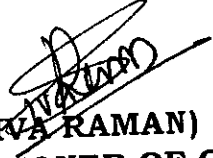


DEPARTMENTAL ORDER

Sub.: Standard Operating Procedure for verification of IGST refund claims and other related aspects – reg.

Please find enclosed a office note in F.No. S.65/08/2019-20-CCU.Cus dated 05.07.2019 from CC Unit enclosed therewith a copy of CC Office letter dated 03.07.2019 and CBIC, GST (Policy wing) letter F.No.CBIC/20/06/15/2018-Part-1 dated 17.06.2019 regarding Standard Operating Procedure for verification of IGST refund claims and other related aspects is hereby circulated for information and necessary action.


(E.V. SIVA RAMAN)
ASST. COMMISSIONER OF CUSTOMS
(REFUNDS)

Encl.: As above

F.No.: S18/8/Misc/2019-Refund(IGST) Cus.

Dated: 10.07.2019

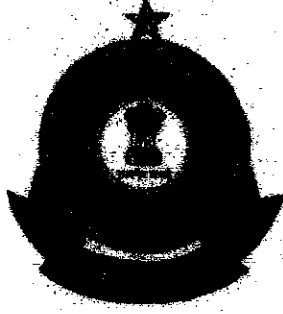
To

1. The Dy./Asst.Commissioners of Customs (Docks/PAD/ACC).
2. All Dy./Asst.Commissioners of Customs, Custom House, Cochin.
3. All Superintendents /Appraisers (Docks/CFS)
- ✓ 4. EDI Section for uploading departmental website.

Copy submitted to:

1. The Commissioner's file.
2. The Joint Commissioners of Customs.

E-MAIL/SPEED POST



भारत सरकार GOVERNMENT OF INDIA
वित्त मंत्रालय MINISTRY OF FINANCE
राजस्व विभाग DEPARTMENT OF REVENUE
केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
मुख्य आयुक्त का कार्यालय
OFFICE OF THE CHIEF COMMISSIONER
केन्द्रीय कर, केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क
CENTRAL TAX, CENTRAL EXCISE & CUSTOMS
तिरुवनंतपुरम क्षेत्र, THIRUVANANTHAPURAM ZONE
केन्द्रीय राजस्व भवन, CENTRAL REVENUE BUILDING
आई. एस. प्रेस रोड, कोच्चि, I.S. PRESS ROAD, KOCHI-682 018

E-mail: ccochin@nic.in Fax: 0484-2397614 Phone: 0484-2394100/0404

C.No.IV/16/27/2018/CC (TZ) IVC Pt-I

Date: 03.07.2019

To

1. The Principal Commissioner,
Central Tax & Central Excise, Kochi
2. The Principal Commissioner,
Central Tax & Central Excise, Thiruvananthapuram
3. The Commissioner,
Central Tax & Central Excise, Kozhikode
4. The Commissioner of Customs,
Custom House, Cochin
5. The Commissioner of Customs,
Customs Preventive Unit, Kochi

Sir

Sub: Standard Operating Procedure for verification of the IGST refund claims and other related aspects - reg.

Please find enclosed herewith letter F.No. CBEC/20/06/15/2018-Part-I dated 17.06.2019 received from CBIC, GST (Policy Wing), New Delhi, for information and necessary action please.

Yours faithfully

Encl: As above.

(Dr. Tiju T.)

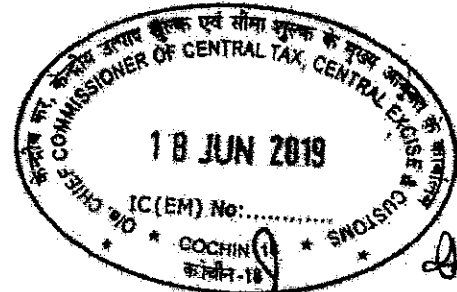
Additional Commissioner (CCO)

