Handicraft Sector

Rate of GST on Handicrafts

- Under the existing tax regime, excise duty is exempted on handicrafts under Notification No. 17/2011-C.E., dated 1-3-2011. Further, handicrafts are placed under Schedule I of the Vat Laws in various states which covers the exempted goods. Therefore, presently handicraft is neither subject to excise duty nor does it attract VAT.
- As per the recent reports, the number of tax exemptions under the GST regime would be reduced significantly. In the representation to be filed before the GST Council/Ministry of Finance, the plea to continue the exemption of handicrafts under GST will be made.
- In alternative, in case the existing exemptions are not continued, a plea will be made that a mechanism should be developed under the GST law to enable the exporter of the handicrafts to procure the goods without payment of taxes for optimization of the working capital requirements of the exporters.

Point to be clarified by stakeholders: How does the requirement of Form H come into place when there is no VAT?

In case handicraft is not exempt, will export of handicraft be subject to payment of GST?

- Under the Model GST law, Section 2(109) provides that Exports shall be treated as 'zero-rated supply' which means that no tax will be payable at the time of exports but credit of the input tax related to that supply will be admissible.
- Further, under Explanation 2 under Section 2(c) of the Model Integrated Goods and Services Tax Act, 2016, it has been provided that an export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce. Such supplies will be chargeable to IGST.

- It is also pertinent to note that the term 'refund' as defined under Explanation (A) in Section 38 of the Model GST Law includes refund of tax on goods and/or services exported out of India or on inputs or input services used in the goods and/or services which are exported out of India.
- Even though it has not been expressly stated under the Model IGST Act, on perusal of the above provisions, it appears that the exporter of goods will have an option to either pay IGST at the time of export or export the goods without payment of taxes (zero-rated supplies). In the first scenario, the refund of the taxes paid will be available to the exporters and in the second scenario, the refund of the tax paid on the inputs or input services used in the goods exported out of India.
- Thus, under the provisions of the Model GST law, the option of exporting the goods without payment of taxes will be available to the handicraft exporters.

Can the procurements by the exporters be made without payment of taxes under GST Regime?

- Under the present regime there are provisions which allow purchase of goods for export without payment of excise duty and CST/VAT subject to fulfillment of specified procedure. Under excise law, the goods can be exported without payment of excise duty under Notification No. 42/2001-CE (NT) by the merchant exporters as well. Further, under Section 5(3) of the CST Act, the last sale or purchase of goods preceding the sale or purchase occasioning the export of goods out of the territory of India is also deemed to be in the course of export out of India and is thus, exempt from CST subject to the prescribed conditions. Under the Model GST Law, there is no provision under which the exporter of goods can procure the same without payment of tax. The FAQ issued by Government on GST issues specifically answers this issue as below:
- *Q 19. Today under VAT/CST merchant exporters can purchase goods without payment of tax on furnishing of a declaration form. Will this system be there in GST?*

- *Ans. No, there will be no such provision in GST. They will have to purchase goods upon payment of tax and claim refund of the accumulated ITC as discussed in section 38(2).*
- As mentioned above, in case the handicrafts are not exempt from GST, a plea will be made in the representation for the development of a mechanism to enable the exporter of the handicrafts to procure the goods without payment of taxes as this will hit his working capital very badly.

Import of Raw Material under Advance License and Plant and Machinery under EPCG Scheme

- Under the existing tax regime, at the time of import of raw material and plant and machinery under the Advance License and EPCG Schemes, respectively the exemption from the entire customs duty viz. BCD, CVD and SAD can be availed.
- However, under the Model GST Law and the other documents issued in this regard, it has not been clarified as to whether the exemption under the said schemes will be only available with respect to the BCD element of the customs duty or whether the exemption will also be available in respect of the IGST element which will be levied instead of CVD and SAD under the GST regime.
- In the representation to be filed, it will be requested that the exemption of the IGST portion of the customs duty should be allowed under the Advance License and the EPCG schemes in the GST regime as well in order to optimize the working capital requirements.

Utilization of scrips

- Under the present tax regime, apart from payment of customs duty, the scrips can be used for payment of excise duty and service tax.
- However, as of now there is no clarity as to under the GST regime whether the scrips can be utilized only for the payment of the BCD element of the customs duty or whether the scrips can be used for the payment of GST as well.

