



The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)

TIRUPUR BRANCH (SIRC)

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

TIRUPUR BRANCH (SIRC)

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Views expressed herein are the opinion of the respective authors and not that of the branch or the Managing / Newsletter committee.

Your views / suggestions / comments are welcome. Kindly send your queries to tiruicai@gmail.com

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Dear Professional Colleagues,

As we approach the end of another calendar year, it is a time for reflection on our achievements and a look forward to the opportunities ahead. December brings with it not only the festive spirit but also significant events for our community.

The upcoming ICAI elections for the Central Council and Regional Council are pivotal for the future direction of our profession. I urge all members to actively participate and cast their votes. Your voice is crucial in shaping the leadership that will steer our esteemed institution in the coming years. Let us ensure that we contribute to the democratic process by voting for candidates who uphold the values and vision of ICAI.



To maintain accurate and updated records, we are currently revising the Tirupur Branch Members Directory. A Google Sheet has been circulated among members for this purpose. Kindly fill out the required details at your earliest convenience to help us serve you better and stay connected as a cohesive professional community.

I am delighted to announce the "11th Panchabootha Conference," organized jointly by the Coimbatore, Erode, Palakkad, Salem, and Tirupur branches and hosted by the Salem branch. This grand event will take place in Namakkal and promises to be an enriching experience with a diverse range of sessions and esteemed speakers. I encourage all members to register and participate actively in this conference, which offers an excellent platform for learning, networking, and professional growth.

In our ongoing efforts to contribute to societal welfare, we will be organizing a blood donation camp this month. This initiative is crucial for saving lives and supporting the healthcare system. I encourage all members to participate and contribute to this noble cause. Your support and generosity can make a significant difference in the lives of those in need.

As we bid farewell to 2024, let us take pride in our accomplishments and acknowledge the collective efforts that have brought us here. The various initiatives, seminars, and programs conducted throughout the year have significantly contributed to our professional development and community welfare.

Looking ahead, we aim to continue our journey with renewed vigor and dedication. I extend my heartfelt thanks to all the members for their unwavering support and active participation in branch activities. Together, we can achieve greater heights and contribute meaningfully to our profession and society.

Wishing you and your families a prosperous New Year!

With Best Regards,

CA. Senthilkumar K C
Chairman
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
Tirupur Branch (SIRC)

Forthcoming Programs

Date	Day & Timing	Program	CPE Hours	Speaker/Guest	Venue
02.12.2024	Mon 5.00 pm to 8.00 pm	CPE Seminar on Blocked Credit under GST	3	CA Preethi S, Tirupur	ICAI Bhawan Tirupur
13.12.2024	Fri 5.00 pm to 8.00 pm	CPE Seminar on Appeals and Revisions under GST	3	CA Balamurugan S , Erode	ICAI Bhawan Tirupur
14.12.2024	Sat 10.00 am to 1.00 pm	Blood Donation Camp	-	-	ICAI Bhawan Tirupur
20.12.2024	Fri 5.00 pm to 8.00 pm	CPE Seminar on Multi Disciplinary Partnership	3	CA Ravindran V, Salem	ICAI Bhawan Tirupur
21.12.2024	Sat 10.00 am to 5.00 pm	11th Panchabootha Conference	6	Yet to Finalise	Hotel Nala, Namakkal
23.12.2024	Mon 5.00 pm to 8.00 pm	CPE Seminar on TDS & TCS Provisions for FY 2024-25	3	CA Shasrika K K, Tirupur	ICAI Bhawan Tirupur

SCN under Sec 74 of CGST for the Refund of ITC Obtained under with Payment of IGST Category by EOUs and AA Holders Exporters. – Validity Testing

- **CA. Sundararajan, Chartered Accountant, Sivakasi**
 - **CA. R. Senthilkumar, Chartered Accountant, Tirupur**
-

The [Rule 96\(10\)](#) of CGST Rules place the restriction on a person claiming refund with payment of Integrated Tax on Export of Goods if the exporter or supplier of exporter has availed the benefit of **notification No. 78 and 79/2017-Customs both dated the 13th October, 2017.**

The Central GST officers are issuing SCN under section 74 of CGST Act to the EOUs and AA holders exporters who have got refund under with payment of IGST category alleging that the noticee having imported the goods under the notification ibid, it appears, should not have claimed refund under Rule 96 of CGSTR in view of the restriction of Rule 96 (10) of CGSTR. However, they have claimed it. Thus it appears that they wilfully mis-declared and suppressed facts to avail ineligible refunds, and the same is demandable under Section 74 of the Act with applicable interest. Also they have rendered themselves liable for penalty.

Analysis:

1. For the period from July 2017 to 08/10/2018 -

The restrictions under Rule 96(10) as envisaged under **Notification No. 54/2018-CT** came into force from the date of the publication of the said notification (i.e. 09.10.2018). Therefore the restrictions under Rule 96(10) cannot be applied to the period prior to 09.10.2018.

