



आयुक्त का कार्यालय, केन्द्रीय उत्पाद व सीमा शुल्क, वडोदरा- I,
**OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS
VADODARA - I**

**Trade Facility Order No. 01/2011 – Service Tax.
20th April 2011**

Subject : Procedure regarding exemption/refund of Service Tax.

It has come to notice that some exporters are facing difficulties in settling refund claims of service tax paid by them. Though the entire scheme of service tax refund has been revamped with the issue of two Notifications viz. No.17/2009-ST and 18/2009-ST both dated 07.07.2009, the procedure to be followed is outlined as under for the facility of Trade as well as the Departmental Officers.

Exemption scheme under notification No. 18/2009-ST dated 07.07.2009

Availability: The exemption would be available,-

1) on two taxable services, viz. (i) Transport of Goods by Road from any CFS or ICD to Port/Airport of Exports or from the place of removal (i.e.factory) to CFS, ICD, Port or Airport of Exports; (ii) service provided by a foreign commission agent who causes sale of goods abroad;

2) to exporters of goods who are registered with Export promotion councils and are holding import export code number and are also registered with service tax/central excise authorities as they are otherwise required to pay service tax on the above services received, under reverse charge mechanism;

3) in case of a foreign commission agent, to the extent of tax on commission upto 10% of fob of export value (i.e. 1% of service tax + applicable cess). In case payment made to agents is in excess of the said limit, service tax on reverse charge basis would have to be paid on the excess amount without any exemption or refund;

Procedure:

1) An exporter who desires to avail the exemption must first inform the jurisdictional AC/DC in Form EXP – 1 before availing such exemption for the first time, so that the department is in know of such exporters who would be claiming the exemption. It is advised that a running serial number should be allotted during the receipt of the intimation and the same should be mentioned on the intimation letter and receipt thereof. This number should be the identification number of an exporter claiming refund;

2) The exporter should preserve the originals of relevant document issued in his name evidencing provision of taxable service for which exemption has been claimed and should self-certify on the face of such documents,- (i) the receipt of services; and (ii) their use in export of goods. While the exporter would avail the exemption on his own, he is required to file a half-yearly return (in form EXP - 2 annexed to the notification) to the jurisdictional AC/DC, giving the details of the exports made and the quantum of exemption availed, within 15 days from the end of half-year (for exporters who opt for this exemption immediately on its introduction from 07.07.2009, first such return would be due on 15th October, 2009).

3) The following documents should be enclosed with the return:

(a) Self-attested copies of shipping bill/bill of exports pertaining to the exports in respect of which the exemption has been claimed;

(b) Self-attested copies of bill of lading/airway bill pertaining to above exports;

(c) The original invoice/bill/challan issued by the provider of taxable service in the name of the exporter showing the description and value of taxable service provided and the service tax payable thereon;

(d) The said original invoice/bill/challan should be self-certified by the exporter or by an authorised person in the following format-

"It is certified that the service mentioned in this bill/invoice/challan issued in my/our name pertaining to _____ (name of taxable service) has been received by me/us and that the said taxable service has been fully utilized in export of goods covered under shipping bill/airway bill No. _____ dated _____."

(e) Additional documents required as per the condition laid down as per Column (4) of the Table annexed to the notification;

The field officers must ensure that all exporters who have opted for the scheme have filed their returns. Even in case an exporter does not avail any benefit under this notification during a half year, he should file a Nil return prescribed under this notification. Conversely, it should also be verified that those who have filled returns have intimated the department earlier.

Refund Scheme under notification No. 17/2009-ST:

This notification replaces earlier notification No. 41/2007-ST and aims to provide exemption through refund of tax paid on specified services on certification basis.

Availability: The exemption would be available to the,-

1) specified services mentioned in Column (3) of the Table annexed to the notification;

2) exporters of goods who are registered with the Export Promotion Councils exporters and having import export code;

3) exporters of goods who have paid the value of taxable service received including the service tax thereon to the provider of taxable service and they have not claimed Cenvat credit on such service tax paid;

4) claim of refund which is for Rs.500 or more.

Procedure:

1) An exporter, who is not a manufacturer-exporter and is not registered with the department, shall first file a declaration in Form A-2 (annexed to the notification) for obtaining a service tax code from the Office of AC/DC Central Excise under whose jurisdiction the registered/head office of the exporter falls. Such code will be given within 7 days from the date of receipt of the Form A -2;

2) The refund claim should be filed in Form A-1 (annexed to the notification) within one year from the date of export of goods. The exporter has the choice to file separate refund claim for individual exports (i.e. one shipping bill/bill of export) or he can bunch the documents relating to several exports and file them together;

3) The following documents should be filed along with the claim:

(i) Self-attested copies of shipping bill/bill of exports pertaining to the exports in respect of which the refund (s) has/have been claimed;

- (ii) Self-attested copies of bill of lading/airway bill pertaining to above exports;
- (iii) The original invoice/bill/challan issued by the provider of taxable service in the name of the exporter showing the description and value of taxable service provided and the service tax payable thereon;
- (iv) The said original invoice/bill/challan should be certified by in the manner mentioned below;
- (v) in case the amount of total claim is upto 0.25% of the total declared fob value of the export under the claim, such certificate will be issued by the exporter or by an authorized person;
- (vi) in case the amount exceeds the above limit, such certification shall be done by the Chartered Accountant who audits the annual accounts of the exporter under the provisions of the Companies Act, 1956 or the Income Tax Act, 1961;
- (vii) in either case the proforma of certification will be as follows:

"It is certified that the services mentioned in this bill/invoice/challan issued in my/our name pertaining to _____ (name of taxable service) has been received by me/us, that I/we have paid the value of the service and the service tax thereon and that the said taxable service has been fully utilized in export of goods covered under shipping bill/airway bill No. _____ dated _____."

(viii) additional documents required as per the condition laid down as per Column (4) of the Table annexed to the notification.

4) While receiving a claim it must be ensured that the claim is complete in all respects and the required documents have been enclosed properly. In case any default or deficiency is noticed after the claim has been received, the claim can be returned back within 5 working days from the date of its receipt. Beyond that period the claim has to be accepted and processed;

5) The claim would be examined as mentioned in para (3) of the notification and the refund shall be made within one month from the receipt of the claim unless the issue is of the nature mentioned in proviso to the said para (3);

6) The claim should not be subjected to pre-audit irrespective of the amount of claim.

All Trade Association and Chambers of Commerce and Members of Regional Advisory Committee are requested to publish the contents of this Order among their members / constituents for timely compliance.



(Dr. Ashir Tyagi)

Additional Commissioner (Tech),
Central Excise & Customs,
Vadodara - I

F. No. IV/16-16/ST/2011

Vadodara, dt.20.04.2011

Copy to: - As per mailing list to trade and department.

(Based on annexure to JS (TRU-II) D.O. letter F. No. 334/13/2009 – TRU dated 06.07.2009)