

GST clarifications on refund related issues

On 17 November 2021, CBIC has issued the following clarifications in respect of refund related matters.

Issue	Clarification
<p>Whether the provisions of section 54(1) of the CGST Act regarding the time period, (2 years from 'relevant date') within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?</p>	<p>Not applicable. Thus, these types of refund applications can be filed even beyond this period.</p>
<p>When a dealer claims refund, it is mandatory for him to provide a declaration that the incidence of tax/interest sought to be refunded has not already passed to any other person, in case where the refund claim is upto INR 2 lakh. CA/Cost Accountant certificate is necessary where the refund claim is more than INR 2 lakh.</p> <p>Whether such declaration/certification is required for refund of tax in electronic cash ledger?</p>	<p>The declaration/certification is to avoid unjust enrichment by passing of refund to any other person. This is not applicable in cases of refund of excess balance in electronic cash ledger. Hence no such declaration/certification is required.</p>
<p>Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51 /52 can be refunded as excess balance in cash ledgers?</p>	<p>The amount deducted/collected as TDS/TCS by TDS/TCS deductors under section 51 /52 of the CGST Act and credited to the electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger.</p> <p>The registered person has full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers.</p> <p>Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules, can be refunded to the registered person as excess balance in the electronic cash ledger in accordance with the proviso to section 54(1), read with section 49(6) of the Act.</p> <p>Comment The same view as above was given by the Telangana High Court in the case of Appario Retail Private Limited v. The Union of India. <i>Possibly, this circular has been issued to synchronize the Departments' position on this issue, with the HC judgment.</i></p>

GST clarifications on refund related issues

Issue	Clarification
Whether relevant date for the refund of tax paid on supplies regarded as deemed export by the recipient is to be determined as per clause (b) of Explanation (2) under section 54 of CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining relevant date for such refunds?	<p>Explanation (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.</p> <p>Further, as the tax on the supply of goods, regarded as deemed export would be paid by the supplier in his return, the relevant date for purpose of filing of refund claim would be the date of <u>filing of return (related to such supplies) by the supplier</u>.</p>

Weblink <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-166-22-2021-GST.pdf>

Therefore

The clarification was issued by the CBIC on various representations received from taxpayers and stakeholders in respect of refund-related issues. The clarifications provided will henceforth ensure easy implementation of the refund procedures.

