

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

Trade Notice No.8/2008 S. Tax

Dated: 22-5-2008.

Subject: Service Tax – Filing of claim for refund of service tax paid under
Notification No. 41/2007 ST dated 6/10/2007 – Circular
No.101/4/2008-ST dt. 12-5-08 – Communication - regarding.

Ministry's Service Tax Circular No.101/4/2008-ST dtd 12-5-08, issued vide F.No.137/84/2008-CX.4, on the above subject 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 Chamber of Commerce.

(Issued from C.No.IV/16/805/2008 S.Tax)

Sd./-
(VASA SESHAGIRI RAO)
ADDITIONAL COMMISSIONER.

To
The Mailing list I / II / III.

Copy of Service Tax Circular No.101/4/2008-ST dtd 12-5-08, issued vide
F.No.137/84/2008-CX.4 is reproduced below.

The notification No. 41/2007-ST, dated 6/10/2007 allows refund of service tax paid on specified services used for export of goods. This notification stipulates that a merchant exporter shall file the claim of refund to the Assistant Commissioner/Deputy Commissioner of Central Excise having jurisdiction over the registered office or the head office [Proviso to para 2(b) of notification].

2. It has been brought to the notice of the Board that certain doubts have arisen in field, regarding,-

(a) Whether an office, other than the registered (as per The Companies Act 1956) or the head office, of a merchant exporter can file claim for refund; and

(b) Whether in cities, having exclusive service tax commissionerates, such claims should be filed with central excise formations or service tax formation.

3. In this connection, it has been brought to the notice of the Board that in a number of cases, regional or other offices (which is neither a head office nor a registered office in terms of the provisions of the Companies Act, 1956) of a merchant exporter are registered with department as service assesses, and it has been represented that in such cases, these offices registered with the department may be allowed to file the refund claim without insisting for filing of refund claim with the Assistant Commissioner/Deputy Commissioner of Central Excise having jurisdiction over the head office/registered office.

4. The matter has been examined. Normally, a merchant exporter is not required to register with the department, and therefore, the condition of filing a refund claim at the location of head office/registered office has been stipulated in the notification. However, in cases, where a premises or an office of a merchant exporter is registered with the department under service tax law, the merchant exporter can, at his option, file refund claim with the jurisdictional office, he is registered with. Therefore, it is clarified that refund claims can be filed from any premises / office of a merchant exporter provided the same is registered for service tax purposes under the Finance Act, 1994 or rules made thereunder. However, even in such cases, if the merchant exporter so desires, he may file refund claim at the location where his head office/registered office is located, in the manner as prescribed in para 4.1 below.

4.1 In cases where no premises or offices of merchant exporter is registered with the department, a merchant exporter should file a declaration, as prescribed in notification No. 41/2007-ST, and thereafter, file the claims with the jurisdictional Assistant Commissioner/Deputy Commissioner as stipulated under proviso(ii) to paragraph 2(b) of the said notification. In case, the head office/registered office is located within the jurisdiction of exclusive Service Tax Commissionerates at Ahmedabad, Bangalore, Chennai, Delhi, Kolkata, and Mumbai, the claim should be filed before the jurisdictional Assistant Commissioner / Deputy Commissioner of Service Tax (who, as per the provisions is also an AC/DC of Central Excise). In all other cases, the refund claim should be filed with the Assistant Commissioner/Deputy Commissioner of Central Excise and Service Tax, having jurisdiction over Head office or Registered Office for the purposes of service tax.

5. As regards the manufacturer exporter, the proviso (i) to para 2(b) prescribes that he shall file the claim of refund to the Assistant Commissioner / Deputy Commissioner of Central Excise, having jurisdiction over the factory of manufacture or warehouse.

Yours faithfully,
(Gautam Bhattacharya)
Commissioner (ST)