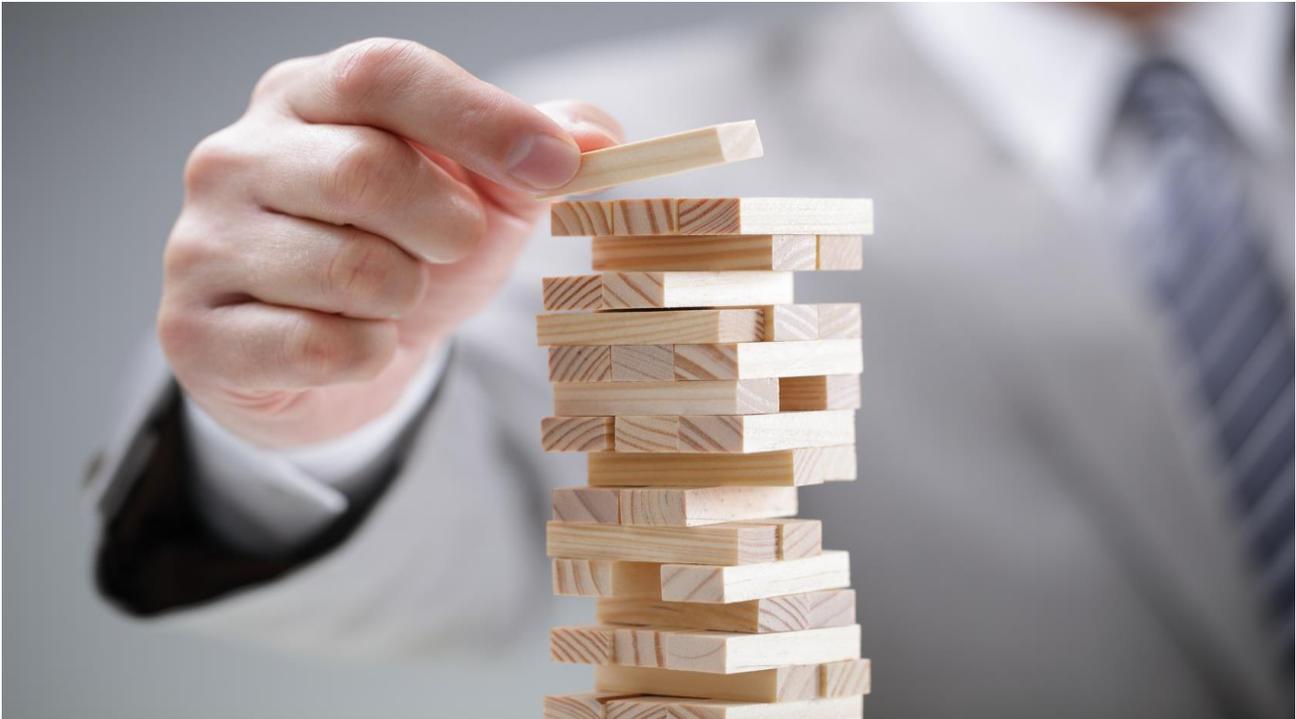


Report issued by the Joint Committee on business processes for GST

9 October 2015



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Glossary of the abbreviations used:

Abbreviation	Description
BRC	Bank Realization Certificate
BRN	Bank's Reference Number
BTR	Bank's Transaction Number
CA	Chartered Accountant
CGST	Central Goods and Service Tax
CIN	Challan Identification Number
CPIN	Common Portal Identification Number
CSD	Canteen Stores Department
ECS	Electronic Clearing Service
GAT	Gross Annual Turnover
GST	Goods and Service Tax
GSTIN	Goods and Service Taxpayer Identification number
GSTN	Goods and Service Tax Network
ICEGATE	Indian Customs Electronic Commerce / Electronic Data Interchange Gateway
IGST	Integrated Goods and Service Tax
ISD	Input Service Distributor
IT	Information Technology
ITC	Input Tax Credit
NEFT	National Electronic Fund Transfer
PAN	Permanent Account Number
PLA	Personal Ledger Account
RTGS	Real Time Gross Settlement
SCN	Show Cause Notice
SGST	State Goods and Service Tax
SMS	Short Messaging Service
TRT	International Tourist
UID	Unique Identification Number
UN	United Nations
UTR	Unique Transaction Number
VAT	Value Added Tax

Background:

- The Central Government is keen on introducing the GST Bill for which leaps and bound efforts are being made.
- Recently, on October 06, 2015, the Department of Revenue (under Ministry of Finance) has published the report, of the Joint Committee, on certain business processes pertaining to the upcoming GST regime, for which the comments are invited from the public at large in respect of the processes discussed therein.
- Following reports have been published to engage with the stakeholders and invite comments from the public at large:
 - A. Report on registration process under the GST regime
 - B. Report on payment process under the GST regime
 - C. Report on refund process under the GST regime
- The comments/feedback on the aforesaid reports can be submitted through the MyGov.in portal, on which the discussion threads on GST would be made available shortly. The links to the discussion threads soliciting comments on the draft Business Processes will be posted on <http://dor.gov.in/scgst>.
- The salient features of the aforementioned reports have been discussed in the ensuing pages:

A. Report on registration process under the GST regime:**1. Proposed business process are based on following assumptions:**

- A legal person without GST registration can neither collect GST from his customers nor claim any input tax credit of GST paid by him.
- Threshold limit of GAT will be specified, crossing which it will be mandatory to take registration. GAT will be calculated on all-India basis including exports and exempted supplies.
- Application for registration shall be made within 30 days from the date of the dealer's liability for obtaining registration.
- All the existing registered persons under any statutes (Centre and State) being subsumed in GST, would be allocated a GST registration number called as GSTIN on voluntary basis.
- Taxpayer would be eligible for ITC in respect of all his purchases from the date of application, provided application for registration has been made within aforesaid 30 days. In case of application made after 30 days, ITC in respect of all his purchases shall be eligible from the date of registration.
- A legal person can also opt for voluntary registration irrespective of his all-India GAT. Post taking voluntary registration person can enter into credit chain (can collect GST and can claim ITC of GST).
- Another threshold limit of GAT (to be calculated on all-India basis) will be specified, to be called as Compounding Turnover, up to which the registered person can opt to pay tax at a specified percentage of Turnover, without entering the credit chain. It is optional for the registered person having turnover lower than threshold to opt for compounding scheme. Once option of Compounding is availed, compounding dealers shall remain under the scheme till their turnover crosses threshold or they opt out of the scheme. Such dealer don't have to apply every year to remain under the scheme.
- Irrespective of GAT, if taxable person carries out any inter-state supply and / or is liable to pay GST under reverse charge, he will be compulsorily required to take registration. Such person shall neither be eligible for exemption threshold nor for Compounding scheme.
- All UN bodies seeking to claim refund of taxes paid by them would be required to obtain UID from the GST portal. The supplier supplying to these organizations shall mention UID on the invoices and treat such supplies as B2B supplies and the invoices of the same will be uploaded by the supplier.
- Concept of ISD may continue in the GST law, wherein Input service can be distributed. Recommendation has been made to drafting committee to allow distribution of credit in regard to Inputs as the location of payment of GST may be distinct from the location where goods are received.

