

**OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
NO.1 WILLIAMS ROAD, CANTONMENT, TRICHIRAPPALLI-620 001.**

Trade Notice No.11/2005 S Tax

Dated : 25-4-2005.

Subject: Service Tax- Communication of Notification No. 11/2005 ST &
Notification No. 12/2005 ST both dtd 19-4-2005-Regarding.

Ministry's Service Tax Notification Nos.11/2005 ST & 12/2005 both dtd 19-4-05, issued under F.No. B2/4/2004-TRU are communicated for information, guidance and necessary action.

The contents of this Trade Notice may be brought to the knowledge of all constituent members of the Trade Associations and Chamber of Commerce.

(Issued from C.No.IV/16/905/2005 S.Tax)

Attested

SUPERINTENDENT,
SERVICE TAX CELL (HQ).

Sd/-
(V. JAYARAMAN)
JOINT COMMISSIONER (T).

To
The Mailing list I / II / III

Copy to Notification No.11/2005 ST dtd 19-4-2005.

In exercise of the powers conferred by rule 5 of the Export of Service Rules, 2005 (hereinafter referred to as the said rules), insofar as it relates to export of taxable services to the countries other than Nepal and Bhutan, the Central Government hereby directs that there shall be granted rebate of the whole of the service tax and cess paid on all taxable services exported in terms of rule 3 of the said rules, to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified hereinafter,-

2. Conditions and limitations:-

(a) that the taxable service has been exported in terms of rule 3 of the said rules and payment for export of such taxable service has been received in India in convertible foreign exchange;

(b) that the service tax and cess, rebate of which has been claimed, have been paid on the taxable service exported;

(c) the amount of rebate of service tax and cess admissible is not less than five hundred rupees; and

(d) that in case,-

(i) the service tax and cess, rebate of which has been claimed, have not been paid;
or

(ii) the taxable service, rebate on which has been claimed, has not been exported,

the rebate paid, if any, shall be recoverable with interest as per the provisions of section 73 and section 75 of the Finance Act, 1994 (32 of 1994) as if no service tax and cess have been paid on such taxable service.

3. Procedure:-

(a) Presentation of claim for rebate:-

(i) claim of rebate of service tax and cess paid on all taxable services exported shall be filed with the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be;

(ii) such application shall be accompanied by,-

a. documentary evidence of receipt of payment against taxable service exported and for which rebate is claimed, payment of service tax and cess on such taxable service exported;

b. a declaration that such taxable service, rebate of service tax and cess paid on such service is claimed, has been exported, in terms of rule 3 of the said rules, along with the documents evidencing the export of such taxable service;

(b) The jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, if satisfied that the claim is in order, shall sanction the rebate either in whole or in part.

Explanation,- “service tax and cess” for the purposes of this notification means,-

(a) service tax leviable under section 66 of the Finance Act, 1994; and

(b) education cess on taxable services levied under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004).

[F. No. B2/4/2004-TRU]

(V.Sivasubramanian)

Deputy Secretary to the Government of India

Annexure

FORM ASTR-1

(Application for filing a claim of rebate of service tax and cess paid on taxable services exported)

(PART A: To be filled by the applicant)

Date.....

Place.....

To,
Assistant Commissioner of Central Excise/Deputy Commissioner of Central Excise
.....(full postal address).

Madam/Sir,
I/We.....,(name of the person claiming rebate) holding service tax registration No., located in..... (address of the registered premises) hereby declare that I/We have exportedservice (name of the taxable service) under rule 5 of the Export of Service Rules, 2005 to(name of the country to which service has been exported), and on which service tax amounting to (amount in rupees of service tax) and education cess amounting to (amount in rupees of cess) has been paid.

2. I/We also declare that the payment against such service exported has already been received in India in full..... (details of receipt of payment).

3. I/We request that the rebate of the taxable service exported by me/us in terms of rule 3 of the Export of Service Rules, 2005 may be granted at the earliest. The following documents are enclosed in support of this claim for rebate.

- 1.
- 2.

(Signature and name of the service provider or his authorised agent with date.)
(PART B: To be filled by the sanctioning authority)

Date of receipt of the rebate claim: _____

Date of sanction of the rebate claim: _____

Amount of rebate claimed: Rs. _____

Amount of rebate sanctioned: Rs. _____

If the claim is not processed within 15 days of the receipt of the claim, indicate briefly reasons for delay:

Place:

Date:

Signature of the Assistant Commissioner/
Deputy Commissioner of Central Excise.

Copy of Notification No.12/2005-ST dtd 19-4-2005

In exercise of the powers conferred by rule 5 of the Export of Service Rules, 2005 (hereinafter referred to as the said rules), the Central Government hereby directs that there shall be granted rebate of the whole of the duty paid on excisable inputs or the whole of the service tax and cess paid on all taxable input services (herein after referred to as 'input services'), used in providing taxable service exported in terms of rule 3 of the said rules, to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified hereinafter,-

2. Conditions and limitations:-

(a) that the taxable service has been exported in terms of rule 3 of the said rules and payment for export of such taxable service has been received in India in convertible foreign exchange;

(b) that the duty, rebate of which has been claimed, has been paid on the inputs;

(c) that the service tax and cess, rebate of which has been claimed, have been paid on the input services;

(d) the total amount of rebate of duty, service tax and cess admissible is not less than five hundred rupees;

(e) no CENVAT credit has been availed of on inputs and input services on which rebate has been claimed; and

(f) that in case,-

(i) the duty or, as the case may be, service tax and cess, rebate of which has been claimed, have not been paid; or

(ii) the taxable service, rebate for which has been claimed, has not been exported; or

(iii) CENVAT credit has been availed on inputs and input services on which rebate has been claimed, the rebate paid, if any, shall be recoverable with interest as per the provisions of section 73 and section 75 of the Finance Act, 1994 (32 of 1994) as if no service tax and cess have been paid on such taxable service.

