

GST and JOHNNY- UPDATE No.76

Johnny
Johnny !!



Yes, Papa!



Were you covered under
the risky exporters list?



Yes papa, but
my refund is
still withheld?



Why so?



This papa:

We have discussed certain issues faced by the risky exporters in our previous updates too. In order to limit the exporters from claiming the refund on the basis of ineligible documents or fraudulently, customs department has marked few exporters as “risky exporters”. We have come across a situation where the departmental audit is being conducted after the exporter has been marked as risky exporter. Wherein the refunds are sanctioned by some of the customs port but many ports are withholding the refund due to nonreceipt of NOC even after proper verification is conducted.

The verification report in respect of identified suppliers is sent by GST and customs Commissionerate directly to DGARM (Director General of Risk and Analytics Management), which will take decision on grant of NOC or otherwise based on such verification reports in respect of exporters and its suppliers.

DGARM grants final NOC to the exporter once the verification is completed. In case of availment of in admissible credit by the suppliers, the GST officers will ensure due process of recovery.

The withholding of tax is against the provisions of Rule 96(4) which clearly provides that refunds in case of export with payment of IGST can be withheld only in two situations one is when request is received from jurisdictional commissioner to withhold the refund u/s 54(10) & (11) or where it is determined that goods are exported in violation of Customs Act, 1962.

At present, the economy has been hit at its worse and many factories, companies are on the verge of closing down their business due to pandemic situation, such harsh compliances are increasing the problems of genuine taxpayers.

On the one hand, the government is announcing stimulus packages for boosting the economy in a stabilised manner but such strident procedures are working in the opposite direction for the taxpayers. Hope that such stringent compliances are removed at the earliest for relief.

CA Pradeep Jain