***Our comments:** There is no clarity on whether the Centre's Law for ISD would be equally made applicable to SGST charged on services. Considering that GST would be a common law for CGST and SGST, it appears that the recommendation has been made to allow this even for SGST. Allowing distribution of credits through ISD mechanism is a welcome recommendation as it would avoid unnecessary accumulation of credits in one particular jurisdiction.*

- In case of enforcement cases, tax authorities may grant suo-moto registration. If such person does not have PAN, the registration would be initially temporary and later converted into a PAN based registration.
- For each State the taxable person will have to take separate registration, even though the taxable person may be supplying goods or services or both from more than one state as a single legal entity. Taxable

person can also obtain multiple registrations within one state for business verticals, subject to all the verticals being on the same scheme of tax treatment if the GST law so provides.

- Supplier not registered on regular basis (mandatory or voluntary) in other state(s) and desires to conduct business in a particular state for a limited period, will have to obtain registration in that state for limited period. Such supplier are known as Casual Dealer. At the time of registration supplier shall estimate its supplies and on basis of such estimate supplier shall also self-assess its tax liability and shall deposit the same as an Advance Tax by way of two Demand Drafts (one for Centre and other for state). Tax paid as advance will be return to taxpayer after he discharges his final liability.
- Provisions applicable to Casual dealer shall also be made applicable to Non-resident supplier (registered in any other state and makes an Intra-state supply of goods or service or both, but is not a resident in the state in which he has applied for registration) except that no security deposit or advance tax collection may be made in their case.

2. Structure of registration number:

- Each taxpayer will be allotted a State wise PAN-based 15-digit GSTIN.
- Features of the GSTIN will be as follows:
 - First two digits will represent the State code (as given in terms of Indian Census 2011, for example '27' for the state of Maharashtra); Next ten digits will represent PAN number
 - 13th digit would be alpha-numeric, which will be depend on the number of registrations a legal entity has within one state. For example if legal entity have single registration within a state, 13th digit would be '1' and the same legal entity goes for second registration within a state 13th digit would be '2', this way maximum 35 business verticals of the same legal entity can be registered within a state.
 - 14th digit will be kept blank for future use.
 - Nothing has been specified in the report for usage of 15th digit.
- In GST regime, multiple registrations within a state for business verticals of a taxable person would be allowed, subject to following specific stipulations:
 - ITC across business verticals of the taxable person shall not be allowed unless the goods or services or both are actually supplied across the verticals.
- For the purpose of recovery of dues, all business verticals, though separately registered, will be considered as a single legal entity.

3. Switching over from Compounding scheme to Normal scheme and vice-versa would be dealt in the manner prescribed below:-

- Existing taxpayer, can opt for compounding scheme only at the beginning of the next financial year and the application for the same will have to be filed on or before 31st March of the previous year, so that returns can be filed accordingly.
- Compounding dealer can opt to switch over to Normal scheme even during the year if they so want, provided they cannot again opt for compounding scheme during the same financial year.
- On crossing compounding threshold, existing taxpayer under compounding scheme will be switched to normal scheme automatically from the day following the day of crossing the compounding threshold.

4. Procedure for obtaining and amending registration:

- Under GST regime, registration will not be allowed without a valid PAN.
- For obtaining registration, all the taxable persons shall interact with tax authorities through a common portal called GST Common Portal that would be setup by GSTN.
- Taxable persons, who are not IT savvy, can also apply for registration through Tax Return Preparer or through Facilitation centre.
- Different procedure has been prescribed for registration for 'new applicants' and the 'existing registrants either with the Centre or State or both'. Procedure in detail is specified in 'Annexure 1' (for draft format of the application form refer page 31 of the 'Report on GST registration').
- When taxable person opts for compounding scheme he should indicate so in the registration form and GST common portal would internally flag him as a compounding dealer (for draft format of the application form for compounding scheme, refer page no. 43 of the 'Report on GST registration' copy). Later when he opts to / automatically go / goes out of the compounding scheme, said flag will be removed and would continue operating with the same registration number, without undertaking any fresh registration (for draft format of the application form for withdrawal from composition scheme, refer page no. 45 of the 'Report on GST registration').
- In case of any change in the information given at the time of taking registration, registration holder shall apply for amending the registration within the stipulated time. Said activity shall be on self-service basis for normal registration holder. In case of registration under compounding scheme, registration holder shall give reason for changes along with prescribed documents and approval for amendment will be subject to approval by the concerned tax authorities (for draft format of the application form for amendment in the registration, refer page no. 47 of the 'Report on GST registration').

5. Cancellation / Surrender of registration:

- Registration can be either surrendered by the registrant or cancelled by the tax authorities on happening of certain specified event like closure of business, transfer of business, etc. (for draft format of the application form for surrender of registration refer page no. 40 of the 'Report on GST registration').
- Cancellation of registration may be done by tax authorities in case of tax payer contravenes provision of GST law, non-filing of return for a stipulated period of time, etc.
- The cancellation of registration may be preceded by system generated notice giving 7 days' time for furnishing reply by the tax payer.
- On request of tax payer, tax authorities can revoke cancelled / surrendered registration.
- Action for revocation / cancellation of registration would have to be initiated by both Centre and State tax authorities. Once the registration is cancelled by one authority it would be deemed to be cancelled by other authority also.

B. Report on payment process under the GST regime:

1. Salient features on GST payment process:

- Three modes of payment are proposed:
 - (i) Through Internet Banking (through authorised bank) and through credit card/debit card (of all banks)
 - (ii) Over the Counter payment (OTC) through authorized banks (for payments up to Rs. 10,000/- per challan only)
 - (iii) Payment through NEFT/RTGS (through any bank)

Note - Detailed procedure for each of such option has been provided in 'Annexure 2'.

- Payment by book adjustment or debit to export scrips will not be allowed.