- In the representation to be filed, it will be pleaded that suitable Notifications are issued so as to enable the utilization of scrips for the payment of GST as well so as to optimize the working capital requirements.

GST on Procurements of inputs used in the manufacture of handicrafts to be exported

- At presentunder excise law, as per Rule 19 of the Central Excise Rules, 2002 read with Notification 43/2001-CE (NT), the exporter can purchase the goods used in manufacture/processing of the export goods without payment of duty on fulfilment of certain conditions. Such exemption under sales tax is however not available at the time of procurement of material which are used in the manufacture or processing of the export products.
- In respect of the tax incidence suffered by the exporters on the inputs used in the manufacture/processing of export goods, the exporters are claiming duty drawback.
- Under the proposed GST Law, it appears that there will be no provision for procuring inputs or services without GST for the purpose of use in the supplies that are exported. As the government is reducing the number of the existing exemptions and it is not easy to establish the linkage between the export goods and the goods used in the manufacture/processing of the export goods, exemption in respect of such inputs may not be allowed.
- In such a scenario, the exporters will have to continue to claim refund or duty drawback on account of the GST paid on the material procured which is used in the manufacture/processing of the export goods.

Refund of credit of inputs and input services lying with the exporters

- GST paid on procurements for the purpose of export of goods shall be available as credit. As exports would be zero rated such credit will not be utilised. Therefore, the credit available with exporter shall be claimed as refund.
- In terms of Section 38(4A) of the Model GST Law, the proper officer may, in the case of any claim for refund on account of export of goods and/or services made by such category of registered taxable persons as may be notified in this behalf, refund eighty percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, on a provisional basis, in the manner and subject to such conditions, limitations and safeguards as may be prescribed and the remaining twenty percent may be refunded after due verification of documents furnished by the applicant.
- Thus, 80% of the refund claim shall be disbursed on provisional basis to the assesse and the balance amount will be given after verification or processing of claim.
- Recently, the Draft GST Refund Rules have been released. A copy of the said Rules is annexed along with this note. As per the said Rules, in order to claim refund of any tax, interest, penalty, fees or any other amount, a taxable person may file an application in Form RFD-1 electronically.
- The application for refund will be forwarded to the proper officer who shall, within fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4), an acknowledgement in Form GST RFD-2will be made available to the applicant through the Common Portal electronically, clearly indicating the date of filing of the claim for refund.
- Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in Form GST RFD-3through the Common Portal electronically, requiring him to file a refund application after rectification of such deficiencies.
- After scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund is due to the applicant in accordance with the provisions of sub-section (4A) of section 38, the proper officer will make an order in

FORM GST RFD-4, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of acknowledgement.

- The credit being claimed as refund shall comprise of IGST, CGST and SGST. On perusal of the various Forms regarding Refund Orders, it can be seen that the application for refund of SGST as well as the refund of CGST and IGST will be processed separately.
- In this regard, representation can be filed that the claim with respect to all the above heads (SGST, CGST and IGST) should be jointly decided and disbursed by Central Government by adopting settlement route with State governments with respect to SGST portion of refund claim. The refund claim should not be administered by dual authorities.

Whether principle of unjust enrichment will be applicable at the time of claiming refunds in cases of exports?

- The principle of unjust enrichment will not be applicable to refunds in cases of exports. In this regard, it has also been clarified under Question 8 under the head of rebates in the FAQs regarding GST issued by the CBEC that the principle of unjust enrichment will be applicable under GST except in cases of exports and refund of unutilized ITC.

Drawback Rates

- Many of the small exporters particularly in case of handicraft, carpets, handlooms procure the goods from the unorganized sector and thus, the duty paying documents of input tax credit would not be available with them.
- In the representation to be filed, it would be pleaded that duty drawback should be allowed at two rates under GST regime as well – lower rate of drawback when input tax credit is availed and when input tax credit is not availed on the same lines as available currently in the Drawback Schedule.

- Further, it will also be pleaded in the representation that the All Industry Rate of Duty Drawback is also revised under GST so as to factor the increased tax cost on the procurements on account of increase in rate of taxes on input material and input services.

