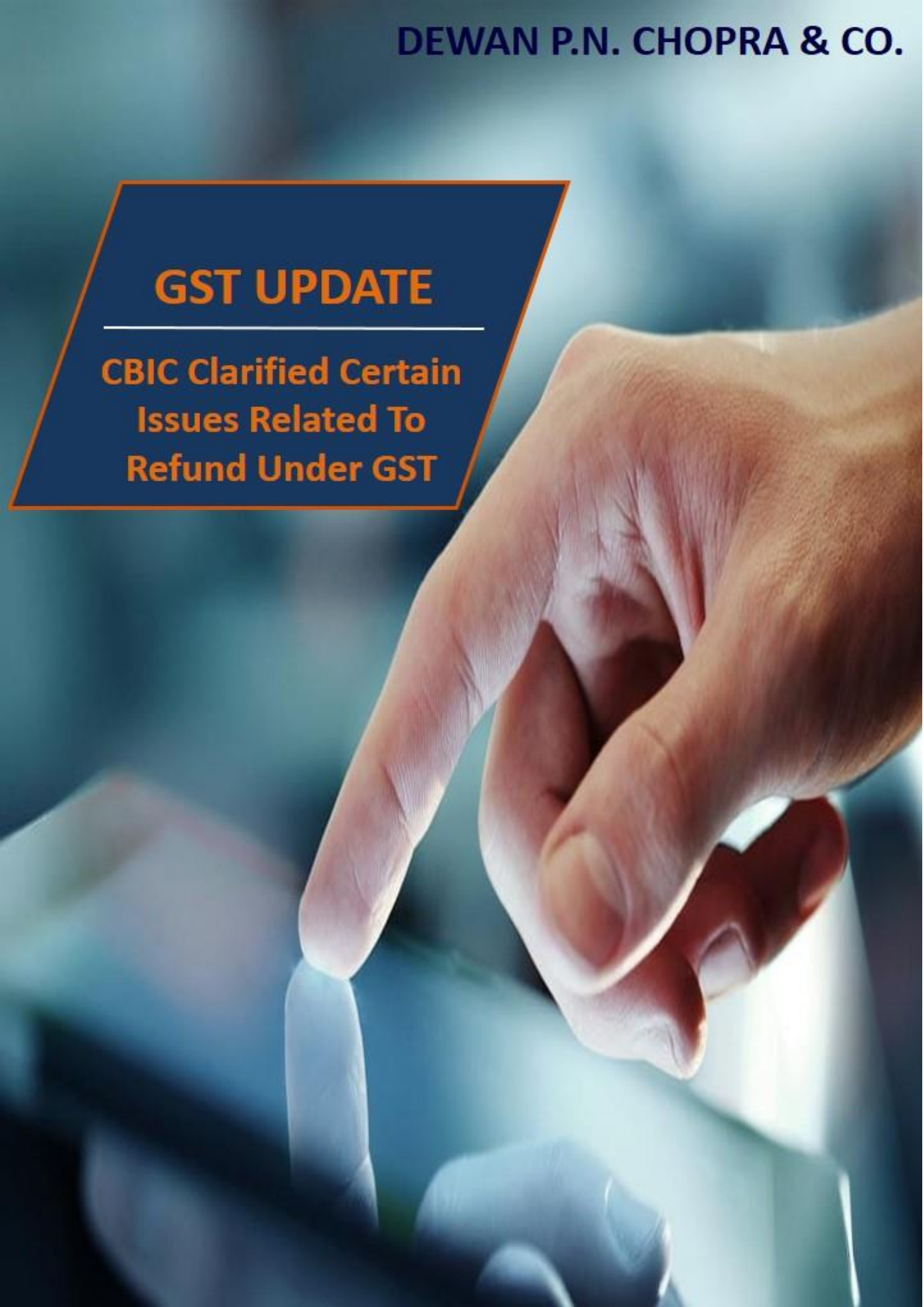


GST UPDATE

**CBIC Clarified Certain
Issues Related To
Refund Under GST**



**CBIC Clarified certain issues related to refund under GST
vide Circular No. 135/05/2020 dated 31st March 2020**

Various clarifications have been issued for refund related matters in different span of time under GST, a master circular (C.No.125/44/2019-GST dated 18.11.2019) was also issued subsuming most of the earlier refund related issues. Again CBIC, by way of circular No. 135/05/2020 has clarified various refund related issues, a briefing of the same has been given below:

A. Bunching of refund claims across Financial Years: –

Earlier applicant was allowed to file refund application by clubbing successive tax periods but the collective period of the application was not allowed to spread across different financial years. On examination of relevant sections i.e. sub-section (3) of section 16 of the IGST Act, 2017 and sub-section (3) of section 54 of the CGST Act, there appears no bar on claiming refund by clubbing different tax periods spanning across different financial years.