***Our Comments:** Presently there are many export incentive schemes like MEIS, SEIS etc. which allows payment of local procurement taxes like Excise duty, service tax etc. by using the export scrips. It is not clear whether (a) old scrips would be allowed to be used (b) new export scrips would be issued.*

- The challan will be generated electronically at GSTN and no manual challan will be used under any mode of payment.
- Challan will have a unique 17-digit number containing 14-digit CPIN generated by GSTN for a particular challan and unique 3-digit Bank code (MICR based which will be communicated by RBI to GSTN).
- Payment of taxes can be made by following:
 - (i) By Registered tax payer or his authorized person
 - (ii) By authorized representatives of tax payers (on behalf of registered taxpayers represented by him)
 - (iii) By person to whom temporary Registration number has been granted (for facilitating tax payments on behalf of an unregistered person)
 - (iv) By a registered or unregistered person on behalf of the taxpayer
- Option to pay CGST, IGST, Additional Tax and SGST through a single challan.
- Under GST regime, some taxes and duties may remain outside the purview of GST and will continue to be collected in the manner prescribed under existing accounting procedures/rules/manuals, etc. This means that two types of challans (one for GST and other for non-GST) will be used and accounted for by the respective Pay and Accounts Offices (PAOs)/State AGs.

2. Challan Correction Mechanism:

- The Committee recommends for providing the correction mechanism in following situations:-
 - a. Error in major head (wrong head of tax account):** It is proposed to permit banks to rectify such error before the end of the day during which the amount has been received by the bank.
 - b. Error in total amount:** If the amount paid is in excess then there is provision for either claim of refund by the taxpayer or the amount can be carried forward to the next period and therefore there is no need to provide for correction mechanism.

C. **Report on refund process under the GST regime:**

The report on refund process under the GST regime discusses about various procedural aspects pertaining to refund of GST. Below is the synopsis of each of such procedural aspect discussed in the report:

1. **Situations where refund would arise**

Below is the list of situation under which the refund may arise in the prospective GST regime, along with the proposed procedure inscribed:

a. Excess payment of tax due To mistake or inadvertence:

- In case of wrong mention of nature of tax (CGST / SGST / IGST) or in case of wrong mention of GSTIN, the taxpayer may file a refund application which should be decided within a period to be prescribed by the GST Law.
- The IT system for GST should be in a position to make a distinction between payment linked to return and payment in response to specific demand. The payment challan may have a separate field to identify the type of payment.
- System of payment i.e. tax period wise or a system of Personal Ledger Account (PLA), to be pondered upon. Kerala model of return cum challan may also be examined by the GST Law Drafting Committee / Payment Committee.
- In a scenario where the amount has been mentioned wrongly, the excess amount of tax, at the option of the taxpayer, would either be carried forward or refunded on submission of application (return itself can be treated as a refund application).
- The law may also provide for automatic set off of the excess tax paid where the excess payment of tax is not on account of interpretations of notifications, application of exemptions etc.
- Time limit may be laid down for *suomoto* re-credit of the excess tax paid as reflected in the return.

b. When goods/service are exported (including deemed export):

❖ Export of Goods

- Export are proposed to be Zero rated i.e. no tax to be levied on export of goods, however, input tax credit shall be available.
- A mechanism is proposed, whereby, GST paid on inputs (including input services) or on exported finished goods (through cash or by utilization of input tax credit) is refunded to the exporter.
- It is proposed to eliminate the option of procuring duty free inputs to be utilised for export of goods.

Our Comments: *It may be noted that presently, goods can be procured without payment of duty under Rule 19 or under various schemes of the Foreign Trade Policy. Disallowing procurement of duty free inputs could lead to a huge cash-flow blockage for businesses.*

- The report proposes a single process for payment of refund of GST paid on inputs (including input services) and for payment of rebate of GST on finished goods. The process has been incorporated in '**Annexure 3**'.

❖ Export of Services

- The report recommends that in the case of export of services, BRC would be required before sanction of the refund of GST paid on inputs (input services) / rebate of GST paid on exported services.
- Relevant date, in case of export of services, will be the date of invoice or the date of BRC, whichever is later.
- E-BRC module may be integrated in the refund process under GST.
- Since exports of services cannot be verified online through ICEGATE, separate application would be required for refund of service exported.

❖ Deemed Export of Goods or Services

- Deemed export to be treated at par with the physical/actual exports and the procedure as mentioned above would be applicable except the following:
 - a. The supplier of final goods, will pay the IGST on his supplies and can claim refund, only if, the IGST amount has not been collected from the recipient. It is also required to be verified that the recipient has not availed the input tax credit in respect of such supplies.

Our Comments: Presently, for certain supplies, terminal excise duty exemption is available under the Foreign Trade Policy. This together with the fact that procurements for such exports may not be duty free, is likely to result in blockage of cash flows.

- b. A simple refund application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by him, being claimed as refund. A threshold amount may be prescribed, below which self-certification (instead of CA Certificate) would be sufficient.
- c. The recipient unit would be eligible for refund of IGST, if it has actually paid IGST at the time of obtaining goods / services from the domestic supplier. Both the supplier and the recipient unit cannot obtain refund at the same time in respect of the same transaction.
- d. Recipients not registered under GST regime would have to submit copies of all the invoices, etc. in case claim of refund is filed by them.

❖ General

- Partial/provisional refund mechanism as prevalent under the VAT legislation of certain States, not to be adopted under GST regime. Refund claim to be sanctioned in entirety within the time limit laid down in the GST Law.
- Refund of ITC of GST paid on inputs (including input services) not to be admissible when such inputs are used for exporting goods on which Customs Export Duty is leviable.

Our Comments: In the current scenario, no such restriction exists.

- Requirement of BRC for sanction of refund in respect of export of services and as a post facto verification in case of export of goods may be provided in the GST Law.
- IGST paid at the time of exports, to be refunded by the Centre. CGST, SGST, IGST paid on inputs (including input services) used for exported goods to be refunded by the respective tax administration.

Our Comments: *Sharing of documents should be prescribed as otherwise, it would result in filing of same set of documents to multiple authorities for claiming refund.*

- Principle of unjust enrichment not applicable in case of actual export of goods or services. In case of deemed exports, the concept is applicable.
- The amount of input tax credit claimed as refund may be blocked at the time of refund application. If the refund claim is rejected wholly or partially the rejected portion of the ITC claim amount will be restored in the ITC ledger of the applicant.

c. Finalization of provisional assessment:

- The returns of the taxpayer will be electronically filed. Return to indicate whether the tax being paid is provisional or final. If it's provisional, there should be a drop box indicating the reasons for provisional payment.
- The return/assessment may be kept provisional subject to acceptance, of the stated reason, by the assessing officer.
- Thereafter the return may be taken up for finalization. GST law may prescribe time period for finalization i.e. 90 days and this time line should not be breached, as far as possible.
- At the time of finalization of the return / assessment by the assessing officer, he shall pass a speaking order.
- Refund would be subject to 'unjust enrichment' which would be examined at the time of finalization of assessment.
- The model GST Law may provide for appropriate provisions relating to the principle of unjust enrichment.
- For satisfying the requirement of unjust enrichment, Chartered Accountant's Certificate would be required, certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund.
- A threshold limit may be prescribed, below which, self-certification (instead of CA Certificate) would be sufficient.
- The differential amount claimed as refund will be reflected in the return for the month in which the finalization takes place.

d. Refund of pre – deposit for filing appeal including refund arising in pursuance of an appellate authority's order:

- Taxpayer may file a simple refund application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund. A threshold amount may be prescribed, below which self-certification (instead of CA Certificate) would be sufficient.
- Refund not to be kept in abeyance if the appellate authority's order (in pursuance of which refund arises) is appealed against at the next higher appellate forum unless such refund order is stayed by a higher appellate authority.

