

CIRCULAR NO.114/08/2009-ST, DT: 20-05-2009

Sub: *Refund of service tax paid on taxable services taxable services which are provided in relation to the authorised operations in a Special Economic Zone – Reg.*

Notification No.9/2009-Service Tax, dated 3.3.2009 was issued to provide refund of service tax paid on taxable services specified in section 65(105) of the Finance Act, 1994 which are provided in relation to the authorised operations (as defined under SEZ Act, 2005) in a Special Economic Zone (SEZ), and received by a developer or units of a SEZ, whether or not the said taxable services are provided inside the SEZ.

2. Notification No. 15/2009-Service Tax, dated 20.05.2009 has been issued to amend the aforesaid Notification 9/200-ST dated 3.3.2009 to provide unconditional exemption to services consumed within the SEZ without following the refund route thus dispensing with the requirement of first paying the tax by the service provider and then claiming the refund thereof by developer/unit. The exemption by way of refund would be limited to situations only when taxable services provided to SEZ are consumed partially or wholly outside SEZ.

3. In cases where refund needs to be claimed, notification No. 15/2009-Service Tax, dated 20.05.2009 provides for certain conditions. One of the conditions is that the Assistant / Deputy Commissioner should satisfy himself that the said services have been actually used in relation to the authorised operations in the SEZ. This may be primarily done through the documents submitted with the claim. The notification requires that the refund claim shall be accompanied by the following documents,-

- (i) a copy of the list of specified services required in relation to the authorised operations in the SEZ, as approved by the Approval Committee;
- (ii) documents evidencing payment of service tax.

5. The Assistant / Deputy Commissioner may, in select cases, especially where the refund amount claimed is significant cause verification of the end-use of services consumed for which refund claim is filed.

6. Board's Circular No. 809/06/2005-CX, dated 01.03.2005 read with Circular No.857/15/2007-CX, dated 02.11.2007 which prescribes the procedure relating to sanction and pre-audit of refund / rebate claims, shall apply mutatis mutandis to cases where the individual refund claim amount exceeds Rs.5 lakh under the said notification.

7. As regards the issues relating to jurisdiction for the purposes of refund of service tax, STC code to be issued to the developer or unit of a SEZ and document evidencing payment of service tax, Board's Circulars No. 101 /4 /2008-ST, dated the 12th May, 08 and No. 106 /9 /2008-ST dated the 11th December, 08 shall apply mutatis mutandis to the refund scheme under this notification. 80% of the due refund amount is to be sanctioned as adhoc interim refund to developer or unit of SEZ, within 15 days of filing of a refund claim, subject to the condition that refund claim is complete and contains the requisite documents.

8. It is reiterated that refund of service tax paid on taxable services used in relation to the authorised operations in the SEZ should be disposed of expeditiously. The refund claims should be finalized within a maximum period of 30 days from the date of filing of refund claim and in any case not beyond 45 days from the date of filing of the refund claim.

9. Commissioners are advised to put in place a system of review and monitoring of disposal of refund claims filed and disposed within the prescribed time limits.

10. Any difficulty faced in implementing the above provisions may be immediately brought to the notice of the undersigned.