The Gujarat High Court, in a review petition regarding Cosmo Films has clarified that [Notification No. 54/2018-Central Tax](#) is applicable prospectively.

Hence refund received for the period from July 2017 to 08/10/2018 under with payment of tax is not erroneous. Demand for the period prior to 09.10.2018 is not sustainable in terms of **Notification No. 54/2018-CT**, which is effective from 09.10.2018 and not from 23.10.2017.

2. Judicial precedence:

The issue of wrong claim of refund of ITC in contravention of Rule 96(10) instead of claim under rule 89 (4B) is no more res integra as it is settled by *the Hon'ble Madras High Court in the case of M/s. Shobikaa Impex Private Limited, Karur* - where in it is held that *the legitimate export incentives ought to be granted as an exporter competes in the international market. Under these circumstances, the impugned order is set aside and the case is remitted back to the fifth respondent to pass fresh order by examining the exports made by the petitioner for grant of refund under Rule 89 of the CGST Rules, 2017 in terms of Section 16(3) of the IGST Act, 2017.*

This exercise shall be completed by the fifth respondent taking note of the amendments to Rule 96 (5A) of the CGST Rules, 2017 read with Instruction No.04/2022-GST [F.No.CBEC-20/08/02/2020-GST/1377-78] dated 28.11.2022 issued by the Central Board of Indirect Taxes and Customs.

The exporters who had received the erroneous refund repayable notice can rely upon the above refereed judgment and submit the details of refund workings under rule 89 (4B) of CGST Rules along with supporting documents to the jurisdictional officer and pay the excess refund amount sanctioned Rs..... (Difference between the amounts of refund received under Rule 96(10) and amount of refund eligible under rule 89(4B) along with interest and get the recredit. Interest amount paid becomes cost.

3. Prior knowledge of the facts - Sec 74 of CGST cannot be invoked:

Procedure for claiming refund of IGST paid on export of goods:

The shipping bill filed by an exporter is deemed to be an application for refund of integrated tax paid on the goods exported out of India.

As per Rule 96, of the IGST Rules the refund of IGST paid on export of goods is processed and disbursed by Customs. For processing such refund, GST system transmits invoice level data of Table 6A in FORM GSTR 1.

Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

The Shipping bill contains the details of benefit of notification No. 78 and 79/2017-Customs both dated the 13th October, 2017 availed by the exporter. The refund sanctioning Customs authority through shipping bill is aware of the fact that exporter claiming refund under with payment of IGST category has availed the benefit of **notification No. 78 and 79/2017-Customs** both dated the 13th October, 2017.

It is well settled law that Suppression of facts cannot be alleged when all relevant facts were in knowledge of Department.

4. Extended period cannot be invoked when the issue is legal dispute involving interpretation of law.

Rule 96(10) has been challenged in various Courts.

Gujarat HC in the case of **Cosmos Films India v. UOI** has held that Rule 96(10) not ultra vires.

But the Kerala High Court in **Sance Laboratories Pvt. Ltd. v. UOI & Ors** case has held that Rule 96(10) ultra vires to Section 16 of the IGST Act and unenforceable due to manifest arbitrariness and quashed recovery of refunded IGST.

It is settled law that when the question involved is of legal interpretation, there cannot be any suppression or mis-statement or mala fide intention.

5. ITC refund granted cannot be recalled for fresh adjudication when provision there for absent. Appeal is the remedy provided in the GST ACT.

As per Section 73/74 of Central Goods and Services Tax Act ('CGST Act') a proper officer has the power to issue notice in the following scenarios:

- a) When tax has not been paid or short paid or erroneously refunded
- b) Where Input Tax Credit (ITC) has been wrongly availed or utilised for any reason.

Thus, the CGST Act does not contain a provision to issue an order to recover credit that has been erroneously refunded or demand interest thereon. As far as erroneous refund is concerned, the CGST Act restricts itself to tax only. While there are specific provisions for recovery of tax erroneously refunded but such provisions are explicitly missing for erroneous refund of ITC.

The Supreme Court in ***Shabina Abraham V Collector of Central Excise and Customs 61 taxmann.com 95*** has held that since there was no provision in the Central Excise Act, 1944 to proceed against the legal heirs, recovery of tax dues could not be made from them.

There is no express provision in the CGST Act Sec 73/74 for recovery of erroneous refund of ITC. Applying the ratio of the above judgment, therefore, SCN cannot be issued for recovery of erroneous refund of ITC.

The Rajasthan High Court in the case of Sarrs Construction has stayed proceedings for alleged erroneous refund of ITC. The remedy provided in the ACT is appeal under Section 107 of the Act or in revision under Section 108 of the Act. SCN under Sec 73 cannot be issued.

The court stayed the further proceedings related to the impugned show cause notice.

Assuming but not admitting that SCN can be issued the subject issue would get covered under Section 73 of the CGST Act and not under Section 74 of the CGST Act for the reasons stated above.

6. Normal period of limitation

Section 75(10) - The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.

