

Dr. L.B. Singhal
Ph.D., MBA, LLB, B.Sc.
Secretary General, AEPC

AEPC/HO/SG/R&PA/2022
11.11.2022

Sub: GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, vide Circular No. 181/13/2022-GST dated 10.11.2022 issues clarification on GST refund related issues.

Dear Members,

Sub-section (3) of section 54 of CGST Act, 2017 provides for the refund of unutilized input tax credit in cases where credit is accumulated on account of rate of tax of inputs being higher than the rate of tax on output supplies i.e. on account of inverted duty structure. Further, the Sub-rule (5) of rule 89 of CGST Rules, 2017 prescribes the formula for grant of refund in cases of inverted duty structure.

2. The Central Board of Indirect Taxes and Customs vide Notification No. 14/2022-Central Tax dated 05.07.2022, had made amendment in the formula prescribed under sub-rule (5) of rule 89 of the CGST Rules, 2017. Further, vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022, which has been made effective from 18.07.2022, the restriction has been placed on refund of unutilised input tax credit on account of inverted duty structure in case of supply of certain goods falling under chapter 15 and 27.

3. After having receipt of representations from the trade and the field formations seeking clarification on various issues pertaining to the implementation of the above notifications, now the Central Board of Indirect Taxes and Customs has clarified the issues to ensure uniformity in the implementation of the provisions of law across the field formations vide Circular No. 181/13/2022-GST dated 10.11.2022 (copy of the Circular is enclosed for your ready reference).

4. The clarifications given vide Circular No. 181/13/2022-GST dated 10.11.2022 are as follows:

S.No	Issue	Clarification
1	Whether the formula prescribed under sub-rule (5) of rule 89 of the CGST Rules, 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure, as amended vide Notification No. 14/2022-Central Tax dated 05.07.2022, will apply only to the refund applications filed on or after 05.07.2022, or whether the same will also apply in respect of the refund	Vide Notification No. 14/2022-Central Tax dated 05.07.2022, amendment has been made in sub-rule (5) of rule 89 of CGST Rules, 2017, modifying the formula prescribed therein. The said amendment is not clarificatory in nature and is applicable prospectively with effect from 05.07.2022. <u>Accordingly, it is clarified that the said amended formula under sub-rule (5) of rule 89 of the CGST Rules, 2017 for</u>

	<p>applications filed before 05.07.2022 and pending with the proper officer as on 05.07.2022?</p>	<p><u>calculation of refund of input tax credit on account of inverted duty structure would be applicable in respect of refund applications filed on or after 05.07.2022. The refund applications filed before 05.07.2022 will be dealt as per the formula as it existed before the amendment made vide Notification No. 14/2022-Central Tax dated 05.07.2022.</u></p>
<p>2.</p>	<p>Whether the restriction placed on refund of unutilised input tax credit on account of inverted duty structure in case of certain goods falling under chapter 15 and 27 vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022, which has been made effective from 18.07.2022, would apply to the refund applications pending as on 18.07.2022 also or whether the same will apply only to the refund applications filed on or after 18.07.2022 or whether the same will be applicable only to refunds pertaining to prospective tax periods?</p>	<p>Vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022, under the powers conferred by clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act, 2017, certain goods falling under chapter 15 and 27 have been specified in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such specified goods (other than nil rated or fully exempt supplies). The said notification has come into force with effect from 18.07.2022. The restriction imposed vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022 on refund of unutilised input tax credit on account of inverted duty structure in case of specified goods falling under chapter 15 and 27 would apply prospectively only.</p> <p><u>Accordingly, it is clarified that the restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18.07.2022, and would not apply to the refund applications filed before 18.07.2022</u></p>

5. AEPC's Circulars are available on AEPC's Website www.aepcindia.com

6. This is for your information please.

With regards.

Yours sincerely,

Dr. L. B. Singhal
Secretary General