

TAX INFO

Dated 29/11/2022

Latest update on GST Law: **Summary of Instruction No. 04/2022-GST dated 28th November, 2022.**

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"How" and "What" Happens after Exporter is classified under the "Risky" Category?

1. 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.
2. RMCC will put an alert in the system.
3. On the basis of the alert, the "Customs Officer" will examine the Export Consignment of the Exporter.
4. The procedure for disbursement of Refund will be suspended till further notice.
5. Verification by "GST formations", of the premises and all other key aspects to verify the claim of refund. On the basis of the same, the GST formation will submit a report.
6. Action to be taken by customs formations on receipt of verification report from GST formations.
7. Cases where no malpractices have been reported on verification: DG System will remove the alert
8. Cases where malpractice has been reported on verification: The customs officer will not process the refund claim, also the proceedings may be launched for previously claimed refunds.

Now, till now the process mentioned above takes significant time and many honest taxpayers also face the heat of delayed refunds.

In cases where the exporter is identified as a risky exporter requiring verification by GST officers, or where there is a violation of provisions of the Customs Act, the refund claims in respect of the export of goods are suspended/withheld. Amendment in rule 96 of the CGST Rules has been done to provide for transmission of such IGST refund claims on the portal in a system-generated FORM GST RFD-01 to the jurisdictional GST authorities for processing. This would result in expeditious disposal of such IGST refund claims, after due verification by GST officers, thus benefitting such exporters.

Summary of Instruction No. 04/2022-GST dated 28th November, 2022

1. DGARM on the basis of data analysis and risk parameters, would identify the exporters where verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund. DGARM would then place an all-India alert on such exporter on Indian Customs EDI system 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 could not be generated due to DGARM alert, along with the reasons thereof would 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. 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.
2. 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 ofIGST paid on export of goods (Refund not processed by ICEGATE)". Further, the risk parameters, on basis of which the exporter has been identified as risky by DGARM, would be shared with the jurisdictional tax officers along with the system generated refund claim in FORM GST RFD-01. In cases where the verification report in respect of the exporter has already been submitted to DGARM

by the jurisdictional CGST authorities, the details of the same would also be shared with the jurisdictional proper officer, along with the said system generated refund claim in FORM GST RFD-01. Transmission of such 1GST refunds to the jurisdictional proper officers, withheld on account of identification of exporter as risky by DGARM, is being initiated on the portal.

3. On receipt of such refunds, the jurisdictional proper officer 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.
4. However, it may be noted that as these refund claims have been generated by the system on the basis of Shipping Bills/ Bills of Export filed by the exporter, 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.
5. The proper officer shall ascertain the genuineness of the exporter & verify the correctness of availment and utilisation of ITC by the exporter and exercise due diligence in processing the said refund claims to safeguard interest of revenue. The proper officer 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.
6. The proper officer shall pass a detailed speaking order in respect of the refund claim and shall duly upload the same along with the refund sanction order in Form GST RFD-06 on the portal in terms of Instruction No. 03/2022-GST dated 14.06.2022.
7. Further, the proper officer would also be required to provide feedback on the common portal while issuing refund sanction order in FORM GST RFD-06 as with recommendation as to whether the alert against the said taxpayer need to be continued or whether the same can be removed. The functionality for the same would be available on the system in due course.
8. GSTN shall transmit the data regarding the outcome of processing of refund by the proper officer, along with the feedback received from the proper officer on the requirement of removal or continuation of alert, to DGARM for necessary action for removal or continuation of alert.
9. The Zonal Principal Chief Commissioners/ Chief Commissioners should closely monitor the progress of disposal of such transmitted refund claims to ensure that due verification has been conducted before sanction and the refunds have been processed in a timely manner.

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