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- GST Law may provide for certain predefined period during which refund may not be granted which can be regarded as the mandatory waiting period for the outcome of the appeal / application for stay.
 - Powers may be provided to jurisdictional authority at sufficiently senior level for withholding the refund in exceptional cases on the condition that interest at appropriate rate has to be paid.
- e. Payment of duty/tax during investigation but no / less liability arises at the time of finalization of investigation / adjudication:**
- If the GST Law does not debar suo-moto payments made during investigation / audit process and ultimately no/less demand arises vis-à-vis amount already paid, then refund of such amount may be handled as per the procedure given below:
 - A separate mechanism for the accounting of such payments has to be designed. This process should be simple and hassle free.
 - The taxpayer should be immediately eligible to claim refund of the amount that is found to have been paid in excess during investigation, etc.
 - Taxpayer may file a simple refund application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by him, being claimed as refund. A threshold amount may be prescribed, below which self-certification (instead of CA Certificate) would be sufficient.
 - The model GST Law may provide for a time limit after which only the refund can be sanctioned either by cash or by adjustment order at the option of the tax payer by the jurisdictional officers.
 - Refund may be withheld only if the department has obtained a stay order on the operation of the adjudication order, failing which, refund has to be allowed.
 - Powers may be provided to jurisdictional authority at sufficiently senior level for withholding the refund in exceptional cases on the condition that interest at appropriate rate has to be paid.
- f. Refund for tax payment on purchase by UN bodies, supplies to CSD canteens, para military forces canteens, etc.:**
- Following process for grant of refund is recommended for the purchases made by UN bodies:
 - Refund on purchases by UN Bodies may be granted from only one office each of both the tax administrations within one State.
 - UN Bodies may be assigned a unique identification number (ID) the structure of which would be uniform across the States in conformity with the GSTIN Structure. (Some other structure may have to be considered as such bodies do not have PAN)
 - The registration document, return document and invoice would contain a column for capturing this Unique ID.
 - There has to be a separate field for allotting ID to such bodies.
 - While making supplies to such bodies, the suppliers must indicate the Unique ID on the invoices.
 - The UN Bodies may file their purchase statements (without purchase invoices) along with their claim for refund.

- The GST Law may provide that some purchases are ineligible for refund (e.g. invoice value less than the prescribed threshold, goods / services specified as ineligible for refund, etc.). Such cases should be specifically marked in the purchase statement or may not be included in the purchase statement.
 - The net claim will be related to GST paid on total purchases minus GST paid on ineligible purchases.
 - The IT system will carry out the matching with the sales statements of the counter party suppliers.
 - The matched and claimed to be eligible invoices will be seen by the jurisdictional authority to verify that none of the ineligible purchases have been included in the refund claim.
 - The refund may be granted based on the matching and the limited manual verification.
 - There might be situations when the supplier does not declare the supply in his monthly return. In such a case, unmatched invoices will get marked by the IT system and the supplier will be notified accordingly.
 - The UN body may be granted refund along with its next claim if any of the unmatched supplies have been accepted and related GST has been paid by the supplier and return has been filed subsequently.
 - The personal purchases by the staff may also be done seeking ID of the UN body on the invoice.
 - Such invoices in the statement can be marked as "for personal consumption" for any additional verification in case of any restriction under the GST Law.
 - GST Law Drafting Committee may provide for appropriate provisions whether refund has to be given for the personal purchases by the staff of UN bodies and Embassies. Such provisions may also relate to limits or restrictions, if any on such refunds.
- Suppliers to CSD Canteens, Para Military Canteens would not be eligible for exemption. The procedure as detailed above would apply in respect of supplies to CSD Canteens, Para Military Forces canteens etc. and these bodies would claim refund.
 - Form of application for refund which may be used by such bodies is enclosed as Annexure-VII to the report. (Refer page 48-49 of the Report on Refund Process).

g. Tax Credit On Inputs Used For Manufacturing /Generation /Production /Creation Of Tax Free Supplies Or Non-GST Supplies:

- It is recommended that the model GST Law may provide that the suppliers of exempted / NIL rated / non GST goods or services would not be entitled to the ITC of GST paid on inputs (including input services or capital goods) received by them and consequently for refund of GST paid by them. In case of mixed supplies, ITC may be allowed proportionately.
- The tax credit on the inputs used for supply of exempted / NIL rated / non GST goods or services should be treated as "ineligible input tax credit" and there should be an appropriate provision in the return to provide the related invoice details.
- In addition to ineligible input tax credit discussed above, there may be other types of ineligible input tax credits such as those related to specified capital goods / assets. It is recommended that the model GST law may provide for the full scope of such ineligible input tax credits.

- It is also recommended that such ineligible tax credit should accrue to the importing States in accordance with the Place of Supply Rules. This imperative will also apply to the inter-state supplies procured by the economic entities / government departments / public bodies supplying tax exempt / nil-rated / non-GST goods and services only.

h. Refund Of Carry Forward Input Tax Credit:

- It is noted that the ITC may accumulate on account of the following reasons :
 - a) Inverted Duty Structure i.e. GST on output supplies is less than the GST on the input supplies;
 - b) Stock accumulation;
 - c) Capital goods; and
 - d) Partial Reverse charge mechanism for certain services.
- As regards the accumulated ITC attributed to accumulation of stock or capital goods, it is recommended that GST Law may provide that refund of carried forward ITC may not be allowed and such amount would be carried forward to the next tax period (s). The GST Law may provide for appropriate provisions in this regard.
- It is proposed to have fewer tax rates and fewer exemptions and therefore it is felt that chances of inverted duty structure would not be there or would be very minimal.
- But still there might be a possibility that ITC may accumulate on account of inverted duty structure. It is recommended that in such case, cash refund may be granted after due audit and should be sanctioned only after the input tax credit has been matched from the purchase and sales statements filed along with monthly returns. The refund would be granted on submission of application. It may be mentioned, however, that presently the Centre does not grant refund in such cases.
- 2 options i.e. blocking the utilization of input tax credit claimed as refund at the time of submission of application for refund itself or debiting the input tax credit account / cash ledger subject to the amount available in either account at the time of issuance of sanction order of refund were discussed.
- It is recommended that the first option should be adopted. Suitable linkage between the refund application and blocking of the "carry forward input tax credit" in the return/cash ledger should be built in GSTN and refund backend processing system.
- In case of partial reverse charge, service provider may be left with unutilized balance in the input credit account as he is not liable to discharge the tax liability in full. In such cases, refund may be granted if the GST law provides for a joint reverse charge mechanism.