Exemption of GST on Foreign Agent Commission

- Exporters generally appoint agents outside India for getting orders from overseas customers. These agents are paid commission by the exporters. Under the present tax regime, such agents are considered as intermediaries who are located outside India. In terms of Rule 9(c) of the Place of Provision of Services, 2012, in case of intermediary services (including foreign agents), the place of provision service is location of service provider. Thus, in the present tax regime, since the place of provision of the service is outside India, no service tax is payable on account of such services.
- However, under the Model GST Law, there is no specific rule for determining the place of supply in case of intermediary services and as per the general rule, the place of supply of such services will be the location of the service recipient which is in India.
- Thus, under the GST Regime, tax will be payable on the amount of commission paid to the Foreign Agents.
- In this regard, it may be noted that the *erstwhile*Notification No. 42/2012-ST dated 20.6.2012 exempted the service provided by a commission agent located outside India to an exporter of goods which were used for the export of goods from so much of the service tax which was in excess of the service tax calculated on a value up to ten per cent of the free on board value of export.
- Thus it can be represented to the Government that a similar exemption is introduced in GST regime for the services of commission agents located outside India so as to optimize the working capital requirements.

GST on Buyer's agent providing services to Overseas buyers for export of goods from India

- Under current service tax provisions such services provided by buyer's agent being intermediary services are treated to have been provided in India (location of service provider) and thus are subjected to service tax. However, under the proposed GST Law, there is no specific rule for determining the place of supply in case of intermediary services and as per the general rule, the place of supply of such services will be the location of the service recipient (overseas buyer) which shall be outside India.
- Thus, under the GST Regime, tax may not be applicable on the services of buyers agents.

Whether purchases made by an exporter from un-registered dealer attract GST?

- No GST should be payable on any receipt of supplies by the exporters under reverse charge as it would unnecessarily involve payment at first stage and then claiming of refund. Even under service tax law in situations covered under reverse charge for payment of service like GTA service or commission agent's service received by an exporter of goods outright exemption is granted. Same principle should apply under GST also. Further such supplies to the exporters should be considered as zero rated supplies allowing credits to them.

Status under GST in respect of Exported Goods rejected by the buyer and destroyed outside India

- Under the existing legal scenario, the benefits in relation to excise duty under Rule 18 and Rule 19 of the Central Excise Rules, 2002 are not subject to the fact the exporter of goods realizes payment in foreign currency.
- Thus, the exporter of goods is entitled to either rebate of excise duty or clear the goods without payment of excise duty for exports irrespective of the fact that the exporter receives foreign currency or not. Further, the exporter is not liable to pay any VAT/CST at the time of the export and the said benefit is not contingent upon the fact as to whether the exporter receives payment in foreign currency.
- Accordingly, under the present law, in case the goods exported are destroyed outside India after being rejected by the overseas buyer and foreign exchange is not received, there is no liability to pay excise duty or sales tax on the exporter of the goods.

- However, in such cases where the payment in foreign currency is not received in relation to the exports, the other export benefits availed by the exporters such as duty drawback, MEIS Scrips etc. have to be surrendered by the exporter of the goods.
- Under the Model GST Law, there is no provision which provides that for claiming the refund of taxes in respect of the exported goods, foreign currency has to be realized.
- Thus, even though the goods are destroyed outside India and foreign currency is not realized, the benefit of refund of taxes under Section 38 of the Model GST Law may be continue to be available to the exporter of the goods.

GST on sale of scrips

- The Government of India is giving MEIS benefit against the export of goods. The MEIS scrips are transferable and the exporters can sell the same. At present, the exporters can issue Form C in respect of such sales and pay 2% CST at the time of sale of these scrips. Further, sale of scrips is exempted from VAT in few States and is subjected to lower rate of VAT (4%) in few other States.
- Under GST, new Tax rates might be applicable at the time of sale of such scrips.
- It may be noted that CST paid at the time of sale of the scrips under the existing tax regime is a cost for the buyer of the scrip. Further, availment of ITC on the scrips which are used to pay duties/taxes under the VAT laws is also prone to disputes.
- The definition of input tax has been amplified under GST and a taxable person is entitled to avail credit of the tax charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business.
- Thus, under the GST regime, credit on all goods and services used in the course of the business of an assessee will be available to him. Accordingly, irrespective of the fact that higher rate of tax will be charged at the time of sale of such scrips, the buyer of such scrips who utilizes the same for the payment of taxes will be entitled to avail credit of such higher amount of tax under GST regime and the GST so charged at the time of sale of the scrips will not be a cost for the buyer of the scrips.
- However, seeing the current tax incidence on sale of scrips it can be represented that:

