

Zero Rating of Supplies in GST

Introduction

What is the need for Zero Rating?

As per section 2(47) of the CGST Act, 2017, a supply is said to be exempt, when it attracts nil rate of duty or is specifically exempted by a notification or kept out of the purview of tax (i.e. a non-GST supply). But if a good or service is exempted from payment of tax, it cannot be said that it is zero rated. The reason is not hard to find. The inputs and input services which go into the making of the good or provision of service has already suffered tax and only the final product is exempted. Moreover, when the output is exempted, tax laws do not allow availment/utilisation of credit on the inputs and input services used for supply of the exempted output. Thus, in a true sense the entire supply is not zero rated. Though the output suffers no tax, the inputs and input services have suffered tax and since availment of tax credit on input side is not permitted, it becomes a cost for the supplier. The concept of zero rating of supplies aims to correct this anomaly.

What is Zero Rating?

By zero rating it is meant that the entire value chain of the supply is exempt from tax. This means that in case of zero rating, not only is the output exempt from payment of tax, there is no bar on taking/availing credit of taxes paid on the input side for making/providing the output supply. Such an approach would in true sense make the goods or services zero rated.

All supplies need not be zero-rated. As per the GST Law exports are meant to be zero rated the zero rating principle is applied in letter and spirit for exports and supplies to SEZ. The relevant provisions are contained in Section 16(1) of the IGST Act, 2017, which states that “*zero rated supply*” means any of the following supplies of goods or services or both, namely: —

- a) export of goods or services or both; or*
- b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.*

As already seen, the concept of zero rating of supplies requires the supplies as well as the inputs or input services used in supplying the supplies to be free of GST. This is done by employing the following means:

- a) The taxes paid on the supplies which are zero rated are refunded;
- b) The credit of inputs/ input services is allowed;
- c) Wherever the supplies are exempted, or the supplies

are made without payment of tax, the taxes paid on the inputs or input services i.e. the unutilised input tax credit is refunded.

The provisions for the refund of unutilised input credit are contained in the explanation to Section 54 of the CGST Act, 2017, which defines refund as below:

“refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3).

Thus, even if a supply is exempted, the credit of input tax may be availed for making zero-rated supplies. A registered person making zero rated supply can claim refund under either of the following options, namely: —

- a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
- b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the CGST Act, 2017 or the rules made thereunder.

As per Section 54(3) of the CGST Act, 2017, any unutilised

input tax credit in zero rated supplies can be refunded, wherever such supplies are made by using the option of Bond/ LUT. The difference between zero rated supplies and exempted supplies is tabulated as below:

Exempted Supplies	Zero rated Supplies
<i>“exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11 of CGST Act or under section 6 of the IGST Act, and includes non-taxable supply</i>	<i>“zero-rated supply” shall have the meaning assigned to it in section 16</i>
<i>No tax on the outward exempted supplies, however, the input supplies used for making exempt supplies to be taxed</i>	<i>No tax on the outward supplies; Input supplies also to be tax free</i>
<i>Credit of input tax needs to be reversed, if taken; No ITC on the exempted supplies</i>	<i>Credit of input tax may be availed for making zero-rated supplies, even if such supply is an exempt supply ITC allowed on zero-rated supplies</i>

<i>Value of exempt supplies, for apportionment of ITC, shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</i>	<i>Value of zero rated supplies shall be added along with the taxable supplies for apportionment of ITC</i>
<i>Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under the CGST or IGST Act shall not be liable to registration</i>	<i>A person exclusively making zero rated supplies may have to register as refunds of unutilised ITC or integrated tax paid shall have to be claimed</i>
<i>A registered person supplying exempted goods or services or both shall issue, instead of a tax invoice, a bill of supply</i>	<i>Normal tax invoice shall be issued</i>

Provisional refund: As per section 54(6) of the CGST Act, 2017, ninety per cent of the total amount of refund claimed, on account of zero-rated supply of goods or services or both made by registered persons, may be sanctioned on a provisional basis. The remaining ten percent can be refunded later after due verification of documents furnished by the applicant.

Non-applicability of Principle of Unjust Enrichment: The principle of unjust enrichment shall not be applicable

in case of refund of taxes paid wherever such refund is on accounts of zero rated supplies. As per section 54 (8) of the CGST Act, 2017, the refundable amount, if such amount is relatable to refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, shall instead of being credited to the Fund, be paid to the applicant.