Subject: SOP for verification of IGST refunds and other aspects

Date: 17/06/19 11:02 PM

From: GST POLICY WING <gst-cbec@gov.in>

To: CC BHOPAL <ccu-cexbpl@nic.in>,
CC BHUBANESWAR <ccu-cexbbr@nic.in>,
CC CHENNAI <ccu-cexchn@nic.in>,
CC DELHI <ccu-cexdel@nic.in>,
CC JAIPUR <ccu-cexjpr@nic.in>,
CC KOLKATA <ccu-cexkoa@nic.in>,
CC LUCKNOW <ccu-cexlko@nic.in>,
CC MEERUT <ccu-cexmeerut@nic.in>,
CC PUNE <ccu-cexpune@nic.in>,
CC RANCHI <ccu-cexranchi@nic.in>,
CC VADODARA <ccu-cexvdr@nic.in>,
CC AHMEDABAD <ccu-cexamd@nic.in>,
CC HYDERABAD <ccu-cexhyd@nic.in>,
CC MUMBAI 1 <ccu-cexmum1@nic.in>,
CC VISHAKAPATNAM <ccu-cexvzg@nic.in>,
CC PANCHKULA <ccugstpk1@gmail.com>,
CC NAGPUR <ccu-cexngpr@nic.in>,
CC SHILONG <ccu-cexshlng@nic.in>,
CC BANGALORE <ccu-cexblr@nic.in>,
CC COCHIN <cccocin@excise.nic.in>,
CC CHANDIGARH <ccchandigarh@gmail.com>,
dgceiadmnd@gmail.com
Cc: Siddharth Jain <s.jain47@gov.in>



OM for SOP.pdf (229kB) Circular-No-16-2019.pdf (573kB)
17062019-SOP for verification of IGST Refunds and... (615kB)

Respected Madams/Sirs,

Please find attached an OM enclosing the standard operating procedure for verification of the IGST refund claims and other related aspects issues issued by Pr. Commissioner (GST).

This is in line with Circular No. 16/2019 – Customs issued on 17th June 2019 (copy enclosed).

This is for internal circulation only.

Regards

Mohak Chaudhary
Inspector, GST Policy Wing
CBIC
Telephone- 011- 23094742
Fax- 011-23095560

F No. CBEC/20/06/15/2018-Part I / 2576

Government of India
Ministry of Finance
Department of Revenue
CBIC, GST (Policy Wing)

12/06/19

Room No.158-A,
North Block, New Delhi
Dated: 17th June 2019

OFFICE MEMORANDUM

Subject: Standard Operating Procedure for verification of the IGST refund claims and other related aspects -Reg.

The Customs Wing, CBIC has issued Circular No. 16/2019 - Customs on 17th June 2019. Point E(i) of the said circular mandates verification of the IGST refund claims and other related aspects in accordance with the Standard Operating procedure to be issued by the GST Policy Wing.

2. A standard operating procedure to be adopted for verification of the IGST refund claims and other related aspects is enclosed. It is requested that this SOP may be internally circulated amongst your field formations for necessary action.

3. This issues with the approval of Member (GST).

Encl. As above


(Upender Gupta) 17/06/19
Principal Commissioner (GST)

To,

The Principal Chief Commissioners/ Chief Commissioners of Central Tax (All)

The Principal Director General (DGGI)

F. No. 450/119/2017-Cus-IV(Pt.I)
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes & Customs)

Room No. 227B, North Block

Dated June 17, 2019

To

All Principal Chief Commissioners/Chief Commissioners of Customs/ Customs (Preventive)/ Customs & Central Tax,
All Director Generals under CBIC,
All Principal Commissioners/Commissioners of Customs/Customs (Preventive)/Customs & Central Tax.

Subject:-IGST refunds- mechanism to verify the IGST payments for goods exported out of India in certain cases- reg.

The procedure for claiming IGST refunds is fully automated as provided under Instruction 15/2017-Cus dated 09.10.2017. It has come to the notice of the Board that instances of availment of IGST refund using fraudulent ITC claims by some exporters have been observed by various authorities. Exporters have availed ITC on the basis of ineligible documents or fraudulently and utilized that credit for payment of IGST on goods exported out of India. It has also been observed in several cases that there is huge variation between the FOB value declared in the Shipping Bill and the Taxable value declared in GST Return apparently to effect higher IGST pay out leading to encashment of credit.