3. Procedure:-

3.1. Filing of declaration.- The provider of taxable service to be exported shall, prior to date of export of taxable service, file a declaration with the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, describing the taxable service intended to be exported with,-

(a) description, quantity, value, rate of duty and the amount of duty payable on inputs actually required to be used in providing taxable service to be exported;

(b) description, value and the amount of service tax and cess payable on input services actually required to be used in providing taxable service to be exported.

3.2 Verification of declaration.- The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall verify the correctness of the declaration filed prior to such export of taxable service, if necessary, by calling for any relevant information or samples of inputs and if after such verification, the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise is satisfied that there is no likelihood of evasion of duty, or as the case may be, service tax and cess, he may accept the declaration.

3.3 Procurement of input materials and receipt of input services.- The provider of taxable service shall,-

(i) obtain the inputs required for use in providing taxable service to be exported, directly from a registered factory or from a dealer registered for the purposes of the CENVAT Credit Rules, 2004 accompanied by invoices issued under the Central Excise Rules, 2002;

(ii) receive the input services required for use in providing taxable service to be exported and an invoice, a bill or, as the case may be, a challan issued under the provisions of Service Tax Rules, 1994.

3.4 Presentation of claim for rebate.-

(a) (i) claim of rebate of the duty paid on the inputs or the service tax and cess paid on input services shall be filed with the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, after the taxable service has been exported;

(ii) such application shall be accompanied by, –

a. invoices for inputs issued under Central Excise Rules, 2002 and invoice, a bill, or as the case may be, a challan for input services issued under Service Tax Rules, 1994 in respect of which rebate is claimed;

b. documentary evidence of receipt of payment against taxable service exported, payment of duty on inputs and service tax and cess on input services used for providing taxable service exported, rebate of which is claimed;

c. a declaration that such taxable service, has been exported in terms of rule 3 of the said rules, along with documents evidencing such export.

(b) The jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, having regard to the declaration, if satisfied that the claim is in order, shall sanction the rebate either in whole or in part.

Explanation 1.- “service tax and cess” for the purposes of this notification means,-

(a) service tax leviable under section 66 of the Finance Act, 1994; and

(b) education cess on taxable service levied under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004).

Explanation 2.- “duty” for the purposes of this notification means, duties of excise leviable under the following enactments, namely:-

(a) the Central Excise Act, 1944 (1 of 1944);

(b) the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);

(c) the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);

(d) National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001), as amended by section 169 of the Finance Act, 2003 (32 of 2003), section 3 of the Finance Act, 2004 (13 of 2004) and further amended by clause 123 of the Finance Bill, 2005, which clause has the force of law by virtue of the declaration made under the Provisional Collection of Taxes Act, 1931 (16 of 1931);

(e) special excise duty collected under a Finance Act;

(f) additional duty of excise as levied under section 157 of the Finance Act, 2003 (32 of 2003);

(g) Education Cess on excisable goods as levied under section 91 read with section 93 of the Finance (No.2) Act, 2004 (23 of 2004); and

(h) the additional duty of excise leviable under clause 85 of the Finance Bill, 2005, which has the force of law by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

[F. No. B2/4/2004-TRU]

(V.Sivasubramanian)
Deputy Secretary to the Government of India

Annexure

FORM ASTR-2

(Application for filing a claim of rebate of duty paid on inputs, service tax and cess paid on input services)

(PART A: To be filled by the applicant)

Date.....

Place.....

To,

Assistant Commissioner of Central Excise/Deputy Commissioner of Central Excise
.....(full postal address).

Madam/Sir,

I/We.....,(name of the person claiming rebate) holding service tax registration No., located in..... (address of the registered premises) hereby declare that I/We have exportedservice (name of the taxable service) under rule 5 of the Export of Service Rules, 2005 to(name of the country to which service has been exported), and service tax amounting to (amount in rupees of service tax) and education cess amounting to (amount in rupees of cess) has been paid on input services and duty amounting to (amount in rupees of duty) has been paid on inputs.

2. I/We also declare that the payment against such service exported has already been received in India in full..... (details of receipt of payment).

3. I/We request that the rebate of the duty, service tax and cess on inputs and input services used in providing taxable service exported by me/us in terms of rule 3 of the Export of Service Rules, 2005 may be granted at the earliest. The following documents are enclosed in support of this claim for rebate.

- 1.
- 2.
- 3.

Declaration:

(a) We hereby certify that we have not availed CENVAT credit on inputs and input services on which rebate has been claimed.

(b) We have been granted permission by Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, vide C. No. _____, dated _____ for working under notification No. _____, dated _____.

(Signature and name of the service provider or his authorised agent with date)

(PART B: To be filled by the sanctioning authority)

Date of receipt of the rebate claim: _____

Date of sanction of the rebate claim: _____

Amount of rebate claimed: Rs. _____

Amount of rebate sanctioned: Rs. _____

If the claim is not processed within 15 days of the receipt of the claim, indicated briefly reasons for delay.

Place:

Date:

**Signature of the Assistant Commissioner/
Deputy Commissioner of Central Excise.**

**Pankaj K. Singh
Technical Officer (TRU)**