequently such advance is refunded

	<ul style="list-style-type: none"> ➤ Erroneously paid under wrong head ➤ Refund claimed by an unregistered person who has borne the incidence of tax
Rule 89(3)	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.
Rule 89(3) Interpretation	<p><u>Refund of ITC</u></p> <p>While claiming the Refund which relates to ITC, then claimant is required to debit his electronic credit ledger with equivalent amount of refund claim.</p>
Rule 89(4)	<p>In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula –</p> <p>Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover</p> <p>Where, -</p> <p>(A) "Refund amount" means the maximum refund that is admissible;</p> <p>(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;</p> <p>(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 or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;</p> <p>(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: -</p> <p>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;</p> <p>(E) "Adjusted Total Turnover" means the sum total of the value of-</p> <p>(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and</p> <p>(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,</p> <p>excluding-</p> <p>(i) the value of exempt supplies other than zero-rated supplies; and</p> <p>(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.</p> <p>(F) "Relevant period" means the period for which the claim has been filed.</p> <p>Explanation. –For the purposes of this sub-rule, the value of goods exported out of India shall be taken as-</p> <p>(i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or</p> <p>(ii) the value declared in tax invoice or bill of supply,</p>

	whichever is less.																					
Rule 89(4A)	In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.																					
Rule 89(4B)	<p>Where the person claiming refund of unutilised input tax credit on account of zero-rated supplies without payment of tax has –</p> <p>(a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central 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 1320 (E), dated the 23rd October, 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 1321(E), dated the 23rd October, 2017; or</p> <p>(b) availed the benefit of notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299(E), dated the 13th October, 2017, the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.</p>																					
Rule 89(4), (4A), (4B) Interpretation	Calculation of Refund Amount in case of Export supplies against LUT: <table><tr><td>Refund Amount</td><td>=</td><td>Exports Turnover (Goods + Services)</td><td rowspan="2">X</td><td rowspan="2">Net ITC</td></tr><tr><td></td><td></td><td>Adjusted Total Turnover</td></tr></table>										Refund Amount	=	Exports Turnover (Goods + Services)	X	Net ITC			Adjusted Total Turnover				
Refund Amount	=	Exports Turnover (Goods + Services)	X	Net ITC																		
		Adjusted Total Turnover																				
Rule 89(5)	<p>In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula: -</p> <p>Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - {tax payable on such inverted rated supply of goods and services x (Net ITC÷ ITC availed on inputs and input services)}.</p> <p>Explanation: - For the purposes of this sub-rule, the expressions –</p> <p>(a) “Net ITC” shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and</p> <p>(b) “Adjusted Total turnover” and “relevant period” shall have the same meaning as assigned to them in sub-rule (4).</p>																					
Rule 89(5) Interpretation	Calculation of Refund Amount in case of Inverted Duty Structure: <table><tr><td rowspan="2">Maximum Refund amount</td><td rowspan="2">=</td><td>Turnover of inverted rated supply of goods or services</td><td rowspan="2">X</td><td rowspan="2">Net ITC</td><td rowspan="2">-</td><td>Tax Payable on such inverted rated supply of Goods or Services</td><td rowspan="2">X</td><td>Net ITC</td></tr><tr><td>Adjusted Total Turnover</td><td></td><td>ITC availed on inputs and input services</td></tr></table>										Maximum Refund amount	=	Turnover of inverted rated supply of goods or services	X	Net ITC	-	Tax Payable on such inverted rated supply of Goods or Services	X	Net ITC	Adjusted Total Turnover		ITC availed on inputs and input services
Maximum Refund amount	=	Turnover of inverted rated supply of goods or services	X	Net ITC	-	Tax Payable on such inverted rated supply of Goods or Services	X	Net ITC														
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