



GOVERNMENT OF INDIA
OFFICE OF PR. COMMISSIONER OF CUSTOMS (PORT)
CUSTOM HOUSE: 15/1, STRAND ROAD: KOLKATA -700 001

OFFICE ORDER

14/02/2022

SUB: Safeguards to be taken while granting IGST refund under Section 27 of Customs Act, 1962 – regarding

1. In a number of cases of consequential IGST refund claim (arising out of any order), it has been observed that ARS section, is sanctioning the refund of IGST with the observations that there is no guidelines by way of notifications/ circular from the Board that the Customs formations is the proper authority to process the refund of IGST but approval of Commissioner of Customs (Port) has been accorded on 28.01.2019 in file no. F.No.S110 (Misc)-1412018/ARS (Port) for processing of the IGST refund under intimation to the Board that (i) the original copy of bill of entry must be endorsed about sanctioned IGST (ii) Submission of the copy of GSTR-3B returns along with IGST credit details/ if the claimant has not filed GSTR returns an undertaking/indemnity bond that credit has not been and will not be taken by the claimant and (iii) informing the jurisdictional CGST Commissionerate in this regard.
2. In this regard attention is invited to Section 27 (2) of the Customs Act which stipulates that amount of refund as determined by AC/DC shall be credited to the Consumer Welfare Fund. The amount instead of being credited to the Fund, shall be paid to the applicant if the incidence of such duty paid by the importer has not been passed to any other person.
3. After the introduction of IGST, even an importer who is a trader and directly sells the imported goods in the domestic market, can avail the credit of IGST paid at the time of import and utilize the same at the time of selling of imported goods in the domestic market.
4. Therefore, an importer in the normal course of business will always and definitely avail credit of IGST immediately after clearance and utilize the same. There is no apparent plausible reason that he should wait till his appeal against any assessment order is successful and then file claim for refund of IGST from Customs.
5. So the claim for refund of any excess IGST paid at the time of import, in cash to the importer shall arise only in exceptional circumstances.
6. It is desirable that authority before sanctioning refund of IGST in case of consequential refund,
 - a. Should carefully examine the exceptional circumstances to find the reasons as why the

importer has not taken credit of the refund so far.

- b. It should also take a certificate from the jurisdictional GST authorities to the effect that credit of the IGST for the Bill of Entry for which refund is filed, has not been availed by the importer and shall not be availed in the future also.

Pr Commissioner-Customs-Port-Kolkata

RAJESH JINDAL, Pr Commr(RJ)-Cus-Port-KOL, O/o

Pr. Commissioner of Customs,(Port).
Custom House, Kolkata.