



Office of the Commissioner,
State Tax, Uttar Pradesh
(GST Section)

Letter No. GST/2022-23/ 51 /State Tax
Lucknow: Dated: 25 November, 2022

To,

All Zonal Additional Commissioner Grade -1,
Additional Commissioner Grade -2 (S.I.B.)
Joint Commissioner (Executive/Corporate Circle/ S.I.B)
State Tax, Uttar Pradesh.

Subject: Clarification on refund related issues-reg.

Attention is invited to sub-section (3) of section 54 of UPGST 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 UPGST Rules, 2017 prescribes the formula for grant of refund in cases of inverted duty structure. Vide Notification No. 1009/XI-2-22-9(47)/17-T.C.61-U.P.GST Rules-2017-Order-(255)-2022 Dated 17.11.2022, amendment has been made in the formula prescribed under sub-rule (5) of rule 89 of the UPGST Rules, 2017. Further, vide Notification No. 626/XI-2-22-9(47)/17-T.C.194-U.P.Act-1-2017-Order-(244)-2022 dated 18.07.2022, 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 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, Commissioner, in exercise of its powers conferred by section 168 of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as "UPGST 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 UPGST Rules, 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure, as amended vide	Vide Notification No. 1009/XI-2-22-9(47)/17-T.C.61-U.P.GST Rules-2017-Order-(255)-2022 Dated 17.11.2022, amendment has been made in sub-rule (5) of rule 89 of UPGST Rules, 2017, modifying the formula prescribed therein. The said

	<p>Notification No. 1009/XI-2-22-9(47)/17-T.C.61-U.P.GST Rules-2017-Order-(255)-2022 Dated 17.11.2022, 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?</p>	<p>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 UPGST 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. 1009/XI-2-22-9(47)/17-T.C.61-U.P.GST Rules-2017-Order-(255)-2022 Dated 17.11.2022.</p>
<p>2.</p>	<p>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 Notification No. 626/XI-2-22-9(47)/17-T.C.194-U.P.Act-1-2017-Order-(244)-2022 dated 18.07.2022, which has been made effective from 18.07.2022, 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 Notification No. 626/XI-2-22-9(47)/17-T.C.194-U.P.Act-1-2017-Order-(244)-2022 dated 18.07.2022, under the powers conferred by clause (ii) of the first proviso to sub-section (3) of section 54 of the UPGST 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 Notification No. 626/XI-2-22-9(47)/17-T.C.194-U.P.Act-1-2017-Order-(244)-2022 dated 18.07.2022 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>

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

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4. Difficulty if any, in the implementation of this circular may be brought to the notice of the Undersigned.

By Order,

Ministry S.
25/11/22
(Ministry S.)

Commissioner, State Tax, U.P.

Copy To:

1. Joint Commissioner (I.T.), State Tax HQ, Lucknow for uploading the Circular on the Departmental Website.

Ministry S.
25.11.2022

Additional Commissioner (GST)

State Tax HQ, Lucknow.

O/C