***Our Comments:** Like in the present case, it appears that no credit / refund would be allowed in case of complete reverse charge mechanism. This should be re-visited as it is a case where GST is being paid and still credit / refund is not allowed.*

i. Refund on account of year end or volume based incentives provided by the supplier through credit notes:

- Following procedure is recommended in respect of refund arising on account of year end discounts or volume based discounts, given through credit notes:

- The refund would be granted on submission of a simple application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund. Threshold limit may be prescribed, below which self-certification (instead of CA Certificate) would be sufficient.
- In such cases, the eligibility for ITC at the buyer's end and the output liability at the supplier's end will get simultaneously reduced / adjusted on the basis of credit notes issued by the supplier and the corresponding debit notes issued by the buyers.
- This would also obviate the need for resorting to provisional assessment presently provided in Central Law and discussed in para (c) above.
- The GST Law may contain suitable provision to this effect and the GSTN should have suitable validations to this effect. The validation should include matching of credit and debit notes and reversal of the reduction of the output tax liability in case of the mismatch.

j. Tax refund for international tourists:

- Tax Refund for International Tourist (TRT) scheme would be available to the foreign tourists to purchase goods during their stay in India on payment of GST and obtain refund of the GST so paid, at the time of exit from the country.
- This scheme will be implemented through particular retailers who are registered for this scheme.
- Refund of GST will be available at designated airports and ports only and the refund of the GST paid on retail purchase by the foreign tourists during their stay in India is allowed. A part of the eligible amount of refund will be deducted as handling fee for services rendered.

2. Refund forms

- The form should be simple to fill, easy to understand and more importantly, it should be in electronic format. The forms for Refund Claim, Refund order and Reduction / Adjustment summary are enclosed as Annexure –IV to VII to the report. (Refer page 43-49 of the Report on Refund Process)

3. Time period for filing of refund and relevant date:

- Period of 1 year from the relevant date may be allowed for filing of refund application. The following dates have been recommended as relevant dates for different type of refund cases:
 - Date of payment of GST when the refund arises on account of excess payment of GST due to mistake or inadvertence.
 - Date on which proper officer under the Custom Act gives an order for export known as "LET EXPORT ORDER " for the purpose of refund filed on account of export of goods under claim of rebate of GST paid on exported goods or refund of accumulated input credit of GST when goods are exported.
 - Date of BRC in case of refund on account of export of services under claim of rebate of GST paid on exported services or refund of accumulated input credit of GST when services are exported.
 - Date of the finalization order where refund arises on account of finalization of provisional assessment. (May not be required if the GST law does not provide for provisional assessment)
 - Date of communication of the appellate authority's order where the refund arises in pursuance of an appellate authority's order in favour of the taxpayer.

- Date of communication of adjudication order or order relating to completion of investigation when refund arises on account of payment of GST during investigation, etc. when no/less liability arose at the time of finalization of investigation proceedings or issuance of adjudication order.
- Date of providing of service (normally the date of invoice) where refund arises on account of accumulated credit of GST in case of a liability to pay service tax in partial reverse charge cases.
- Date of payment of GST for refund arising out of payment of GST on petroleum products, etc. to Embassies or UN bodies or to CSD canteens, etc. on the basis of applications filed by such persons.
- Last day of the financial year in case of refund of accumulated ITC on account of inverted duty structure.

4. Supporting documents:

- Documents evidencing tax payments required to be enclosed with the refund application should be minimal but adequate so that both the taxpayer and tax authority find it easy to deal with the application.
- Normally following documents are required to establish the rightful claim of refund:
 - It is recommended that the copy of challans/returns may not be called for as in the proposed GST scenario payment of duty will be in electronic mode and the same will be easily visible to the refund sanctioning authority on screen.
 - It is noted that the IGST Committee has recommended that the taxpayers would upload their invoice details on monthly basis. Once the same is done and the refund sanctioning authority is able to examine and view them on screen then submission of invoices can be dispensed with.
 - With regard to 'Quantity' in the invoices, the applicant for refund in such cases would submit the copies of the invoices or a statement containing details of quantity along with the refund application. In the proposed GST scenario it is recommended that the ICEGATE and GSTN would be inter linked, and therefore the documents evidencing exports, can be verified on line and therefore can be dispensed with.
 - Documents evidencing that the tax burden has not been passed on to the buyer.
 - It is recommended that the state and central tax authorities together prescribe the documents that are required for demonstrating the legitimacy and correctness of refund claimed and checklists can be generated for refund sanctioning process.

5. Receipt of refund application and procedure for generating proof of receipt of application for refund:

- It is recommended that the State Tax authorities shall deal with the SGST refund and Central Tax authorities shall deal with refund of CGST and IGST. The following procedure is proposed in this regard:
- Applicant may be given the option of filing refund application either through the GSTN portal or through the respective State / Central Tax portal. Instead of filing applications with different tax authorities, the same may be filed with the GSTN portal which will forward it to the respective tax authority.
- On filing of the electronic application, a receipt/ acknowledgement number may be generated and communicated to the applicant via SMS and email for future reference. A provision may be made to display the application for refund in dealer's online dashboard when he logs into the system.

- The “carry forward input tax credit” in the return and the cash ledger should get reduced automatically, if the application is filed at GSTN portal itself. In case the application is filed at the tax department portal, suitable integration of that portal with GSTN portal should be established to reduce / block the amount before taking up the refund processing.
- It should be clearly mentioned / highlighted that generation of this number does not in any way affirm the legality, correctness or completeness of the refund application.

6. Number of copies of applications to be filed:

- As the filing of the electronic refund application is a preferred mode, filing of multiple copies of applications is not required.

7. Requirement for taxpayer to keep a copy of refund application for the prescribed period:

- An option for saving the application of refund filed electronically should be available so that the applicant can keep a record of the same.

