

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

Trade Notice No.20/2007 S. Tax

Dated: 23-10-2007.

Subject: Service Tax -Corrigendum to Circular No. 93/4/2007-ST
Dt. 10-5-07-reg.

Reference: This office Trade Notice No.8/2007-STC dt. 17-5-07.

Please refer to Ministry's Service Tax Circular No. 93/4/2007-ST dt. 10-5-07. This circular was issued to withdraw certain circulars / clarification / instructions, which were previously issued with some objectives, but which had since then lost their relevance or had become anachronistic due to change in law, procedure etc.

02. In this circular, in the Table, in the entry against SI.No.15, the circular 'F.No. B.43/7/97-TRU dt. 11-7-1997 has been mentioned instead of "F.No.B.43/1/97-TRU dated 6-6-1997 due to an inadvertent error". Therefore, entry against said SI.No.15 may be read as "F.No.B.43/1/97-TRU dated 6-6-1997".

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.41/2007-Service Tax

New Delhi, the 6th October, 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) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.40/2007-Service Tax, dated the 17th September, 2007 which was published in the Gazette of India, Extraordinary, vide number G.S.R. 601(E) dated the 17th September, 2007, 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 column (3) of 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 and section 66A of the said Finance Act, subject to the conditions specified in the corresponding entry in column (4) of the Schedule:

Provided that-

- (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) no CENVAT credit of service tax paid on the specified services used for export of said goods has been taken under the CENVAT Credit Rules, 2004;
- (e) the said goods have been exported without availing drawback of service tax paid on the specified services under the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995;
- (f) 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, as the case may be, having jurisdiction over the registered office or the head office, as the case may be, of such exporter;
- (c) the exporter 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;
- (d) 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 exporter within seven days from the date of receipt of the said Form;

(e) 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 have been 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);

(f) 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;

(iii) wherever applicable, a copy of the written agreement entered into by the exporter with the buyer of the said goods, as the case may be;

(g) 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;

(h) 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		Conditions
	Classification under Finance Act, 1994	Description	
(1)	(2)	(3)	(4)
1.	Section 65(105)(d)	Services provided to an exporter by an insurer, including a re-insurer carrying on general insurance business in relation to insurance of said goods	(i) document issued by the insurer, including re-insurer, for payment of insurance premium shall be specific to export goods and shall be in the name of the exporter.
2.	Section 65(105)(zn)	Services provided for export of said goods	-
3.	Section 65(105)(zzh)	Services provided by a technical testing and analysis agency in relation to technical testing and analysis of said goods where such technical testing and analysis is required to be undertaken as per the written agreement between the exporter and the buyer of the said goods	(i) the exporter furnishes a copy of the written agreement entered into with the buyer of the said goods requiring testing and analysis of the said goods; and (ii) the invoice issued by the service provider shall be specific to export goods and shall be in the name of the exporter.
4.	Section 65(105)(zzi)	Services provided by an inspection and certification agency in relation to inspection and certification of export goods where such technical inspection and certification is required to be undertaken as per written agreement between the exporter and the buyer of the export goods	(i) the exporter furnishes a copy of the written agreement entered into with the buyer of the said goods requiring inspection and certification of the said goods; and (ii) the invoice issued by the service provider shall be specific to export goods and shall be in the name of the exporter.
5.	Section 65(105)(zzl)	Services provided for export of said goods	-
6.	Section 65(105)(zzp)	Services provided for transport of said goods from the inland	-

		container depot to the port of export	
7.	Section 65(105)(zzzp)	Services provided for transport of said goods from the inland container depot to the port of export	-

Form

1. Name of the exporter :
2. Address of the registered office or head office of the exporter :
3. Permanent Account Number (PAN) of the exporter :
4. Import Export Code (IEC) of the exporter :
5. Details of Bank Account of the exporter :
 - (a) Name of the Bank :
 - (b) Name of the Branch :
 - (c) Account Number :
6. (a) Constitution of exporter [Proprietorship /Partnership /Registered Private Limited Company /Registered Public Limited Company /Others (specify)]
 - (b) Name, address and telephone number of proprietor /partner /director
7. Description of export goods:

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

8. Description of taxable services received by the exporter for use in export goods

S. No.	Description of taxable service	Classification under the Finance Act, 1994
(1)	(2)	(3)

9. Name, designation and address of the authorized signatory / signatories:

10. 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 exporter;
- (ii) no CENVAT credit of service tax paid on the specified services used for export of said goods shall be taken under the CENVAT Credit Rules, 2004;
- (iii) the said goods shall be exported without availing drawback of service tax paid on the specified services under the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995;
- (iv) I / we shall maintain records pertaining to export goods and the taxable services used for export of the said goods 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.341/15/2007-TRU]
(G.G. Pai)

Under Secretary to the Government of India