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## **NO TIME LIMIT FOR FILING REFUND APPLICATION FOR EXCESS CREDIT IN THE ELECTRONIC CASH LEDGER: CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**

The Central Board of Indirect Taxes and Customs (**‘Board’**), *vide Circular No. 166/22/2021-GST<sup>1</sup>* clarified *inter-alia*, that the time limit of two years for filing a refund application as prescribed under sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 (**‘Act’**), does not apply in cases whereby the refund application is filed for the excess balance in the electronic cash ledger (**‘ECL’**) of a taxpayer.

### **Background:**

- The balance in the ECL of a registered person can be refunded as per Section 49(6) of the Act.
- A registered person can claim the refund of unutilized input tax credit (**‘ITC’**) while filing the returns at the end of any tax period (monthly/quarterly/annually) as per section 54(3) of the Act. Furthermore, a timeline of two years for the regular taxpayers from their relevant date i.e., date of payment of tax, for filing the refund application is prescribed as per sub-section 54(1) of the Act.
- Relevant date is the reference date used to calculate the time limit for filing the refund application and it varies according to the type of supply.
- As per Rule 89 (1) of the Central Goods and Service Tax Rules, 2017 (**‘Rules’**), the refund application for balance in ECL can be made under forms GSTR-3 or GSTR-4 or GSTR-7. All the other refund applications are needed to be filed under the standard form GST RFD-01.
- Rule 89(2)(m) of the Rules requires a registered person to furnish a certificate from a Chartered Accountant declaring to the effect that the incidence of tax, interest or any other amount claimed as a refund has not been passed onto any other person.
- The amount of tax collected at source (**‘TCS’**) and tax deducted at source (**‘TDS’**) as per section 52 and section 51 of the Act respectively, is credited to the ECL of the taxpayer.
- There are supplies wherein the goods manufactured in India are supplied to recipients outside India but the goods never leave India even though they are meant to be exported. Some of these supplies are notified by the Central Government as “deemed exports” under section 147 of the Act.

### **Overview of Circular:**

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<sup>1</sup> F.No. CBIC-20021/4/2021-GST dated 17<sup>th</sup> November, 2021

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- The time limit of two years from the date of payment of tax for filing a refund application does not exist in case of claiming a refund of balance in the ECL.
  - Furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the Rules, is required when there is a possibility of unjust enrichment by the taxpayer. Since the same does not exist in case of filing the refund application for balance in the ECL, there is no requirement to file a declaration while filing the refund application.
  - The amount of TDS/TCS deposited in the ECL after payment of tax dues is equivalent to the cash in the ECL of the taxpayer, and hence a refund application may be filed thereof.
  - Relevant date for the refund of tax paid on supplies regarded as deemed export by recipient would be the date of filing of return, related to such supplies, by the supplier.

**VA Comments:**

The aforesaid circular provides clarifications to certain issues related to refund of excess balance in ECL, leading to a smooth functioning of the refund application procedures, thereby bringing some respite to the taxpayers.

**For any further information/ clarification, please feel free to write to:**

- Mr. Shammi Kapoor, Partner [shammi@vaishlaw.com](mailto:shammi@vaishlaw.com)
- Mr. Manik Sharma, Associate [manik@vaishlaw.com](mailto:manik@vaishlaw.com)
- Mr. Varenyam Shastri, Associate [varenyam@vaishlaw.com](mailto:varenyam@vaishlaw.com)

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