



CBIC issue Instruction No. 04/2022-GST dated. 28.11.2022

Manner of processing and sanction of IGST refunds, withheld in terms of clause (c) of sub-rule (4) of rule 96, transmitted to the jurisdictional GST authorities under sub-rule (5A) of rule 96 of the CGST Rules, 2017- regarding

- ⇒ Procedure for verification of the risky exporters and their supplier was issued by the CGST and Customs Formation vide Standard Operating Procedures (SOPs) dated. 23.01.2020 & 20.05.2020 as well as Directorate General of Analytics and Risk Management (DGARM) vide F. No. CBEC-20/16/07/2020-GST.
- ⇒ That SOPs provided that DGARM would identify risky exporter and their supplier on the basic of risk parameters, approved by the Competent Authority and forwarded such list of exporter to the Risk Management Centre for Customs (RMCC) for putting alert in the systems.
- ⇒ In such case, detailed verification and examination was to be carried out by the Customs filed formation as well as jurisdiction CGST formations. After the verification, they had to forward such verification report to the DGARM.
- ⇒ On the basic of report of verification from Custom Formation, DGARM would take a decision whether to issue NOC or not.

Issue NOC

Communicate to the Custom Authorities at port of export

Release of withheld IGST refunds

- ⇒ Further, DGARM was also required to review whether the exporters can be removed from the list of identified exporters.
- ⇒ However, Rule 96 of the Central Goods and Service Tax Rules,2017 has been amended retrospectively with effect from 01.07.2017 to provide for withholding of IGST refund in cases where the verification of credentials of the exporters, identified on the basis of



data analytics including the availment of ITC by the exporter is considered essential before grant refund. The relevant Rule 96(4)(c) is reproduced here below:

(c) the Commissioner in the Board or an officer authorised by the Board, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue.

⇒ Accordingly, Board Vide Order No. 01/2022-GST dated. 21.07.2022 issued under F.No. CBIC- 20023/04/2021-GST, has authorised the Principal Director General/ Director General of Directorate General of Analytics and Risk Management (DGARM), CBIC, New Delhi for exercising the functions under Rule 96(4)(c) of the CGST Rules.

⇒ Further, Rule 96 has been amended by inserting new sub-Rule (5A) and (5C), which are as follows:

(5A) That the transmission of IGST refunds, withheld in terms of provisions of Rule 96(4)(c), same as system generated in Form RFD-01 and such Form RFD-01 shall be deemed to be refund application for said refund and the date for filing such refund is deemed to be a date when such refund has been transmission on the portal.

(5C) provide that such abovementioned refund have to be dealt same as with Rule 89 i.e. in a similar manner to other GST RFD-01 refund claims.

⇒ Pursuant the abovementioned amendments, the DG systems has issued Advisory No. 14 dated. 29.09.22 to all the system managers intimating certain changes made in the alert module on ICES in line with the above changes.

⇒ In the said advisory, it has been inter-alia informed that a new Rule for putting an all India suspension, either on IEC or GSTIN of the exporter as the case may be, to withhold IGST refunds, has been developed for officers of DGARM and option to remove such alert has also been made available to DGARM officers.

⇒ Instructions are also issued by DG Systems vide F. No. DGSYS/APP/ICES/GEN/41/2022 dated. 29.09.2022 to the Customs filed formations regarding the procedure to be followed by them in respect of IGST refunds withheld due to DGARM alert on risky exporters.



- ⇒ On the basis of data analysis and risk parameters, DGARM will identify the exporters and it is essential before granting of refund to verify the credentials of exporter including whether availment of ITC by the said exporters was proper or not. After that DGARM will place an all India alert on such exporter on India Customs EDI systems along with the reasons for putting the said alert.
- ⇒ Once an alert is placed on an exporter, the IGST refunds of such exporters would be withheld and the data in respect of Shipping Bills filed by such exporter, for which IGST Scroll would not be generated due to DGARM alert, along with the reasons thereof would be transmitted to GSTN through ICEGATE. When after verification or otherwise, the alert is removed for an exporter, for the purpose of generation of refund claims, the same would be system filled in FORM GST RFD-01 in terms of provisions of sub-rule (5A) of rule 96 and this will be treated as if a refund claim has been lodged by exporter. **This is obviously done to avoid paying interest due to the exporter on late processing of refund claim, if it is found that the alert was unnecessary and exporter is otherwise genuine and in existence.**
- ⇒ Besides, the past cases where the exporter was identified as risky, which could not be processed due to pending verification or due to receipt of negative report, would also be transmitted to GSTN through ICEGATE for generation of refund claims in FORM GST RFD-01 in terms of provisions of sub-rule (5A) of rule 96.
- ⇒ Such refund claims will be made available to the jurisdictional proper officer on back-office system under the category "Any other (GST paid on export of goods)" with the remarks "Refund of IGST paid on export of goods (Refund not processed by ICEGATE)".
- ⇒ Risky exporter will be identified with the help of risk parameters by DGARM and details will be shared with the jurisdictional Tax officers along with RFD-01. If verification report of risky exporter has already submitted to DGARM by the jurisdictional CGST Authority, then the same details will be shared with jurisdictional proper officer along with RFD-01.
- ⇒ After that, the IGST refund which was earlier withheld by DGARM on account of identification as risky exporter, will be initiated on the portal.



- ⇒ The jurisdictional proper officer of GST shall immediately process such refund claims in a manner similar to other RFD-01 refunds filed under the provisions of rule 89 of the CGST Rules, 2017.
- ⇒ These claims would be auto-acknowledged by the system and no Deficiency Memo in Form GST RFD-03 can be issued against such system generated Form GST RFD-01 refund claims and it is generated on the basis of Shipping Bills/ Bills of export filed by exporter.
- ⇒ The proper officer shall ascertain the genuineness of the exporter & verify the correctness of availment and utilization of ITC by the exporter and exercise due diligence in processing the said refund claims to safeguard interest of revenue.
- ⇒ He may conduct the physical verification of places of business of the exporter, if required, to ensure that the exporter is existing at his declared place of business and is functional/active.
- ⇒ As per instruction No. 03/2022-GST dated. 14.06.2022, the proper officer shall pass a detailed speaking order of refund claim and shall duly upload the same along with RFD-06 on the portal.
- ⇒ The officer will also follow the timelines for processing of the refund claim in terms of provisions of section 54(7) of the CGST Act.
- ⇒ Procedure of review and post-audit mentioned at Para 2.2 of the Instruction No. 03/2022-GST dated. 14.06.2022 shall mutatis mutandis be applicable to such refund claims.
- ⇒ In case where the detailed investigation of the exporter or his suppliers is required to be conducted to verify the genuineness and correctness of ITC availed by the exporter, the matter may be examined. For that if required, for withholding of the refund, the provisions of Section 54(11) of the CGST Act,2017 may be resorted to.
- ⇒ The proper officers would also be required to provide feedback on the portal while issuing RFD-06 whether alert against such taxpayer required to continue or not.



- ⇒ GSTN shall transmit all data regarding outcome of refund processing along with feedback of proper officers related to requirement of removal or continuation of alert to DGARM for necessary action.
- ⇒ The Zonal Principal Chief Commissioners/ Chief Commissioners are required to closely monitor the progress of disposal of transmitted refund claim and to ensure verification is conducted before sanction and refund is processed in a timely manner.
- ⇒ The SOPs dated 23.01.2020 and 20.05.2020 prescribing the procedure to be followed for verification of the risky exporters and their suppliers, are hereby superseded



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