Section 73(10) - the order in the case of erroneous refund should be issued within 3 years from the date of erroneous refund.

Therefore the proceedings after 3 years from the date of erroneous refund is time barred.

Conclusion:

In our considered view, the demands raised on this issue that are beyond the limitation of time for issuing SCN under normal period of limitation / beyond appeal period of refund order will not sustain the test of law.

For the notices issued within the time limit the noticee can challenge the quantification of demand.

DUE DATES CHART FOR THE MONTH OF DECEMBER 2024:

GST Due Dates:

Date	Period	Form No	Description
10-12-24	Nov, 24	GSTR-7	Summary of Tax Deducted at Source (TDS) and deposited under GST laws for the month of November, 2024
10-12-24	Nov, 24	GSTR-8	Summary of Tax Collected at Source (TCS) and deposited by e-commerce operators under GST laws for the month of November, 2024
11-12-24	Nov, 24	GSTR-1	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of Oct - Dec, 24
13-12-24	Nov, 24	GSTR-6	GSTR 6 is a monthly return for Input Service Distributors (ISD) to provide the details of their inward supplies & distributed Input Tax Credit (ITC).
13-12-24	Nov, 24	IFF	Invoice Furnishing is an optional facility which enables the small registered person, furnishing the quarterly Form GSTR-1, to file their invoice details on monthly basis.
13-12-24	Nov, 24	GSTR-5	Summary of outward taxable supplies and tax payable by a non-resident taxable person
Upto the Filing of GSTR-3B	Nov, 24	GSTR-1A	A taxpayer who needs to amend any supply record furnished in GSTR 1 or need to add any supply record of same tax period, the same can be done through GSTR 1A in the same month after filing of GSTR-1 and before filing of GSTR-3B.
20-12-24	Nov, 24	GSTR-5A	Summary of outward taxable supplies and tax payable by a person supplying OIDAR services
20-12-24	Nov, 24	GSTR-3B	Summary of outward supplies, ITC claimed, and net tax payable for taxpayers with turnover more than Rs.5 crore in the last FY or have not chosen the QRMP scheme for the quarter of Oct - Dec, 24
25-12-24	Nov, 24	PMT-06	Due Date of Payment of Tax for the month of November 2024 for Taxpayers Opting for the QRMP Scheme
31-12-24	FY 23-24	GSTR-9	Furnishing of Annual Return for the F.Y. 2023-24 for Regular Taxpayers having turnover above Rs. 2 Cr
31-12-24	FY 23-24	GSTR-9A	Furnishing of Annual Return for the F.Y. 2023-24 for Taxpayers opting for Composition Levy
31-12-24	FY 23-24	GSTR-9C	Furnishing of Reconciliation Statement for the F.Y. 2023-24 for Regular Taxpayers having turnover above Rs. 5 Cores

Income Tax:

Date	Period	Form No.	Description
07-12-24	Nov, 24	TDS/TCS Payment	Due date for deposit of Tax deducted/collected for the month of November, 2024. However, all the sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
07-12-24	Nov, 24	TCS	Uploading of declarations received in Form 27C from the buyer in the month of November, 2024

15-12-24	Oct, 24	Form 16B, Form 16C, Form 16D, Form 16E	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of October, 2024
15-12-24	Oct - Dec	Advance Tax	Third instalment of advance income-tax for the assessment year 2025-26 (for any assessee other than the person who is covered by section 44AD or 44ADA)
15-12-24	Nov, 24	Form No. 3BC	Due date for furnishing statement by a recognised association in respect of transactions in which client codes been modified after registering in the system for the month of November, 2024
15-12-24	Nov, 24	Form no. 3BB	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of November, 2024
15-12-24	Nov, 24	Form 24G	Due date for furnishing statement by an office of the Government where TDS/ TCS for the month of November, 2024 has been paid without the production of a challan
30-12-24	Nov, 24	Form 26QB, Form 26QC, Form 26QD, Form 26QE	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of November, 2024
31-12-24	FY 23-24	ITR 1 to ITR 7	Furnishing of belated or revised return of income for the Assessment Year 2024-25
31-12-24	FY 23-24	Form 3CEAD	Furnishing of report for a reporting accounting year (assuming reporting accounting year is January 1, 2024 to December 31, 2024) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.

PF & ESIC:

Date	Period	Form No.	Description
15-12-24	Nov, 24	PF & ESIC	PF deducted from the Employees salary in the month of Nov24, needs to be paid on or before 15th of Dec, 2024 The payment of ESIC is made by every employer to the ESIC department on a monthly basis.

PHOTO GALLERY



CPE SEMINAR ON 08.11.2024 AT ICAI BHAWAN, TIRUPUR



CPE SEMINAR ON 22.11.2024 AT ICAI BHAWAN, TIRUPUR



ONE DAY CPE WORKSHOP ON 23.11.2024 AT ICAI BHAWAN, TIRUPUR



CPE SEMINAR ON 29.11.2024 AT ICAI BHAWAN, TIRUPUR