- Issuance of scrips by Government should not be treated as supply under GST. It can be covered under Schedule IV Entry 4 (d) which says that the Government shall not be regarded as taxable person with respect to services provided regarding currency, coinage, legal tender, foreign exchange etc.
- Further the transfer of such scrips should also not be considered as supply. Even if the same is treated as a supply it should attract lower rate of GST as presently only sales tax/VAT is payable on the same.

Whether the removal of goods to job-workers attract GST?

Job Work - As per Proviso in Schedule 1 the "supply to job worker is not treated as supply of goods" and hence not subject to levy of GST. However, the issues pertaining to return of goods from job worker to Principal's unit should be simplified in line with the procedure as per Excise notification 214 /86. Further, the supply from job worker back to the Principal unit even 'if not a completed product' should also not be treated as supply of goods and GST should not be levied. However, material, if any, of job worker is used by him in execution of the job work, it should be subject to GST levy by raising a separate invoice. In case the job worker is not having input services or opting not to claim credit for input service, it should be exempt from GST levy where the principal undertakes to pay the tax at the time of his supply of final product.

- At the outset, it may be noted that the proviso under Schedule 1 provides that "the supply of goods by a registered taxable person to a job-worker in terms of **section 43A** shall not be treated as supply of goods".
- It may be noted that under GST, the supply of goods by a person to the job worker without any consideration will be considered to be a supply. Further, the movement of the goods after processing from the premises of the job worker to the premises of the taxable person will also be considered as a supply.

- Section 43A of the Model GST Law provides the special procedure for removal of goods to the job workers. The procedure specified therein has to be followed by the assessee for sending the goods raw material to the premises of the job worker without payment of GST and for receiving the processed goods from the premises of the job worker without payment of GST.
- In terms of Section 43A of the Model GST Law, the Commissioner may, by special order and subject to conditions as may be specified by him, permit a registered taxable person to send taxable goods, without payment of tax, to a job worker for job-work and from there subsequently send to another job worker. Further, after completion of job-work, the Commissioner may allow the registered person to-
  a) bring back such goods to any of his place of business, without payment of tax, for supply therefrom on payment of tax within India, or with or without payment of tax for export, as the case may be, or
  b) supply such goods from the place of business of a job-worker on payment of tax within India, or with or without payment of tax for export, as the case may be.
- In case of handicraft , the exporters engage various small-scale job workers who undertake various jobs such as painting, embroidery etc. for them. After obtaining the permission under Section 43A and after fulfilling the conditions specified by the Commissioner in this regard, the handicraft exporters may send the goods without payment of taxes to the job-workers and the goods may also move from the premises of one job-worker to another without payment of taxes. After completion of the job work activity, in terms of the permission obtained by the Commissioner, the goods can be brought back to the premises of the handicraft exporter without payment of GST from where the goods may be cleared for export, with or without payment of taxes.
- As per the proviso under Section 43A of the Model GST Law, goods shall not be permitted to be supplied from the place of business of an unregistered job worker in terms of clause (b) unless the person sending the goods for job work declares the place of business of the job-worker as his additional place of business. Thus, in case the handicraft exporters following the procedure under Section 43A desire to export the goods directly from the premises of the unregistered job-workers, the handicraft exporters will have to declare the premises of the job worker as his additional place of business in its GST registration.

- It is clarified that as per the provisions of the Model GST Law, the procedure under Section 43A is available even in respect of the semi-finished goods worked upon by the job-worker.
- Further, it may be noted that as per Serial No. 3 under Schedule II of the Model GST Law, any treatment or process which is being applied to another person's goods is deemed to be supply of services. Thus, the job charges recovered by the job workers will be considered as consideration for the supply of services by the job worker.
- The above provision under Section 43A does not specify that the job worker also will not be required to charge GST on the amount of job charges recovered by it only if its turnover exceeds the threshold limit provided under GST Law. Under the present excise and service tax law exemptions exist with respect to the liability of job worker. In our view the above provisions of Section 43A should be so read that the supply from job worker to principal should also not attract GST as finally the principal is liable to either export or pay GST on final product. A suitable clarification in this regard can be obtained. Further the procedural requirements regarding obtaining permissions may be asked to be simplified specifically avoiding dual administration.