2. In view of above, it has been decided to verify the IGST payments through the respective GST field formations. The procedure specified in the instruction 15/2017-Cus dated 09.10.2017 stand modified to the extent as under:

A. Identification of Suspicious cases: DG (Systems) shall work out the suitable criteria to identify risky exporters at the national level and forward the list of said risky exporters to Risk Management Centre for Customs (RMCC) and respective Chief Commissioners of Central Tax. DG (Systems) shall inform the respective Chief Commissioner of Central Tax about the past IGST refunds granted to such risky exporters (along with details of bank accounts in which such refund has been disbursed).

B. Inserting Alert in the System: RMCC shall insert alerts for all such risky exporters and make 100% examination mandatory of export consignments relating to those risky exporters. Also, alert shall be placed to suspend IGST refunds in such cases.

C. Examination of the export goods: Customs officers shall examine the consignment as per the RMCC alert. In case the outcome of examination tallies with the declaration in the Shipping

Bill subject to no other violation of any of provision of the Customs Act, 1962 or other laws being observed, the consignment may be cleared as per the regular practice.

D. Suspension of IGST refunds: Notwithstanding the clearance of the export consignments as per para C above, such Shipping Bills shall be suspended for IGST refund by the Deputy or Assistant Commissioner of Customs dealing with refund at the port of export.

E. Verification by GST formations:

(i) Chief Commissioner of Central Tax shall get the verification of the IGST refund claims and other related aspects done in accordance with the Standard Operating procedure to be issued by the GST policy wing.

(ii) The GST formation shall furnish a report to the respective Chief Commissioner of Central Tax within 30 days specifying clearly whether the amount of IGST paid and claimed/ sanctioned as refund was in accordance with the law or not.

(iii) Chief Commissioner of Central Tax shall compile and forward report of all cases to RMCC and concerned customs port of export within 5 working days thereafter.

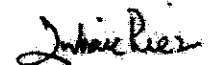
F. Action to be taken by customs formations on receipt of verification report from GST formations:

(i) **Cases where no malpractices have been reported on verification:** On receipt of verification report from Chief Commissioner of Central Tax informing that the ITC availed by the exporter was in accordance with the GST Law and rules made thereunder, the Customs officer at the port of export shall proceed to process the IGST refund to the extent verified by the GST Authorities. The detailed advisory in this regard shall be issued by DG(Systems) for the benefit of customs officers handling refunds.

(ii) **Cases where malpractices have been reported on verification:** For cases where upon verification, it has been found that the exporter has availed ITC fraudulently or on the basis of ineligible documents and utilized the said ITC for payment of IGST claimed as refund, the customs officer will not process the refund claim.

3. Difficulties in this regard may be brought to the knowledge of the Board.

Yours sincerely,



(Zubair Riaz)
Director (Customs)

Standard Operating Procedure for verification of the IGST refund claims and other related aspects

The GST Act provides for two forms of refunds for exporters, first is the refund of accumulated input tax credit on export of goods or services under LUT and second is the refund of IGST paid on export of goods. The latter form of refund is a fully automated process where the IGST paid through FORM GSTR-3B is refunded to the exporter's bank account by matching the details between the shipping bill data, FORM GSTR-1 and FORM GSTR-3B. However, it has been noticed that many exporters are misusing this facility by availing fraudulent input tax credit and then encashing the same as IGST refunds. The instructions / pointers provided below are not exhaustive but only indicative in nature.

In this context, Circular No. 16/2019 - Customs dated 17th June 2019 has been issued by the Customs Wing, CBIC. The circular mandates verification of ITC related to IGST refunds claims by GST field formations. The verification may be undertaken as per procedure outlined below. Apart from these instructions, field formations are at liberty to investigate any other probable scenarios such as under valuation, non-payment of taxes, non-reporting of taxable supplies etc.

