

I/680364/2022



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Date:15.07.2022

TRADE NOTICE NO 07/2022

Subject: Manner of filing refund of unutilized ITC on account of export of electricity-reg.

Reference has been received from Ministry of Power regarding the problem being faced by power generating units in filing of refund of unutilized Input Tax Credit (ITC) on account of export of electricity. It has been represented that though electricity is classified as “goods” in GST, there is no requirement for filing of Shipping Bill/ Bill of Export in respect of export of electricity. However, the extant provisions under Rule 89 of CGST Rules, 2017 provided for requirement of furnishing the details of shipping bill/ bill of export in respect of such refund of unutilized ITC in respect of export of goods. Accordingly, a clause (ba) has been inserted in sub-rule (2) of rule 89 and a Statement 3B has been inserted in **FORM GST RFD-01** of the CGST Rules, 2017 vide notification No. 14/2022-CT dated 5th July, 2022. In order to clarify various issues and procedure for filing of refund claim pertaining to export of electricity, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby prescribes the following procedure for filing and processing of refund of unutilized ITC on account of export of electricity:

2. Filing of refund claim:

Till the time necessary changes are carried out on the portal, the applicant would be required to file the application for refund under “**Any Other**” category electronically in **FORM GST RFD-01**, on the portal. In remark column of the application, the taxpayer would enter “Export of electricity- without payment of tax (accumulated ITC)”. At this stage, the applicant is not required to make any debit from the electronic credit ledger.

The applicant would be required to furnish/upload the details contained in Statement 3B (and not in statement 3) of **FORM GST RFD-01** (in pdf format), containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement. The applicant will also be required to upload the copy of **statement of scheduled energy for electricity**

I/680364/2022

exported by the Generation Plants (in format attached as **Annexure- I**) issued as part of Regional Energy Account by Regional Power Committee Secretariat (“RPC”) under regulation 2 (1)(nnn) of the CERC (Indian Electricity Grid Code) Regulations, 2010, for the period for which refund has been claimed and the copy of the relevant agreement(s) detailing the tariff per unit for the electricity exported. The applicant will also give details of calculation of the refund amount in Statement -3A of **FORM GST RFD-01** by uploading the same in pdf format along with refund application in **FORM GST RFD-01**.

3. **Relevant date for filing of refund:**

As per sub-section (1) of section 54 of the CGST Act, 2017, time period of two years from the relevant date has been specified for filing an application of refund. Electrical energy is in nature of “goods” under GST and is exported on a continuous basis through the transmission lines attached to the land. Therefore, it is not possible to determine the specific date on which a specific unit of electricity passes through the frontier. However, a statement of scheduled energy for export of electricity by a Generation Plant is issued by Regional Power Committee RPC Secretariat, as a part of Regional Energy Account (hereinafter referred to as “REA”) under Regulation 2(1)(nnn) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010. Accordingly, it is hereby clarified that in case of export of electricity, the relevant date shall be the last date of the month, in which the electricity has been exported as per monthly Regional Energy Account (REA) issued by the Regional Power Committee Secretariat under regulation 2(1)(nnn) of the CERC (Indian Electricity Grid Code) Regulations, 2010.

4. **Processing of refund claim by proper officer**

Rule 89(4) provides for the formula for calculation of refund of unutilized ITC on account of zero-rated supplies which is reproduced as under:

$$\text{Refund Amount} = (\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero rated supply of services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$$

Export of electricity being zero-rated supply, refund of unutilized ITC on account of export of electricity would also be calculated using the same formula.

The turnover of export of electricity would be calculated by multiplying the energy exported during the period of refund with the tariff per unit of electricity, specified in the agreement. It is clarified that **quantum of Scheduled Energy exported, as reflected in the Regional Energy Account (REA) issued by Regional Power Committee (RPC) Secretariat for a particular month, will be deemed to be the quantity of electricity exported during the said month and will be used for calculating the value of zero-rated**

I/680364/2022

supply in case of export of electricity. Such **monthly Regional Energy Account (REA)** issued by **Regional Power Committee (RPC) Secretariat**, as uploaded on the websites of **RPC Secretariat**, can be downloaded by **GST officers as well as the concerned electricity generator** for the purpose of refund under Rule 89(4) of CGST Rules 2019. The **calculation of the value of the exports of electricity** during the month, can be done based on the quantity of scheduled electricity exported during the month by the exporter (as detailed in the REA for the month) and the tariff rate per unit (details of which will have to be provided by the concerned exporter based on agreed contracted rates).

It is also mentioned that usually, the quantum of electricity exported as specified in the statement of scheduled energy exported and on invoice should be same. However, in certain cases, it might happen that the quantum of electricity exported as mentioned on invoice is different from the quantum of electricity exported mentioned on the statement of scheduled energy uploaded with REA on Regional Power Committee website. In such cases, turnover of export of electricity shall be calculated using the lower of the quantum of electricity exported mentioned on the statement of scheduled energy exported and that mentioned on the invoice issued on account of export of electricity.

Adjusted Total Turnover shall be calculated as per the clause (E) of sub-rule (4) of rule 89. However, as electricity has been wholly exempted from the levy of GST, therefore, as per the definition of adjusted total turnover provided at clause (E) of the sub-rule (4) of rule 89, the turnover of electricity supplied domestically would be excluded while calculating the adjusted total turnover. The proper officer shall invariably verify that no ITC has been availed on the inputs and inputs services utilized in making domestic supply of electricity.

The proper officer shall calculate the admissible refund amount as per the formula provided under rule 89(4) and as per the clarification furnished above. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD- 05**.

5. Difficulties, if any, in implementation of these instructions may be informed to the Board (gst-cbec@gov.in).

S. FAHEEM AHMED

I/680364/2022

PRINCIPAL COMMISSIONER

To

The Trade Associations-As per mailing list for information.

Copy to:

1. All the Joint Commissioners of Central Tax, Guntur CGST Commissionerate, Guntur.
2. The Assistant Commissioner of Central Tax, Guntur CGST Commissionerate, Guntur.
3. All the JDC/JAC's and Range Officers under Guntur CGST Commissionerate with a direction for strict compliance of the above instructions and to give wide publicity to the Trade.
4. Copy submitted to the Chief Commissioner of Customs & Central Tax, Visakhapatnam CGST Zone for information.