Movement of goods from one state to another for job work/value addition

- As mentioned above, the goods sent for job work after taking permission of the Commissioner as prescribed under Section 43A of the Model GST Law, can be moved from the premises of one job worker to the premises of another job worker without payment of GST. In such a case, there is no restriction regarding such movement of goods.

Status of Opening Stock under GST

- Section 145 of the Model GST Law provides that a registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the manufacture of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to

take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the prescribed conditions.

- One of the conditions prescribed under the said provision is that the taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day and such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.
- In view of the above provision, a dealer who is not registered under the present tax regime but will have to obtain registration under the GST regime will only be entitled to avail the credit of the stock lying with him in respect of which the prescribed documents evidencing payment of duty/tax are available with it and where such documents were issued within 12 months immediately preceding the appointed date for GST.
- In view of the above, it will be pleaded in the representation that the credit on the goods lying in stock for which the tax paying document was issued prior to one year from the appointed date of GST is also allowed.

Exports made from SEZ

- Exports made from SEZ units are governed under the provisions of the SEZ Act. The said position is expected to continue even after the implementation of GST.
- Thus, the exports made from the SEZ units will not be impacted by the provisions of the GST Law.

Annexures

Section 38 of Model GST Act:

38. Refund of tax

(1) Any person claiming refund of any tax and interest, if any, paid on such tax orany other amount paid by him, may make an application in that regard to the properofficer of IGST/CGST/SGST before the expiry of two years from the relevant date in suchform and in such manner as may be prescribed:

Provided that the limitation of two years shall not apply where such tax or interest or theamount referred to above has been paid under protest.

(2) Subject to the provisions of sub-section (8), a taxable person may claim refund ofany unutilized input tax credit at the end of any tax period:

Provided that no refund of unutilized input tax credit shall be allowed in cases other thanexports or in cases where the credit has accumulated on account of rate of tax on inputsbeing higher than the rate of tax on outputs:

Provided further that no refund of unutilized input tax credit shall be allowed in caseswhere the goods exported out of India are subjected to export duty.

(3) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due tothe applicant, and

(b) such documentary or other evidence (including the documents referred to in section23A) as the applicant may furnish to establish that the amount of tax and interest, ifany, paid on such tax or any other amount paid in relation to which such refund isclaimed was collected from, or paid by, him and the incidence of such tax and interesthad not been passed on by him to any other person:

Provided that where the amount claimed as refund is less than five lac rupees, it shallnot be necessary for the applicant to furnish any documentary and other evidences andinstead, he may file a declaration, based on the documentary or other evidences withhim, certifying that the incidence of such tax and interest had not been passed on byhim to any other person.

(4) If, on receipt of any such application, the proper officer is satisfied that the whole orpart of the amount claimed as refund is refundable, he may make an order accordinglyand the amount so determined shall be credited to the Fund.

(4A) Notwithstanding anything contained in sub-section (4), the proper officer may, inthe case of any claim for refund on account of export of goods and/or services made bysuch category of registered taxable persons as may be notified in this behalf, refundeighty percent of the total amount so claimed, excluding the amount of input tax creditprovisionally accepted, on a provisional basis, in the manner and subject to suchconditions, limitations and safeguards as may be prescribed and the remaining twentypercent may be refunded after due verification of documents furnished by the applicant.

(5) The proper officer shall issue the order under sub-section (4) within ninety daysfrom the date of receipt of application.

Explanation- The "application" for the purpose of this sub-section shall mean completeapplication containing all information as may be prescribed.

(6) Notwithstanding anything contained in sub-section (4) or sub-section (4A), therefundable amount shall, instead of being credited to the Fund, be paid to the applicant,if such amount is relatable to –

(a) refund of tax on goods and/or services exported out of India or on inputs used inthe goods and/or services which are exported out of India;

(b) refund of unutilized input tax credit under sub-section (2);

(c) the tax and interest, if any, or any other amount paid by the applicant, if he hadnot passed on the incidence of such tax and interest to any other person; or

(d) the tax or interest borne by such other class of applicants as the Central or aState Government may, on the recommendation of the Council, by notification, specify.

