



केन्द्रीय उत्पाद शुल्क एवं सेवा कर आयुक्त का कार्यालय
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TRADE NOTICE NO. 7/2015-ST

16.11.2015

Subject: Speedy disbursement of pending refund claims of exporters of services
under rule 5 of the CENVAT Credit Rules, 2004

The contents of the Circular No.187/6/2015-ST dated 10.11.2015 (F. No. 137/62/2015-Service Tax) issued by the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi on the above subject are hereby communicated to all the constituent members of Industry, Trade and Commerce.

(Issued from file C. No.IV/16/812/2015-STC)


(CECILIA PARTHASARATHI)
ASSISTANT COMMISSIONER

To

As per mailing list.
All Divisions / Ranges under Trichy Commissionerate.
All Sections in Hqrs. Office, Trichy.

Copy to : Computer Centre, Hqrs., Trichy - for uploading the Trade Notice to the website
of the Commissionerate.

(Contents of the Board's Circular No.187/6/2015-ST dated 10.11.2015)

Subject: Speedy disbursement of pending refund claims of exporters of services
under rule 5 of the CENVAT Credit Rules, 2004

The Board has been issuing instructions from time to time relating to the sanction and disbursement of refund claims under various notifications. A simplified procedure for sanction of refund for select categories of exporters was outlined vide Circular No, 828/5/2006-CX dated 20-4-2006 issued from F. No. 268/4/2005-CX-8. This year having been declared as the Year of Taxpayer Services, the Board has accorded primacy to speedy sanction of refunds in case of export of services. Keeping in mind the various legal changes in service tax since 2006 and the various representations received in this regard, I am directed to inform you that the following scheme has been drawn up to fast track sanction of refund of accumulated CENVAT credit to exporters of services. This scheme is not a substitute for the various notifications but is meant to complement them and is aimed at enabling ease of doing business.

2.0 Applicability of the scheme

2.1 This scheme is applicable to service tax registrants who are exporters of services, with respect to refund claims under rule 5 of the CENVAT Credit Rules, 2004, which have been **filed on or before 31-3-2015**, and which have not been disposed of as on date of the issue of this circular. Such registrants will be referred to as 'claimants' in the subsequent paragraphs.

2.2 The phrase "disposed of" in this context refers to either sanction of refund or denial, either in whole or in part, by way of an adjudication order. Refunds which had been finalized earlier by issuance of an adjudication order but have been remanded back to the original sanctioning authority will not be covered under this scheme since re-examination of such claims will have to be done strictly in terms of the remand order of the Commissioner (Appeals)/ CESTAT / High Court.

3.0 Additional documents to be submitted (i.e. in addition to those required to be filed along with the claim)

3.1 A certificate from the statutory auditor in the case of companies, and from a chartered accountant in the case of assesseees who are not companies, in the format given in **Annexure-1**.

3.2 An undertaking from the claimant in the format given in **Annexure-2**.

4.0 Operation of the scheme

4.1 On receipt of the documents referred to in paragraph 3.1 and 3.2 above in respect of pending claims, the jurisdictional Deputy/Assistant Commissioner will give a dated acknowledgement to the claimant. **He will then make a provisional payment of 80% (eighty per cent) of the amount claimed as refund, within five working days of the receipt of the documents.**

4.2 The letter intimating the provisional payment should be in the format given in **Annexure-3**. It is clarified that this payment of 80% of the refund amount shall be purely provisional, based on the documents referred to in paragraphs 3.1 and 3.2 above and without prejudice to the department's right to check the correctness of the claim in terms of the relevant notification and recover any amount which has been provisionally paid. It is also clarified that the decision to grant provisional payment is an administrative order and not a quasi-judicial order and should not be subjected to review.

4.3 After making the provisional payment, the jurisdictional Deputy/Assistant Commissioner shall undertake checking the correctness of the refund claim in terms of the relevant notification.

4.4 During the course of verification, it may appear that a part of the amount claimed as refund is inadmissible. In such cases, a show cause notice (SCN) has to be issued asking the claimant to show cause why the inadmissible amount should not be denied and wherever relevant, why any amount which has been provisionally paid should not be recovered. However, prior to the issuance of such a SCN, the claimant may be intimated about the inadmissible amount so that he has an opportunity to avail of the provisions of section 73(3) of the Finance Act, 1994. A speaking, appealable order will have to be passed with respect to the SCN. This order will be reviewed by the Jurisdictional Commissioner.

4.5 If during review of the refund order, any further amount is found to be inadmissible, then, apart from filing an appeal for setting aside or modifying the relevant portion of the order, a SCN will also have to be issued for the amount not covered by the original SCN. However, prior to the issue of such a SCN, the claimant may be intimated about the inadmissible amount so that he has an opportunity to avail of the provisions of section 73(3) of the Finance Act, 1994.

5.0 Monitoring and reporting

5.1 An MIS report in the format specified in **Annexure-4** may be sent by the tenth of every month by email to commr.st-cbec@nic.in.

5.2 Principal Commissioners/Commissioners should ensure that the provisional payment of refunds is done strictly in terms of the time lines specified and that there are no complaints regarding delays. They should also ensure that the staff dealing with refunds are adequately familiarised about this scheme so that it operates smoothly.

6.0 Publicity

6.1 Principal Chief Commissioners/Chief Commissioners should ensure that the contents of this circular are brought to the notice of the claimants as well as the departmental officers.

F. No. 137/62/2015-Service Tax

Yours faithfully,

(Himani Bhayana)
Under Secretary (Service Tax)

