

EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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EPCES CIRCULAR NO. 319

In order to keep all our members updated with the latest announcements and amendments made in Law, we present to you a brief of updates that could be relevant for you all.

Circular No. 40/2018 – Customs dated 24th October, 2018

IGST Export Refunds – extension in SB005 alternate mechanism and revised processing in certain cases including disbursement of compensation cess

- Vide the captioned circular, it has been decided by the board to extend the rectification facility to Shipping Bills (SB) filed upto 15th November, 2018. However, the exporters shall ensure that the details of invoice under GSTR 1 and shipping bill match since the same transaction is being reported under GST laws and Customs Act.
 - Shipping bills which have not been scrolled due to IGST paid amount erroneously declared as 'NA' are already being handled through officer interface.
 - There are also certain cases where the refund scroll has been generated for a lesser IGST amount than what has actually been paid against the exported goods due to the following reasons:
 - a. Error made by the exporter/CHA in declaring IGST paid amount in SB;
 - b. Cases where Compensation Cess paid amount was not entered by the exporter in SB along with IGST paid amount or these details were not transmitted by GSTN, and the scroll consequently got generated only for IGST amount;
 - c. Typographical mistake by customs officer while sanctioning the refund through officer interface.
 - For the aforesaid cases, the Directorate of Systems has now provided a facility in ICES for the processing and sanctioning of eligible differential IGST refund, similar to the processing of certain SB005 refund claims provided, provided the Shipping Bills have been filed till 15.11.2018.
 - In order to claim the differential amount, the exporter is required to submit signed Revised Refund Request (RRR) to the designated AC/DC (hard copy or e-mail to Customs location from where exports took place). The designated AC/DC will then proceed to sanction the revised amount after verification through the option provided in ICES, post which a fresh scroll will be available for generation for the differential amount only.
 - Only those SBs which have already been scrolled shall be available in this facility and only once for each eligible SB to sanction the revised IGST amount.
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Notification No. 58/2018 – Central Tax dated 26th October, 2018

Vide the captioned notification, the Central Government notifies that the persons whose registration has been cancelled by the proper officer on or before the 30th September, 2018 shall furnish the final return in FORM GSTR-10 till the 31st December, 2018.

Notification No. 59/2018 – Central Tax dated 26st October, 2018

Vide the captioned notification, the Central Government extends the time limit for furnishing the declaration in FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job

worker or sent from one job worker to another job worker, during the period from July, 2017 to September, 2018 till 31stDecember, 2018.

Circular No. 69/2018 – GST dated 26th October, 2018

Processing of Applications for Cancellation of Registration submitted in FORM REG-16

In relation to processing of applications for cancellation of registration filed by taxpayers in FORM GST REG-16, the Board has clarified as follows:

- It has been clarified that in cases where the exact day of occurrence of event warranting the cancellation is not identifiable, time limit of 30 days should be liberally interpreted and application should not be rejected merely on the grounds of violation of the deadline.
 - It is clarified that application for cancellation of registration shall be accepted within 30 days from the date of filing except in the following circumstances:
 - a) Incomplete application; and
 - b) Where new entity post transfer, merger or amalgamation has not obtained registration.
 - The last date for filing of final return in Form GSTR-10 where cancellation of registration has been done on or before 30.09.2018 has been extended till 31.12.2018.
 - Further, it has also been clarified that it is not necessary to pay the input tax credit contained in stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable, whichever is higher, at the time of filing application for cancellation of registration. The same can be done at the time of filing of final return in FORM GSTR-10.
 - It is clarified that in case final return in Form GSTR-10 is not filed within the prescribed time, the proper officer may issue notice in FORM GSTR-3A requiring taxpayer to file the said return within 15 days. If the default continues, an assessment order in FORM GST ASMT-13 shall be issued to determine the tax liability payable by the applicant. However, order shall be deemed to have been withdrawn where final return is filed within 30 days of the date of service of the order.
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Circular No. 70/2018 – GST dated 26th October, 2018

Clarification on certain issues related to refund

1. Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:
 - It has been clarified that taxpayers are required to submit the rectified refund application under the earlier ARN only where deficiency memo has been issued.
 - Further, re-credit in electronic credit ledger using FORM GST RFD-01B is not required to be carried out.
 2. Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:
 - Any exporter who has received goods/ capital goods in terms of Notification No. 78/2017-Customs and 79/2017-Customs dated 13 October 2017 shall be eligible to claim refund of the IGST paid on exports only till the date of the issuance of the Notification No. 54/2018 i.e. 09 October 2018.
 - After 09 October 2018, exporters who are receiving capital goods (import and domestic) under the EPCG scheme shall continue to be eligible to claim refund of IGST paid on exports and would not get hit by the above restriction.
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Judicial Pronouncements

- **BOMBAY HIGH COURT–Apar Industries Ltd VsUoi-** Petitioner seeks a refund of Rs.52.97 crores along with interest thereon in respect of tax paid on exported goods under section 16 of the IGST Act. During pendency of the petition, refund of Rs.52.52 crores has already been granted. Petitioner's grievance is now limited to non-payment of interest on the amount of Rs.5.52 crores of refund already granted as well as refund of balance amount along with interest. Counsel for Revenue submits that there is an invoice mismatch/error which resulted in delay in refunding amount of Rs.52.52 crores and hence no interest is payable. It was held that Circulars and FAQ, inter alia, deal with grant of refund in

spite of invoices mismatch/error, as indicated by SB005 but do not deal with grant of interest even for the period when there is Invoice mismatch/error. Issue of grant of interest for delaying refund does requires factual determination as to the type of Invoices mismatch, who was responsible for the same and who, if any, and how, was the same corrected. As this exercise would be best done by the adjudicating authorities under the Act after hearing the parties, petition is not entertained. Petitioner advised to make a representation to the adjudicating authority who would consider the same and after hearing the Petitioner, pass a speaking order, preferably within a period of twelve weeks from receipt of the Petitioner's representation.

Hope the newsletter was useful for you all.

In case of any queries, feel free to connect with the council.

This issues with the approval of Chairman EPCES.