1. List of exporters/taxpayers to be investigated

- a) Circular No. 16/2019 - Customs dated 17th June 2019 provides that DG (Systems) would identify risky exporters at the national level and then forward the list of suspicious exporters to the respective Chief Commissioners of Central Tax.
- b) Along with the list of exporters, O/o DG - Systems will be circulating other information which may be verified during the course of information. For example, it may be verified if the bank account detail in which refund has been granted and the bank account available in the registration database are the same.

2. Preliminary Immediate Steps

- a) Premise verification of the addresses indicated in GST registration form of principal and the additional place of businesses should be carried out by the jurisdictional CGST officer.
- b) In cases, where such premises are found to have been wrongly declared then the following punitive action shall be taken immediately:-
 - b.1. Bank accounts may be provisionally attached under section 83 of the CGST Act read with rule 159 of the CGST Rules.
 - b.2. Cancellation of GST registration under Section 29 of the CGST Act and the rules made thereunder.
 - b.3. Proceedings for recovery of erroneously refunded tax and wrongly availed input tax credit to be initiated under Section 74 of the CGST Act.
 - b.4. Adequate penalty to be imposed under Chapter XIX of the CGST Act.
 - b.5. Rejection of IGST refunds claimed by such exporter by GST formation and informing the Customs formations and RMCC of the same.
- c) In case the exporters premise exists and is functional, then Steps 3 onwards to be followed.
- d) In all cases, it is advised that all such investigations shall be carried out expeditiously, preferably within 30 days of receipt of data.

3. Verification of Input Tax Credit

- a) The preliminary checks which may be undertaken to verify the input tax credit are as follows:
 - a.1. Filing and matching of FORM GSTR-1 and FORM GSTR-9B by the exporter.
 - a.2. Difference in input tax credit as reflected in FORM GSTR-2A and as claimed in FORM GSTR-3B (especially ITC reflected under Table 4(A)(5) of the form). This difference can be only when the supplies have not been uploaded by the corresponding supplier in his FORM GSTR-1. In such cases, hard copies of the missing invoices may be verified.
 - a.3. It is sometimes observed that the input tax credit is availed for inputs and input services which are not directly or indirectly used in the production of the finished goods. Some sort of nexus must be established between the inputs and the outputs of the suspected firms. If it is observed that the input goods/services and the output goods/services have little connection, then further investigation shall be warranted. For example, input tax credit of automobile parts cannot be used for the production and export of textiles.
 - a.4. Disproportionately large ITC availed on account of transitional credit needs to be checked. Although availment of such credit and utilization of the same for payment of IGST is not prohibited under law, disproportionate amount of such credit warrant more detailed investigation for possible cases of fraud.
 - a.5. If a large amount of the credit has been availed on the basis of capital goods or other high value items, then the presence of such goods with the exporter must be physically verified.
 - b) **Drill down and verification of supplier's credit:** Generally, in such cases, there is a nexus between the exporter and his suppliers and they are connected / related in some way. It is recommended that suppliers who supply more than 10% of inputs (on which ITC is availed) to the exporter shall be verified. For their verification both physical verification and steps as outlined in a) above shall be taken. Further, the invoices issued by such supplier shall be further corroborated with payment of tax on such invoice, E-Way bill data etc.
 - c) It is the investigation officers' prerogative that he may drill down to immediate supplier (L-1) or the supplier's supplier (L-2) etc. The officer may decide the level till which he wants to verify the credit depending on the facts of the case.
 - d) Much of the difference in input tax credit or mismatch between various returns has already been highlighted in the red flag report generated by DG(ARM). The same may be referred to while conducting investigations.
 - e) It has also been noticed that many a times such fraudulent exporters are showing input tax credit from other States and also exporting through different ports to further complicate such transaction and its detection. In cases where the supplier is from a different State, it is advised that the jurisdictional field formations may be requested or in cases evasion is more than Rs. 5 Crore, DGGI may be requested to investigate.
 - f) In all cases if the input tax credit is found to be fraudulent or any other offence is discovered punitive action as outlined in Step 1 shall be initiated.
- t. The document is for internal purposes only.

*Co-Ord. Team
Pr. Comm. (Cochin/Calicut)
Audit / Officers/
Assessment (New)*