

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
NO.1, WILLIAMS ROAD, CONTONMENT, TRICHY-620 001.

Trade Notice No.18/2007 S. Tax

Dated: 19 -9-2007.

Subject: Service Tax – Communication of Notification Nos.39/2007-ST & 40/2007-ST
dt. 12-9-07 & 17-9-07 respectively - reg.

Ministry's Service Tax Notification Nos. 39/2007 dt. 12-9-07 & 40/2007-ST dt. 17-9-07 issued vide F.No.201/21/2007-CX.6 (Pt) and F.No.341/15/2007-TRU respectively is communicated herewith 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/16/905/2007 S.Tax Vol-II)

Sd./-
(A.RAJENDRAN)
ASSISTANT COMMISSIONER (ST).

To
The Mailing list I / II / III.

Notification No.39/2007 - Service Tax

New Delhi, the 12th September, 2007

G.S.R. (E). In exercise of the powers conferred by sub-sections (1) and (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely :-

1. (1) These rules may be called the Service Tax (Fifth Amendment) Rules, 2007.
- (2) They shall come into force on the day of publication in the Official Gazette.

2. In the Service Tax Rules, 1994, in rule 6, for sub-rule (1), the following shall be substituted, namely:-

“(1) The service tax shall be paid to the credit of the Central Government,-

- (i) by the 6th day of the month, if the duty is deposited electronically through internet banking; and
- (ii) by the 5th day of the month, in any other case,

immediately following the calendar month in which the payments are received, towards the value of taxable services:

Provided that where the assessee is an individual or proprietary firm or partnership firm, the service tax shall be paid to the credit of the Central Government by the 6th day of the month if the duty is deposited electronically through internet banking, or, in any other case, the 5th day of the month, as the case may be, immediately following the quarter in which the payments are received, towards the value of taxable services:

Provided further that notwithstanding the time of receipt of payment towards the value of services, no service tax shall be payable for the part or whole of the value of services, which is attributable to services provided during the period when such services were not taxable:

Provided also that the service tax on the value of taxable services received during the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.”.

F. No.201/21/2007-CX.6 (pt.)

(Ashima Bansal)
Under Secretary to the Government of India

Note.- The principal rules were notified vide notification No. 2/94-Service Tax, dated the 28th June,1994 and published in the Gazette of India, Extraordinary vide number G.S.R.546 (E), dated the 28th June, 1994 and were last amended vide notification No. 28/2007-Service Tax, dated the 22nd May, 2007 vide G.S.R.374(E), dated the 22nd May, 2007.

Notification No.40/2007-Service TaxNew Delhi, the 17th September, 2007.

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services specified in the Schedule (hereinafter referred to as specified services) received by an exporter and used for export of goods (hereinafter referred to as said goods), from the whole of the service tax leviable thereon under section 66 of the said Finance Act, subject to the following conditions, namely:-

- (a) the exemption shall be claimed by the exporter of the goods for the specified services received and used by the exporter for export of the said goods;
- (b) the exemption claimed by the exporter shall be provided by way of refund of service tax paid on the specified services used for export of the said goods;
- (c) the exporter claiming the exemption has actually paid the service tax on the specified services;
- (d) the exemption or refund of service tax paid on the specified services used for export of said goods shall not be claimed except under this notification.

2. The exemption contained in this notification shall be given effect to in the following manner, namely:-

- (a) the person liable to pay service tax under sub-section (1) or sub-section (2) of section 68 of the said Finance Act shall pay service tax as applicable on the specified services provided to the exporter and used for export of the said goods, and such person shall not be eligible to claim exemption for the specified services:

Provided that where the exporter of the said goods and the person liable to pay service tax under sub-section (2) of section 68 for the said services are the same person, then in such cases exemption for the specified services shall be claimed by that person;

- (b) the exporter shall claim the exemption by filing a claim for refund of service tax paid on specified services:

Provided that,-

- (i) the manufacturer-exporter of the said goods shall file the claim for refund to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of manufacture or warehouse, and
- (ii) the exporter, other than a manufacturer-exporter, shall file the claim for refund to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the registered office of such exporter,

- (c) the claim for refund shall be filed on a quarterly basis, within sixty days from the end of the relevant quarter during which the said goods have been exported:

Provided that the said goods shall be deemed to be exported on the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under section 51 of the Customs Act, 1962 (52 of 1962);

- (d) the refund claim shall be accompanied by documents evidencing,-

- (i) export of the said goods;
- (ii) payment of service tax on the specified services for which claim for refund of service tax paid is filed;

- (e) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after satisfying himself that the said services have been actually used for export of said goods, refund the service tax paid on the specified services used for export of said goods:

Provided that where any refund of service tax paid on specified services used for export of said goods has been paid to an exporter but the sale proceeds in respect of the said goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such service tax refunded shall be recoverable under the provisions of the said Finance Act and the rules made thereunder, as if it is a recovery of service tax erroneously refunded.

Schedule

Sr. No.	Taxable Services	
	Classification under Finance Act, 1994	Description
(1)	(2)	(3)
1.	Section 65(105)(zn)	Services provided for export of said goods
2.	Section 65(105)(zsl)	Services provided for export of said goods
3.	Section 65(105)(zsp)	Services provided for transport of said goods from the inland container depot to the port of export
4.	Section 65(105)(zzsp)	Services provided for transport of said goods from the inland container depot to the port of export

[F.No.341/15/2007-TRU]

(G.G. Pai) Under Secretary to the Government of India