

TAX INFO

Dated: 29/09/2021

Latest update on GST Law: Information regarding **Clarification of refund of tax wrongly paid as Inter-state or Intra-state** based on the **Circular No. 162 dated 25.09.2021**.

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Refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act

Section 77 of the CGST Act deals with a situation where CGST/SGST has been paid considering the supply “Intra-State” and subsequently the same is held to be Inter-State and, therefore, in such situation the CGST/SGST, which was paid wrongly, shall be refunded and, the registered person has to pay IGST on such supply for which no interest shall be required to be paid.

Section 19 of the IGST Act deals with a situation where IGST has been paid considering the supply “Inter-State” and subsequently the same is held to be Intra-State and, therefore, in such situation the IGST, which was paid wrongly, shall be refunded and, the registered person has to pay CGST and SGST on such supply for which no interest shall be required to be paid.

It is clarified that the term “**subsequently held**” covers both cases where the inter-State or intra-State supply made by a taxpayer, is either subsequently found by taxpayer himself or by the tax officer in any proceeding as intra-State or inter-State respectively.

Rule 89(1A) of CGST Rule prescribe the manner and conditions for refund under the said Sections.

S. No.	Particulars	Last date for claiming refund
1	Payment in the correct head before the date of issuance of Notification No. 35/2021-Central Tax dated 24.09.2021	23.09.2023
2	Payment in the correct head after the issuance of Notification No. 35/2021-Central Tax dated 24.09.2021	Two years from the date of payment of tax under the correct head

It is also clarified that any refund applications filed, whether pending or disposed off, before issuance of notification No.35/2021-Central Tax, dated 24.09.2021, would also be dealt in accordance with the provisions of rule 89 (1A) of the CGST Rules, 2017.

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