(7) Notwithstanding anything to the contrary contained in any judgment, decree, orderor direction of the Appellate Tribunal or any Court or in any other provision of this Actor the rules made thereunder or in any other law for the time being in force, no refundshall be made except as provided in sub-section (6).

(8) Notwithstanding anything contained in sub-section (2), where any refund is dueunder the said sub-section to a registered taxable person who has defaulted in furnishingany return or who is required to pay any tax, interest or penalty, which has not beenstayed by any Court, Tribunal or Appellate Authority by the specified date, the properofficer may—

(a) withhold payment of refund due until the said person has submitted the return orpaid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest or penalty which the taxable person isliable to pay but which remains unpaid.

Explanation.- For the purposes of this sub-section the expression “specified date” shallmean—

(a) the last date for filing an appeal under this Act, in a case where no appeal has beenfiled

(b) thirty days after the last date for filing an appeal under this Act, in a case where anappeal has been filed.

(9) Notwithstanding anything contained in sub-section (4) or sub-section (4A), where anorder giving rise to a refund is the subject matter of an appeal or further proceeding orwhere any other proceeding under this Act is pending and the Commissioner / Board isof the opinion that grant of such refund is likely to adversely affect the revenue, he may,after giving the taxpayer an opportunity of being heard, withhold the refund till suchtime as he may determine.

(10) Where a refund is withheld under sub-section (9), the taxable person shall beentitled to interest as provided under section 39, if as a result of the appeal or furtherproceeding he becomes entitled to refund.

(11) Notwithstanding anything contained in this section, no refund under sub-section (4)or sub-section (4A) shall be paid to an applicant if the amount is less than rupees onethousand.

Explanation. — For the purposes of this section -

(A) "refund" includes refund of tax on goods and/or services exported out of Indiaor on inputs or input services used in the goods and/or services which are exported outof India, or refund of tax on the supply of goods regarded as deemed exports, or refundof unutilized input tax credit as provided under sub-section (2).

(B) "relevant date" means –

(a) in the case of goods exported out of India where a refund of tax paid is available inrespect of the goods themselves or, as the case may be, the inputs or input servicesused in such goods, -

(i)if the goods are exported by sea or air, the date on which the ship or the aircraft inwhich such goods are loaded, leaves India, or

(ii) if the goods are exported by land, the date on which such goods pass the frontier, or

(iii) if the goods are exported by post, the date of despatch of goods by Post Officeconcerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of taxpaid is available in respect of the goods, the date on which the return relating to suchdeemed exports is filed;

(c) in the case of goods returned for being remade, refined, reconditioned, or subjectedto any other similar process in any place of business, the date of entry into the place ofbusiness for the purposes aforesaid;

(d) in the case of services exported out of India where a refund of tax paid is available inrespect of services themselves or, as the case may be, the inputs or input services usedin such services, the date of -

(i) receipt of payment in convertible foreign exchange, where the supply of service hadbeen completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the service had been received in advance prior tothe date of issue of the invoice;

(e) in case where the tax becomes refundable as a consequence of judgment, decree,order or direction of Appellate Authority, Appellate Tribunal or any Court, the date ofcommunication of such judgment, decree, order or direction;

(f) in the case of refund of unutilized input tax credit under sub-section (2), the end ofthe financial year in which such claim for refund arises; and

(g) in the case where tax is paid provisionally under this Act or the rules madethereunder, the date of adjustment of tax after the final assessment thereof.

Relevant portion of GST FAQs released by CBEC

Q 8. Whether principle of unjust enrichment will be applicable in refund?

Ans. Yes, except in cases of exports and refund of unutilized ITC as referred to in sub-section (2) of section 38

Q 17. Will the principle of unjust enrichment apply to exports or deemed exports?

Ans. The principle of unjust enrichment is not applicable in case of actual exports of goods or services as the recipient is located outside the taxable territory. However, in case of deemed exports it will be applicable.

Q 19. Today under VAT/CST merchant exporters can purchase goods without payment of tax on furnishing of a declaration form. Will this system be there in GST?

Ans. No, there will be no such provision in GST. They will have to purchase goods upon payment of tax and claim refund of the accumulated ITC as discussed in section 38(2).