



Service Tax Refund to Merchant Exporter of Goods

Service Tax - Notification No. 41 / 2007 – Service Tax dated 6 October 2007

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.

Government of India, Ministry of Finance, Department of Revenue has issued Notification No. 41 /2007-Service Tax dated 6 October 2007 ('the Notification'). The Notification has been issued in supersession of the earlier Notification No. 40 / 2007 - Service Tax dated 17 September 2007 ('the earlier Notification') and grants benefit of refund of Service Tax paid on seven specified services as against four specified services covered in the earlier Notification. Such refund can only be claimed by exporters of goods and not by service providers who provide the specified services to such exporters.

HIGHLIGHTS OF THE NOTIFICATION ARE AS UNDER:

An exporter of goods can claim refund of actual Service Tax paid on the following **specified services** received and used for export of goods:

S.No.	Description of Specified Service	Conditions, if any, to be satisfied by the exporter of goods
1.	General Insurance Services (including reinsurance)	<ul style="list-style-type: none">• The document issued by the insurer (including re-insurer) for payment of insurance premium is specific to the export goods;• The document is in the name of the exporter of the goods.
2.	Port Services	None
3.	Technical Testing and Analysis Services	<ul style="list-style-type: none">• The services are undertaken as per the written agreement between the exporter and the buyer of the export goods;• The exporter provides a copy of the written agreement while claiming refund of Service Tax paid;• The invoice issued by the service provider is specific to the export goods and is in the name of the exporter.



S.No.	Description of Specified Service	Conditions, if any, to be satisfied by the exporter of goods
4.	Technical and Certification Services	<ul style="list-style-type: none">• The services are undertaken as per the written agreement between the exporter and the buyer of the export goods;• The exporter provides a copy of the written agreement while claiming refund of Service Tax paid;• The invoice issued by the service provider is specific to the export goods and is in the name of the exporter.
5.	Other Port Services	None
6.	Goods Transport Agency's Services	<ul style="list-style-type: none">• The services are for transport of goods
7.	Transport of goods in containers by rail	<ul style="list-style-type: none">• The services are for transport of goods in containers by rail from ICD to the port of export.

CLAIM FOR REFUND OF SERVICE TAX PAID ON THE SPECIFIED SERVICES BY THE EXPORTER OF GOODS IS SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:

The exporter of goods has not availed CENVAT Credit of Service Tax paid on the specified services used for the export of the said goods;

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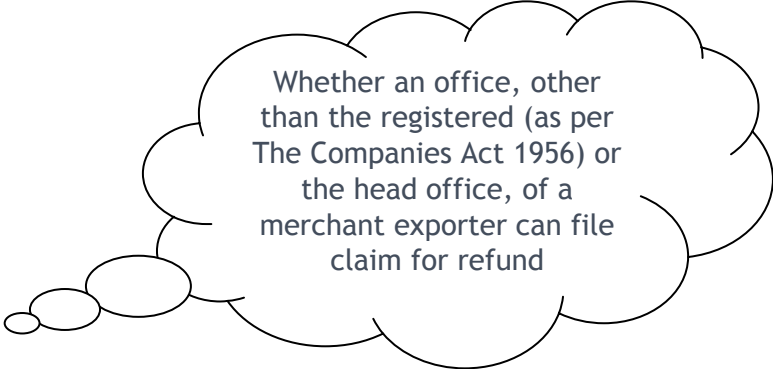
The said goods have been exported by the exporter without availing drawback of Service Tax paid on the specified services used for the export of the said goods under the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995.

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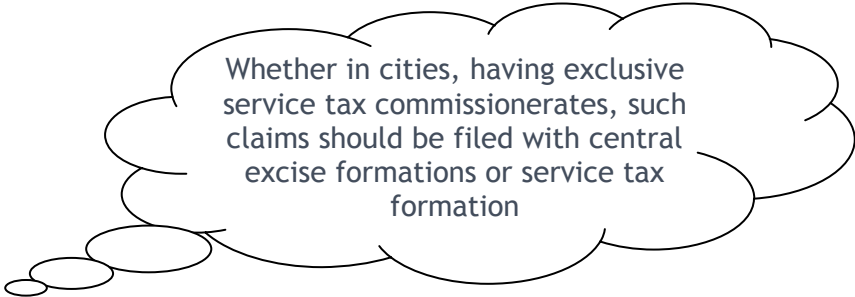
The exporter claiming the exemption has actually paid the service tax.

DOUBTS [SOURCE: CIRCULAR NO. 101/4/2008 DATED 12/5/08]

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



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



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

CLARIFICATIONS:-

- ✚ 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.
- ✚ 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 below.

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.

- ✚ 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.

Time Period for Filing Refund Claim

- The exporter of goods is required to file a quarterly claim for refund of Service Tax (paid on the specified services) **within 60 days** from the end of the relevant quarter during which the goods have been exported.
- The manufacturer-exporter of goods is required to file the refund claim with the Assistant Commissioner (AC) / Deputy Commissioner (DC) of Central Excise having jurisdiction over his factory / warehouse. Other exporters of goods are required to file the refund claim with the AC / DC of Central Excise having jurisdiction over the registered office of such exporter.
- An exporter of goods not registered as an assessee under the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994 is required to file a declaration in the prescribed format with the jurisdictional AC / DC of Central Excise prior to filing the refund claim under this Notification. The AC / DC of Central Excise after due verification of the declaration will allot a Service Tax Code (STC) Number to the exporter of goods within seven days from date of receipt of such declaration.



Documents to be accompanied for Refund Claim

- Export of such goods;
- Payment of Service Tax on the specified services;
- In case the services are in relation to ‘technical testing and analysis’ or ‘inspection and certification’ of the exported goods, copy of written agreement entered into by the exporter with the buyer of the goods.

Points to Be Pondered

- The AC / DC of Central Excise will grant refund to the exporter of goods, of the Service Tax paid on the specified services, after satisfying himself that the said services have actually been used for export of the said goods.
- The export proceeds in respect of the exported goods should be realized within the time limit specified under the Foreign Exchange Management Act, 1999, failing which the Service tax so refunded would be recoverable.
- The exporter needs to maintain records pertaining to export goods and the taxable services used for the export of such goods.