8. Procedure and time within which preliminary scrutiny of submission of the relevant documents is carried out:

- Application to be examined by jurisdictional officer for deficiency, if any.
- It has been recommended that the preliminary scrutiny may be carried out within 30 common working days and deficiency, if any, should be communicated to the applicant directly from the respective tax portal.
- It is recommended that tax authorities should make efforts to ensure that piecemeal queries are avoided.
- Applicant may file his reply through the respective tax authority portal / GSTN.
- Any further queries should be raised only with the approval of higher authorities so that unnecessary queries are avoided.
- Once the refund application is found to be complete in all respect, the same may be communicated to applicant via SMS and e mail and the date of communication shall be considered as the relevant date for the purpose of time limit prescribed for sanctioning of refund and initiation of interest clause.

9. Procedure for dealing with refund thereafter including examination of principle of “unjust enrichment” :

- The jurisdictional tax authority should examine the same in the light of the provisions of the GST Law relating to refund.
- Important parameters include the timeliness of refund application, tax payment, date of export (if relating to export), reasons for refund etc.
- For the sake of uniformity, the state and central laws should have similar provisions.
- Every refund application should be examined in light of the principle of “unjust enrichment” and the appropriate provisions may be incorporated in the GST law.

- The burden of discharging the obligation under “unjust enrichment” should be on the applicant and documents manifesting the same should be submitted along with the application. Chartered Accountant’s Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund should be submitted. The GST Law Drafting Committee may prescribe a threshold amount below which self-certification (instead of CA Certificate) would be sufficient.
- If the refund is not found to be legal or correct for any reason, then Show Cause Notice (SCN) may be issued and thereafter the refund will be kept in abeyance in the system till the SCN is adjudicated.
- In case, the refund application does not satisfy the test of unjust enrichment, the refund amount, after sanction, would be credited to the Consumer Welfare Fund or to the consolidated fund of State / Union.

10. Minimum amount below which refund shall not be granted:

- It is recommended that an amount in the range of Rs. 500-1000/- may be fixed, below which refund shall not be granted. This limit should be uniform for both CGST/IGST and SGST.

11. Sanctioning of refund:

- For granting refund it would be essential that the details of the bank account are sought from the applicant at the time of filing of the refund application itself so that the amount of refund can be transferred to the applicant electronically through NEFT /RTGS/ECS.

12. Verification And Control:

- Every refund would be reviewed by higher authorities in order to ensure the correctness of the decision of refund sanctioning authority.
- Once the refund is sanctioned, the same shall be transferred through the IT system to the menu of the higher authority along with the documents on the basis of which decision was taken by the refund sanctioning authority.
- It is essential that there is simultaneous flow of the refund documents in paper along with the electronic application to the audit section so that the process of post audit can be carried out concurrently.
- Post audit of refund application can be dispensed with if so decided by the respective Tax Jurisdiction for refunds upto Rs. 1 lakh for normal taxpayers and for refund upto Rs. 2 lakhs for certain prescribed categories of applicants (like public sector undertakings, applicants having the AEO Status, etc.) but the process of review of refund may be provided in the GST Law.
- For refund amounts exceeding a pre-determined amount a provision for pre-audit of refund application before the sanction of the refund may be provided for.
- It is recommended that the monetary limit for pre- audit of the refunds sanctioned may be kept at Rs. 1 crore or as may be decided by the respective Tax Jurisdiction.
- The GST Law may provide that the process of audit should be time bound with clearly defined timeline so that quality of audit does not suffer from insufficiency of time.
- It is recommended that either the review procedure or system of pre-audit & post-audit may be kept in the GST Law.

13. Interest:

- It is recommended that the GST Law may provide for a prescribed time limit of 90 days from the date of the system generated acknowledgment of refund application within which refund has to be paid.
- Interest clause will start automatically once the prescribed time limit for sanctioning of refund has been breached.
- Time limit for payment of interest will start from the date of the electronically generated acknowledgement of the refund application signifying that the refund is complete in all aspects.
- Rate of interest in case of refund may be around 6% and that in case of default in payment of interest may be around 18%.
- Interest to accrue from the last date when refund should have been sanctioned even when the refund is ordered to be paid by the order of the appellate authority in the appeal filed by the applicant against order of rejection passed by the refund sanctioning authority.

***Our Comments:** The interest rate on refund and delay should be brought in sync. This would put a great deal of onus on the Departmental authorities for expediting the refund claims.*

14. Adjustment:

- The GST Law may provide for adjusting the refund claim against any amount of un-stayed confirmed demand lying beyond the appeal period.
- The refund order may clearly state the amount so adjusted and particulars of the adjusted demand may also be stated in the annexure to be attached with the order.
- Suggested format for refund application and refund order is enclosed as Annexure-IV to VI to the report. (Refer page 43-47 of the Report on Refund Process).

15. Recovery of erroneous refund:

- It is recommended that the GST law may provide for the provisions for recovery of erroneously granted refunds along with interest.

Annexure 1:

Procedure for registration:

New Applicants

1. New applicant can apply for registration directly at GST Common portal or can apply through Facilitation Centre.
2. Application for multiple registration (within the state or in other state) can be filed at one go.
3. Following scanned documents are required to be filed along with the application for registration:
 - ❖ Proof regarding constitution of business
 - ❖ Proof for principal place of business
 - ❖ Details of bank account
 - ❖ Details of authorized signatory
 - ❖ Photograph of prescribed individual based on constitution of the entity
4. The GST common portal will carry out preliminary verification / validation. Taxpayer have an option to sign the submitted application using valid digital signatures, in absence of digital signature, taxpayer would have to send signed copy.
5. The application form along with the documents will be passed by GST portal to the IT system of the concerned state / Central tax authorities for onward submission to appropriate jurisdictional officer.
6. On receipt of application in their respective system, the Centre / State authorities would forward the application to jurisdictional officers who will examine the uploaded documents within 3 working days (excluding day of submission of application on the portal, using the Digital Signature Certificates).
7. After verification, if the information and the uploaded documents are found in order, state and central authorities shall approve the application and shall communicate the same to the common portal within 3 common working days. Portal will then generate the registration certificate automatically.
8. After verification, if authority raises some query or notices error, same shall be communicated to the applicant within 3 common working days. Applicant shall reply to the query / notice within the time stipulated by the concerned tax authorities. On receipt of additional document / information / clarification, relevant tax authority will respond within 7 common working days. Authority may reject application or may grant registration. In case of rejection, applicant shall have a right to appeal.
9. If the tax authorities in the Centre and State do not respond by way of conveying or raising a query to the application within 3 common working day, then the registration would be deemed to have been approved by both the authorities (Central and State).

