

**GOVERNMENT OF TAMIL NADU  
COMMERCIAL TAXES DEPARTMENT  
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES  
EZHILAGAM, CHENNAI- 600 005**

**PRESENT: DR. D. JAGANNATHAN I.A.S.,**

**COMMISSIONER OF STATE TAX**

**Circular No 18 /2023  
(PP6/GST-145/2022)**

**Dated 16.11.2023**

<b>Sub:</b>	Clarification on refund related issues-regarding.
<b>Ref:</b>	Circular No. 181/13/2022-GST, File No CBIC-20021/4/2022, Government of India , Ministry of Finance , Department of Revenue, Central Board of Indirect Taxes and Customs-New Delhi

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In the reference cited, the CBIC, Department of Revenue, Ministry of Finance, Government of India, New Delhi, has issued Circular No 181/13/2022-GST, dated 10.11.2022 on the recommendations of the GST Council. Hence, following *pari-materia* circular is issued:-

Attention is invited to sub-section (3) of section 54 of TNGST Act, 2017, which 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. Sub-rule (5) of rule 89 of TNGST Rules, 2017 prescribes the formula for grant of refund in cases of inverted duty structure. Vide Notification No.SRO A-12(a)/2022 dated 08.07.2022 published in the Tamil Nadu Government Gazette Extraordinary issue No 387. dated 08.07.2022 amendment has been made in the formula prescribed under sub-rule (5) of rule 89 of the TNGST Rules, 2017. Further, vide Notification No..II (2)/CTR/609(b-7)/2022 22.07.2022, published in the Tamil Nadu Government Gazette Extraordinary issue No 403 dated

22.07.2022 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.

2. Representations have been received by the GST Council, from the trade and the field formations seeking clarification on various issues pertaining to the implementation of the above notifications. In order to clarify the issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of the powers conferred by section 168 of the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as "TNGST Act"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1	Whether the formula prescribed under sub-rule (5) of rule 89 of the TNGST Rule 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure as amended vide Notification No. TNGST (Amendment) Rules 2022 / Notification No. <b>SRO A-12(a)/2022, t.08.07.2022, w.e.f 05.07.2022</b> published in the Tamil Nadu Government Gazette Extraordinary issue No 387. dated 08.07.2022. 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 applications filed before 05.07.2022 and pending with the proper officer as on 05.07.2022?	Vide TNGST (Amendment) Rules 2022 / Notfn. No. SRO A-12(a)/2022, dated 08.07.2022, w.e.f 05.07.2022 published in the Tamil Nadu Government Gazette Extraordinary issue No 387. dated 08.07.2022, amendment has been made in sub-rule (5) of rule 89 of TNGST 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 Accordingly, it is clarified that the said amended formula under sub-rule (5) of rule 89 of the TNGST Rules, 2017 for 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 (TN Notification No SRO A-12(a)/2022, dated 05.07.2022)



<p>2. 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 <b>Notification No.II (2)/CTR/609(b-7)/2022 22.07.2022</b> , which has been made effective from <b>18.07.2022</b>, 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 <b>Notification No..II (2)/CTR/609(b-7)/2022, 22.07.2022</b>, under the powers conferred by clause (ii) of the first proviso to sub-section (3) of section 54 of the TNGST 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.</p> <p>The restriction imposed vide <b>Notification No..II (2)/CTR/609(b-7)/2022 22.07.2022</b>, 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. 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.</p>
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Sd/D.Jagannathan  
**Commissioner of State Tax**

To

All the Joint Commissioners (ST) (Territorial) and (LTU)  
All the Head of Assessment Circles in the State

Copy to

1. All the Additional Commissioners, including Service Tax cell in the Office of the CCT, Chennai-5
2. Director, Commercial Taxes Staff Training Institute, Chennai -35.
3. All the Joint Commissioners (Intelligence)
4. Appellate Joint Commissioner (GST) Chennai.
5. All the Deputy Commissioners (Territorial and Intelligence)
6. All the Appellate Deputy Commissioner (GST) in the State.
7. The Joint Commissioner (CS), Chennai 35, to upload the same in the internet website.
8. Stock file / Spare.

*8/11/13*  
*16/11/13*  
Deputy Commissioner (P&P)

*8*  
*16/11/13*