It is also supported by Hon'ble Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt. Ltd. wherein Hon'ble Delhi high court observed that Circulars can supplement but not supplant the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law.

Hence, the restriction on application of refund by clubbing of successive tax periods, spanning across different financial years has been lifted now.

**B. Refund of accumulated input tax credit (ITC) on account of
reduction in GST Rate:**

Applicants whose input and output supplies are same can't apply for the refund of accumulated ITC on account of inverted duty structure, wherein the inversion came into effect due to subsequent decrease in tax rate of goods.

Illustration:

An applicant trading in goods has purchased, say goods “X” attracting 18% GST. However, subsequently, the rate of GST on “X” has been reduced to, say 12%. In such cases refund of accumulated ITC on account of IDS will not be applicable. The governing law i.e. Section 54(3)(ii) of CGST Act, allows for refund of ITC on account of IDS where tax rate of input supplies being higher than the tax rate of output supplies. It does not cover cases where input and output supplies are same and attracting different rates of taxes in different points of time.

C. Change in manner of refund of tax paid on supplies other than zero rated supplies:

Circular No. 125/44/2019-GST dated 18.11.2019, in para 3, categorizes the refund applications to be filed in FORM GST RFD-01 as under:

- Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- Refund of tax paid on export of services with payment of tax;
- Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
- Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;
- Refund of unutilized ITC on account of accumulation due to inverted tax structure;
- Refund to supplier of tax paid on deemed export supplies;
- Refund to recipient of tax paid on deemed export supplies;
- Refund of excess balance in the electronic cash ledger;
- **Refund of excess payment of tax;**
- **Refund of tax paid on intra-State supply which is subsequently held to be interstate supply and vice versa;**
- **Refund on account of assessment/provisional assessment/appeal/any other order;**
- **Refund on account of “any other” ground or reason.**

In respect of refund on account of output taxes paid such as refund of excess payment of taxes and such other cases mentioned in point (j) to (l) in para 3 of circular 125/44/2019-GST, major change has also been brought up by notification No.16/2020-Central Tax dated 23.03.2020, where applicant seeking refund in such cases has made payment wholly from Electronic Credit ledger, the refund, if found admissible, shall be granted by re-crediting ECL by proper officer by an order made in FORM GST PMT-03.

However, if in the above case, payment of taxes was made from both i.e. partially by Electronic Credit ledger and partially Electronic cash ledger, the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which application for refund has been filed. The refund in cash shall be made by issuance of order in FORM GST RFD-06 and refund of credit shall be made through crediting the electronic credit ledger by issuance of order in FORM GST PMT-03.

D. Guidelines for refunds of Input Tax Credit under Section 54(3): –

As per para 36 of circular No. 125/44/2019-GST earlier refund of accumulated ITC availed on invoices which were not reflecting in GSTR-2A was also allowed, provided such invoices were uploaded.

Now refund of accumulated ITC is allowed only to the extent of ITC availed on the invoices which are uploaded by supplier(s) in GSTR-1 and are reflecting in applicant's GSTR-2A.

E. New Requirement to mention HSN/SAC in Annexure 'B': -

A new column has been inserted in column Annexure B, wherein applicants are required to provide HSN/SAC of the goods or services on which input tax credit is availed. This requirement is brought to distinguish ITC on Capital goods and/or Input services out of total ITC for relevant tax period, as HSN wise detail is not available in GSTR-2A. However, in cases where supplier is not required to mention HSN/SAC on their tax invoices, the applicant is also not necessitated to provide HSN/SAC of such invoice in Annexure-B.

For more details, please refer the link to the Circular:-

<http://cbic.gov.in/resources//htdocs-cbec/gst/Circular Refund 135 5 2020.pdf;jsessionid=C73141F58DF33F30D10F4B2C68FFDFA9>

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