

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHENNAI-600 005
PRESENT: DR. T.V. SOMANATHAN, I.A.S.,
COMMISSIONER OF STATE TAX**

Circular No.42(2018)/2019-TNGST
(RC No.151/2018/A3/Taxation)

Dated: 23.04.2019

<u>Sub:</u>	Clarification on certain issues related to refund-Regarding
<u>Ref:</u>	CBEC, Department of Revenue, GST Policy Wing, Circular No. 70/44/2018-GST, dated 26.10.2018.

The Commissioner of State Tax is in receipt of representations seeking clarification on certain issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner of state tax, in exercise of powers conferred by section 168 of the Tamilnadu Goods and Services Tax Act, 2017 (hereinafter referred to as the "TNGST Act"), hereby clarifies the issues as detailed hereunder:

2. Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:

- 2.1 Para 7.1 of **circular No. 59/33/2018-GST dated the 4th September, 2018** clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim. In para 7.2 of the said circular, the practise being followed in the field formations was elaborated and it was clarified that show cause notices are not required to be issued (and consequently no orders are required to be issued in FORM GST RFD-04/06) in cases where refund application is not re-submitted after the issuance of a deficiency memo (in FORM GST RFD-03). It was also clarified that once a deficiency

memo has been issued against an application for refund, the amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Tamilnadu Goods and Services Tax Rules, 2017 (hereinafter referred to as the "TNGST Rules") is required to be re-credited to the electronic credit ledger of the applicant by using FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund.

- 2.2 The issue has been re-examined and it has been observed that presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in FORM GST RFD-03 is issued to taxpayers, re-credit in the electronic credit ledger (using FORM GST RFD-01B) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.
3. Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:
 - 3.1 Sub-rule (10) of Rule 96 of the Tamilnadu Goods and Services Tax Rules, 2017 (hereinafter referred to as "said sub-rule"), restricts exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However,

representations have been received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the IGST paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, had accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the TNGST Rules prospectively in order to enable such exporters to avail the said facility TN G.O.(Ms.) No. 130, dated 09.10.2018 has been issued to carry out the changes recommended by the GST Council. Alongside the amendment carried out in the said sub-rule through the notification No. II(2)/CTR/858(a-2)/2017, dated 13.10.2017 [Issue No.328] has been rescinded vide TN G.O.(Ms.) No. 129, dated 09.10.2018

- 3.2 For removal of doubts, it is clarified that the net effect of these changes would be that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the TN G.O.(Ms.) No. 130, dated 09.10.2018 referred to above.
- 3.3 Further, after the issuance of TN G.O.(Ms.) No. 130, dated 09.10.2018, exporters who are importing goods in terms of notification Nos. 78/2017- Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No.

II(2)/CTR/868(f-2)/2017, dated 18.10.2017 shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule. All clarifications issued in this regard vide any Circular issued earlier are hereby superseded.

4. This pari materia circular is issued with reference to the circular issued by the Government of India on the recommendation of the GST Council in the reference cited.

Sd/-T.V.Somanathan
Commissioner of State Tax

To

All the Joint Commissioners (ST) Territorial and Enforcement in the State.

- Copy to: (1) Principal Secretary to CT& Regn. Department.
(2) All Additional Commissioners of State Tax in the Commissionerate.
(3) Joint Commissioner (CS) for hosting in Departmental site.
(4) All Deputy Commissioners (ST) in the State.
(5) All Assistant Commissioners (ST) in the State.

ANNEXURE A
FORM GST RFD – 10A

(See Rule 95)

**Application for refund by Canteen Stores
Department (CSD)**

1. GSTIN : _____
2. Name : _____
3. Address : _____
4. Tax Period (Quarter) : From <DD/MM/YY>To <DD/MM/YY>
5. Amount of Refund Claim : <INR><In Words>
6. Details of inward supplies of goods received:

GSTIN of supplier	Invoice/Debit Note/Credit Note details			Rate	Taxable value	Amount of tax		
	No.	Date	Value			Integrated tax	Central Tax	State/ Union territory Tax
1	2	3	4	5	6	7	8	9
6A. Invoices received								
7.								
6 B. Debit/Credit Note received								
Total								

refund applied for:

Central Tax	State /Union territory Tax	Integrated Tax	Total
<Total>	<Total>	<Total>	<Total >

8. Details of Bank Account:
 - a. Bank Account Number
 - b. Bank Account Type
 - c. Name of the Bank

- d. Name of the Account Holder
- e. Address of Bank Branch
- f. IFSC
- g. MICR

9. Attachment of the following documents with the refund application:

- a. Copy of **FORM GSTR-3B** for the period for which application has been filed
- b. Copy of **FORM GSTR-2A** for the period for which application has been filed

10. Verification

I _____ as an authorised representative of << Name of Canteen Store Department >>

hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom. I further declare that all the goods, in respect of which the refund is being claimed, have been received by us and that no refund has been claimed earlier against any of the invoices against which refund has been claimed in this application.

Date:
Authorised

Place:

Signature of

Signatory:

Name:
Designation /
Status

Instructions:

1. Application for refund shall be filed on quarterly basis.
2. Applicant should ensure that all the invoices declared by them have the GSTIN of the supplier and the GSTIN of the respective CSD clearly marked on them.