

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX
NO.1, WILLIAMS ROAD, CONTONMENT, TIRUCHIRAPPALLI-620 001.

Trade Notice No.5/2009 S. Tax

Dated: 4-3-2009.

Subject: Service Tax – Notification No.9/2009-Service Tax
Dated 3-3-2009 – Communication –Regarding.

Ministry's Service Tax Notification No. 9/2009- ST dated 3-3-2009, issued in F.No. 354/163/2006-TRU is enclosed herewith for information, guidance and necessary action.

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

(Issued from C.No.IV/16/805/2009 STC)

Encl.: As above.

Sd/-
(A. RAJENDRAN)
ASSISTANT COMMISSIONER.

To
The Mailing list I / II / III.

Copy of Notification No.9/2009-ST dated 3-3-2009 issued in F.No.354/163/2006-TRU is reproduced below.

New Delhi, the 3rd March, 2009.

Notification No.9/2009-Service Tax

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), and in supersession of the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 4/2004-ServiceTax, dated the 31st March, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated the 31st March, 2004, vide, G.S.R.248(E), dated the 31st March, 2004, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services specified in clause (105) of section 65 of the said Finance Act, which are provided in relation to the authorised operations in a Special Economic Zone, and received by a developer or units of a Special Economic Zone, whether or not the said taxable services are provided inside the Special Economic Zone, from the whole of the service tax leviable thereon under section 66 of the said Finance Act:

Provided that–

(a) the developer or units of Special Economic Zone shall get the list of services specified in clause (105) of section 65 of the said Finance Act as are required in relation to the authorised operations in the Special Economic Zone, approved from the Approval Committee (hereinafter referred to as the specified services);

(b) the developer or units of Special Economic Zone claiming the exemption actually uses the specified services in relation to the authorised operations in the Special Economic Zone;

(c) the exemption claimed by the developer or units of Special Economic Zone shall be provided by way of refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone;

(d) the developer or units of Special Economic Zone claiming the exemption has actually paid the service tax on the specified services;

(e) no CENVAT credit of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone has been taken under the CENVAT Credit Rules, 2004;

(f) exemption or refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone shall not be claimed except under this notification.

2. The exemption contained in this notification shall be subject to the following conditions, 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 developer or units of Special Economic Zone and used in relation to the authorised operations in the Special Economic Zone, and such person shall not be eligible to claim exemption for the specified services:

Provided that where the developer or units of Special Economic Zone 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 developer or units of Special Economic Zone shall claim the exemption by filing a claim for refund of service tax paid on specified services;

(c) the developer or units of Special Economic Zone shall file the claim for refund to the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;

(d) the developer or units of Special Economic Zone who is not registered as an assessee under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, or the said Finance Act or the rules made thereunder, shall, prior to filing a claim for refund of service tax under this notification, file a declaration in the Form annexed hereto with the respective jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;

(e) the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after due verification, allot a service tax code (STC) number to the developer or units of Special Economic Zone within seven days from the date of receipt of the said Form;

(f) the claim for refund shall be filed, within six months or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit, from the date of actual payment of service tax by such developer or unit to service provider;

(g) the refund claim shall be accompanied by the following documents, namely:-

(i) a copy of the list of specified services required in relation to the authorised operations in the Special Economic Zone, as approved by the Approval Committee;

(ii) documents for having paid service tax;

(iii) a declaration by the Special Economic Zone developer or unit, claiming such exemption, to the effect that such service is received by him in relation to authorised operation in Special Economic Zone.

(h) 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 in relation to the authorised operations in the Special Economic Zone, refund the service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone;

(i) where any refund of service tax paid on specified services is erroneously refunded for any reasons whatsoever, 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.

3. The exemption contained in this notification shall apply only in respect of service tax paid on the specified services on or after the date of publication of this notification in the Official Gazette.

4. Words and expressions used in this notification and defined in the Special Economic Zones Act, 2005 (28 of 2005) or the rules made thereunder, shall apply, so far as may be, in relation to refund of service tax under this notification as they apply in relation to a Special Economic Zone.

Form

1. Name of the developer or unit of Special Economic Zone:
2. Address of the registered office or head office:
3. Permanent Account Number (PAN):
4. Details of Bank Account:
 - (a) Name of the Bank:
 - (b) Name of the Branch:
 - (c) Account Number:
5. (a) Constitution of developer or unit of Special Economic Zone [Proprietorship /Partnership /Registered Private Limited Company /Registered Public Limited Company /Others (specify)]
 - (b) Name, address, telephone number and Email ID of proprietor /partner /director
6. Description of authorized operations as approved by the Approval Committee:

S. No.	Description of goods	Classification in case of excisable goods
(1)	(2)	(3)

7. Description of taxable services received by the exporter for use in relation to the authorised operations in the Special Economic Zone:

S. No.	Description of taxable service	Classification under the Finance Act, 1994	Name, STC and address of service provider	Invoice number and date
(1)	(2)	(3)	(4)	(5)

8. Name, designation and address of the authorized signatory / signatories:
9. I / We hereby declare that-
 - (i) the information given in this application form is true, correct and complete in every respect and that I am authorized to sign on behalf of the developer or units of Special Economic Zone;
 - (ii) no CENVAT credit of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone shall be taken under the CENVAT Credit Rules, 2004;
 - (iii) I / we shall maintain records pertaining to the specified services used in relation to the authorised operations in the Special Economic Zone and shall make available, at the declared premises, at all reasonable time, such records for inspection and examination by the Central Excise Officer authorised in writing by the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be.

(Signature of the applicant / authorized person with stamp)

Date:

Place:

[F.No.354/163/2006-TRU]
(Unmesh Sharad Wagh)
Under Secretary to the Government of India