Migration of existing registrants:

1. Existing registrants are those who are either registered with the state(s) or with the center or with both.
2. For the taxpayers registered under State VAT/Excise, following procedure shall be followed:
 - ❖ Goods and Service Tax Identification Number ('GSTIN') will be generated by NSDL in case of all VAT TINs where PAN has been validated. Along with password the GSTIN will be sent to respective State Tax Authorities.
 - ❖ Normally there will be disparity on the information taken at the time of taking state VAT registration and the information required for GST registration, therefore State tax authorities will communicate the GSTIN/password to taxpayers, with instruction to log on the GST portal. Post receipt of aforesaid details tax payer shall fill up the remaining data.
 - ❖ The data so collected by GSTIN/NSDL will be provided to states so that they can undertake the verification exercise as per their convenience after 01/04/2016 in a staggered manner.
3. For the taxpayers registered under Service Tax law:
 - ❖ Since all Service Taxpayers have user ID and password and have registered email IDs, taxpayers will be advised for intimation to State(s) where they would like to get themselves registered.
 - ❖ Service Tax portal will check from GST portal whether GSTIN has been generated for combination of State and PAN of the taxpayer. If not generated, request shall be made to GST portal for generation of GSTIN.
 - ❖ Post generation of GSTIN, taxpayer shall provide remaining data at GST portal.

Annexure 2:

Procedure for making payment under the prescribed methods:

Common procedures for each option:

- Every tax payer who wants to avail the facility of e-payment will access GSTN for generation of the draft Challan through which payment is to be made.
- For that, the assessee making payment should log into GSTN Common Portal where basic details (such as name, address, email, mobile no. and GSTIN) of the tax payer will be auto populated in the challan.
- After generation of draft challan, the taxpayer will fill in the details of the taxes that are to be paid.
- The tax payers can partially fill in the challan form and temporarily "save" the challan for completion at a later stage. A saved challan can be "edited" before finalization. After the tax payer has finalized the challan, he will generate the challan, for use of payment of taxes.
- The challan so generated will have a 14-digit (yymm followed by 10-digit) Unique CPIN, assigned only when the challan is finally generated.
- After the challan is generated, it will be frozen and will not be allowed to be modified. The CPIN/challan so generated would be valid for a period of seven days. GSTN would purge all unused CPINs on the day immediately after the date on which the validity period is over.
- Since there are three modes of payment, the tax payer has to choose the e-payment mode, where the tax payer pays tax through (i) internet banking / credit card / debit card or (ii) OTC Payment or (iii) NEFT / RTGS.

1. Specific procedure for making payment through Internet Banking (through authorised bank) and through credit card/debit card (of all banks):

- Once e-payment mode is selected, options will be shown to taxpayer to choose between Internet Banking and Credit / Debit Cards for making payment.
- In case Internet Banking mode is selected, a field with drop down box detailing names of various authorized banks, registered with GSTN for Internet Banking, would be displayed. The taxpayer will have option of choosing his preferred bank for Internet Banking.
- Credit and Debit Cards of all banks shall be accepted. (The taxpayer would be required to pre-register his credit card, from which the tax payment is intended).
- After selecting the appropriate mode of payment, GSTN will forward an electronic string carrying the following details for each challan:
 - a) GSTIN;
 - b) CPIN;
 - c) Challan Amount;
 - d) Break Up of the Amount into CGST, IGST, Additional Tax and SGST;
 - e) State/UT Government to which SGST remittance pertains
- Thereafter the assessee will make the payment.

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- After the successful completion of a transaction, the concerned bank will create a unique CIN against the CPIN.
 - Upon receipt of confirmation from the bank regarding successful completion of the transaction, GSTN will provide the tax payer a copy of the paid challan (downloadable / printable) containing following details:
 - a) CIN;
 - b) GSTIN;
 - c) Bank Reference number (BRN);
 - d) Challan amount;
 - e) Date of Payment;
 - f) Time of Payment

2. Specific procedure for making payment under Over the Counter payment (OTC) mode through authorized banks:

- Every tax payer who wants to avail the facility of OTC payment (only for paying tax upto Rs. 10,000/- per challan), will access GSTN for generation of a challan through which payment is to be made.
- From the available payment options, the taxpayer would select option of cheque, DD or cash based payment.
- The name of the authorized bank and its location (city/town/village) where the instrument/cash is to be presented is required to be filled in necessarily.
- Upon successful saving of the challan details, the challan will be available on the dashboard of the taxpayer in downloadable/printable form. So the taxpayer can either download the challan form or print it offline or can print the challan directly from GSTN.
- If the payment is made by cheque or DD, the challan itself would have a disclaimer that the payment is subject to realization of cheque or DD.
- Thereafter taxpayer will approach the branch of the authorized bank for payment of taxes along with the instrument or cash.
- The taxpayer should preferably carry two copies of the challan, one for the bank's record and another for himself to get acknowledgement.
- On approaching the bank, he should provide the challan itself or at least CPIN number on normal pay-in-slip to enable the cashier / teller to fetch the challan details in his system.
- The cashier / teller will verify the details of challan, payment instrument and amount provided by the taxpayer with those displayed in his system and should accept the receipt only when no discrepancy is found. It is to be noted that if the challan has crossed its validity period of seven days, the bank's system will bar acceptance of the payment.
- In case of cash payments or same bank instruments, the payment would be realized immediately and a transaction number (BTR/BRN) and CIN will be generated immediately at the authorized bank's system.
After generation of BRN, the bank cashier will give a printed receipt from his system including the BTR/BRN and CIN. However, if it not found feasible to print a separate receipt, the cashier may record

the BRN and CIN generated from the system, on the tax payer's copy of the challan or pay-in-slip as acknowledgment.

- In case an instrument drawn on another bank in the same city is presented, the payment would not be realized immediately. In such case, CIN will not be generated immediately, and cashier will write only the system generated acknowledgment number on the challan / pay-in-slip and a stamp to the effect that the acknowledgment by the bank is subject to realization of the cheque / DD.

The tax-payer need not visit the bank again to get CIN as the same will be communicated to him from GSTN.

However, if he does not receive any communication from GSTN within 3 days, he should visit the bank to ascertain the status of his payment.

