

CIRCULAR NO.112/06/2009-ST, DT: 12-03-2009

Sub: Filing of claim for refund of service tax paid under notification No. 41/2007-ST dated 6/10/2007 - Reg.

Notification No. 41/2007-ST, dated 6/10/2007 allows refund of service tax paid on specified services used for export of goods. To resolve the procedural difficulties arising in implementation of this refund scheme the Board has earlier issued circulars No. 101/4/2008-ST, dated 12.5.2008 and No. 106/9/2008-ST dated 11.12.2008.

2. The Board has received further references from field formations and trade seeking clarification on other procedural issues. These issues and the clarification are discussed in the following Table.

TABLE

S. No.	Issue Raised	Clarification
I	<u>Notification No. 41/07- ST</u> has been amended by <u>notification Nos. 32/2008-ST</u> , dated 18.11.2008 and <u>33/2008-ST</u> , dated 7.12.2008 to (i) extend the limitation period from 60 days from the end of quarter to six month; (ii) to omit the condition of nonavailability of drawback. Whether, in view of amended conditions, refund for the quarter Mar-Jun 08 would be allowed to be filed till Dec 08?	It is clarified that consequent upon revision of limitation period, any refund claim that is filed within such revised limitation period would be admissible if it is otherwise in order. Therefore, refund claims of service tax on specified taxable services used for exports of goods made in the quarter Mar-Jun 08 could be filed till 31 st Dec 08.
II	The bank deducts certain commissions from the export remittance in lieu of service provided by them. Refund is not allowed on such deduction. Refund should be allowed on the gross remittances.	Refund is admissible on the basis of gross amount received for the exports and deductions made by the banks from export remittances, in lieu of services provided by bank, should not be deducted while granting refund.
III	For exporters exporting to a customer regularly, the foreign exchange remittance certificates (FIRC) are made on running account basis by the banks. Therefore, it is often not possible to show the linkage between the export invoice and the remittance. This has resulted in denial of refund. Further in case where payments are received by cheque, banks do not issue FIRC and refunds are denied.	In such cases where FIRCs are issued on consolidated basis, the exporters should submit self-certified statement alongwith FIRC showing the details of export in respect of which the FIRC pertains. Refunds should be allowed on such certified statements. However, exporters should maintain a register showing running account which should be reconciled between the export and the remittance periodically. In cases where banks do not issue FIRC for the reason that payments are received by

		cheque, refund may be allowed on the basis of duly certified bank statement.
IV	Whether the limitation period of six month would be counted from the date of exports or from the date of receipt of remittances?	It is clearly prescribed in the notification that limitation period of six month is to be computed from the date of exports.
V	Whether refund would be admissible on specified taxable service received prior to the date it is notified in the said notification, if such services are used in relation to goods which are exported subsequent to the date on which such taxable services are notified under <u>notification No. 41/2007- ST.</u>	Being prospective in nature refund is not admissible on such services received prior to the date they are notified in the said notification, even if the goods, in relation to which these services are used, are exported after the date when such services are notified under <u>notification No. 41/2007-ST.</u>
VI	Authorities granting refund are insisting on original documents such as invoice, BL, SB, BRC etc. Such documents are required under the law to be kept in the Head office for audit. Refunds are denied on this ground.	Normally certified copy of the documents should be accepted. Only in case of in-depth enquiry original documents can be verified.
VII	The service provider providing services to the exporter provides various services. But he has registration of only one service. The refund is being denied on the grounds that the taxable services that are not covered under the registration are not eligible for such refunds.	<u>Notification No. 41/2007 ST</u> provides exemption by way of refund from specified taxable services used for export of goods. Granting refund to exporters, on taxable services that he receives and uses for export do not require verification of registration certificate of the supplier of service. Therefore, refund should be granted in such cases, if otherwise in order. The procedural violations by the service provider need to be dealt separately, independent of the process of refund.
VIII	Whether refunds under <u>notification No. 41/2007-ST,</u> dated 6.10.2007 would be admissible for the quarter July-Sep 2007.	The <u>notification No.41/2007-ST</u> exempts service tax on specified taxable services used for export of goods. This exemption is operated through the route of refund. Being prospective in nature, refund could only be sanctioned on taxable services provided on or after the date they are notified in the said notification, i.e., 6.10.2007.

3. The pending refund claims may be decided accordingly. It is once again reiterated that refund claims be sanctioned expeditiously within the time prescribed by the Board. Any difficulty faced in processing of refund claims under aforesaid notification may be immediately brought to the notice of the undersigned.