

Subject : Refund of service tax paid on foreign agent commission by exporters - Notification No.18/2009 dated 07/07/2009 - clarification – Reg.

Representations have been received from exporters, seeking clarification whether ten per cent of free on board (FOB) value of export goods allowed as foreign agency commission vide Notification 41/2007-ST dated 06/10/2007 as amended, has been reduced to one per cent vide Notification 18/2009-ST dated 07/07/2009.

2. In the context of refund of service tax paid on foreign agency commission, Notification 18/2009 dated 07/07/2009 (in the table, sl.no.2 , condition no. 2) says "exemption shall be limited to one percent of the free on board value of export goods for which the said service has been used". This means that amount of service tax paid, which can be refunded to the exporter, is restricted to one percent of the FOB value of export goods in relation to which the taxable service of the foreign agent was used.

3. The current rate of service tax being ten per cent and the maximum allowable limit of foreign agency commission being ten percent of FOB, one percent of the FOB value of export goods is the maximum exemption of service tax. To settle all doubts to rest, for the purpose of service tax refund, maximum allowable foreign agency commission on export goods continues to be at the pre-budget level of ten percent of the fob value of export goods till further changes are notified.