- When an instrument is given OTC, GSTN will in addition to showing the status of the payment on its portal as subject to realization would provide the following details:
 - a) CPIN;
 - b) GSTIN;
 - c) Challan Amount;
 - d) Bank's acknowledgement number
- After the successful completion of transaction i.e. on the realization of cheque, GSTN will provide the following details in addition to the details mentioned above:
 - a) CIN;
 - b) Date of Realization of Cheque;
 - c) Time of realization of cheque;
 - d) Bank Transaction Number (BRN/BTN).
- ***Further, tax payers whose cheques have once bounced will be debarred from using this OTC mode of payment.***

3. Payment through NEFT/RTGS:

- Every tax payer who wants to avail the facility of payment through NEFT/RTGS mode will access GSTN for generation of a challan through which payment is to be made.
- ***It is pertinent to note that any taxpayer using challan under NEFT/RTGS mode beyond the validity period of seven days of the CPIN more than two times would be barred from availing this facility.***
- It would not be possible to automatically ensure that a CPIN was not used beyond its validity period of 7 days. Hence, it was decided that CPIN once generated and intimated by GSTN to RBI in this mode though will have a validity period of 7 days but would remain live with RBI for a period of 30 days
- Upon successful saving of the challan details, the challan will be available on the dashboard of the taxpayer in downloadable / printable form.
- Besides the generation of challan, GSTN will also generate NEFT / RTGS mandate form in prescribed format.
- The following details will be available in the NEFT / RTGS mandate form:

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- a) Beneficiary IFSC: IFSC of RBI hosting the NEFT / RTGS account for GST;
 - b) Beneficiary Account Number: Account Number of RBI's pooled account for GST;
 - c) **Account Name: CPIN of relevant challan** (suitable validation to be provided by RBI);
 - d) Total Amount;
 - e) **Sender to Receiver Remarks: GST Payment.**
- It is pertinent to note that, the CPIN generated at the portal shall be incorporated in NEFT/RTGS mandate form in "Account Name" field. Further, the "Remarks" field shall mention 'GST Payment'.
 - Further, the payments in NEFT/RTGS mode would be permitted only against cheques and no cash payments would be permitted to initiate NEFT / RTGS transaction.
 - The form will have a provision to write the NEFT/RTGS charges manually and then record the total amount to be collected by the bank.
 - Thereafter taxpayer can print a copy of NEFT / RTGS mandate form and approach his bank branch (any bank) for payment of taxes (within a period of seven days of the generation of CPIN).
 - Upon successful completion of the transfer at the end of the remitter bank, the remitter will get a receipt detailing Unique Transaction Reference (UTR).
 - Taxpayer should thereafter login back to GSTN portal and update the challan details with UTR provided by the remitter bank for NEFT / RTGS transaction.
 - Once the RBI receives the payment in its account with NEFT/RTGS message, it will link up the payment with the CPIN earlier received from GSTN and report the transaction to GSTN on real time basis through an electronic string which will contain the following details:
 - a) CIN (CPIN and Bank Code of RBI);
 - b) GSTIN;
 - c) Challan Amount;
 - d) BRN of RBI;
 - e) Unique Transaction Reference (UTR);
 - f) Time of Payment;
 - g) Date of Payment.

Annexure 3:

Process for payment of refund of GST paid on inputs (including input services) or payment of rebate of GST paid on finished goods:

- a) The IEC details of taxpayer will be captured at the time of issuance of GSTIN and the same can be verified online with DGFT for verifying the correctness of the exporter's particulars.
- b) The refund of ITC / rebate of GST paid on exported goods may be granted on submission of application to this effect by the taxpayer.
- c) Since the trigger point for refund is export of goods, therefore the event of export needs to be verified (mostly online) so as to minimize cases of erroneous / fraudulent claims of refund / rebate.
- d) It is recommended that linkage between ICEGATE of Customs administration and the proposed GSTN of GST administration may be established so that online verification of the exports can be carried out. In any case such linkage has to be established to verify IGST paid at the time of import of goods / services.
- e) It is also noted that, as per IGST Model, there is a requirement for online filing of invoice wise sale / purchase details by the taxpayers' along with the monthly returns. These details can be linked with the Customs data (for export cases) available with ICEGATE.
- f) Normally for export verification the following documents are sought from the applicant :
 - i) Shipping Bill (Export Promotion copy);
 - ii) Mate's Receipt / Transporter's Challan (in case of export by road);
 - iii) Export invoice;
 - iv) Packing list;
 - v) Bill of Lading/ Airway Bill;
 - vi) Bank Realization Certificate (BRC).
- g) Since it is proposed to establish linkage between ICEGATE and GSTN, therefore shipping bill, which includes relevant details from the export invoice and packing list, can be verified online and there would not be any need for the exporter to submit the same. Further, Mate's Receipt and Bill of Lading are the crucial documents that determine the occurrence of event of export, the exporter would be required to upload the scanned copies of the same with online refund application. As regards the BRC, it was noted that as per the RBI guidelines, the exporter has a time period of one year from the date of export, within which the export proceeds are required to be remitted into India. Thus BRC will not be available till the time export proceeds are realized. Therefore it is recommended that submission of BRC may not be insisted upon at the time of filing of refund application and post facto verification can be carried out by the tax authorities. The refund in such cases should be subject to submission of BRC details within a period of maximum one year or such period as extended by RBI from the date of the export. If such details are not submitted at the portal at which the refund application was made, the portal should generate an alert/report for the concerned tax authorities to take up appropriate action. In case of any short receipt of export receipts, necessary action for recovery of proportionate refunded amount may be taken accordingly.
- h) BRC, however, may be verified at the time of exports itself if the payment has already been received in advance. It is also recommended that e-BRC module may be integrated in the Refund process under GST.
- i) The time limit for filing of refund application is normally linked with the date of export and it is proposed that this time limit should be fixed at one year from the date of export. This date is the date on which the

proper officer under the Customs Act gives an order for export of goods commonly known as “Let Export Order” (LEO). This date can also be verified online in view of the proposed linkage between ICEGATE and GSTN.

- j) Once the export is established, verification of the duty paid on the final products at the time of export is required to be carried out. For this, normally, copy of challans/ invoices evidencing duty payment are sought from the exporter and the same are verified manually by the jurisdictional authority. In the proposed GSTN, the payment of GST on exported goods can be verified online (as the sales invoices are required to be filed along with the monthly return) and there is no need for separate submission of these documents. Once the GST paid character of exported goods is established, refund can be sanctioned.
- k) In respect of refund claimed for GST paid on inputs (including input services) used for exported goods, once the export is established, verification of the GST paid on the inputs (including input services) as well as their utilization for the exports is required to be carried out. For this normally copy of invoices evidencing GST payment are sought from the exporter and the same are verified manually by the jurisdictional authority. Besides a declaration is filed by the applicant with the proper officer declaring inter alia input-output ratio for inputs on which refund is sought. In the proposed GST regime, the GST paid character of inputs (including input services) can be established online (as the purchase invoices are required to be filed along with the monthly return) and the refund of input tax credit on inputs (including input services) can be sanctioned once the input tax credit has been matched from the purchase and sale statements filed by the exporter and supplier respectively and there is no need for separate submission of these documents. As regards utilization of the inputs for exports, a simple formula can be adopted that will provide for proportionate credit based on export turnover divided by total turnover. Moreover, a declaration can be obtained from the exporter regarding utilization of inputs in the exported goods.

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