

TAX FLASH NEWS

Facility of an upfront provisional refund to exporters of services introduced

Background

Exporters of services are entitled to claim a refund of the unutilised CENVAT credit of service tax/duties paid on the procurement of goods and services and that which is used for the export of output services under Rule 5 of the CENVAT Credit Rules, 2004 (Credit Rules).

Considering the representations received from trade and industry, the Central Board of Excise and Customs (CBEC) has issued a Circular No.187/6/2015-Service Tax dated 10 November 2015 declaring a scheme for the speedy disbursal of pending refund claims of exporters of services.

Coverage

The scheme is applicable to exporters of output services (claimant) who have filed their refund claims under Rule 5 of the Credit Rules on or before 31 March 2015 and which have not been disposed of by the tax authorities as on the date of issuance of this circular.

For this purpose, the term 'disposed of' is clarified to mean the sanction of a refund or denial (either in part or full) by way of an adjudication order i.e. all refund claims where an order has been issued will be outside the purview of this scheme. Further, the refund claims that are pending for disposal on account of remand orders from the Commissioner of Service Tax (Appeals)/Tribunal/High Court are also not covered under this scheme.

The brief procedure to be followed for availing the benefit of this scheme is summarised below:

- The claimant has to furnish a certificate and an undertaking (in addition to the documents filed along with the refund claim):
 - A certificate (in the prescribed format) from the statutory auditor in case of companies and from chartered accountant in other cases; and
 - An undertaking from the claimant in the prescribed format.
- On receipt of the aforesaid mentioned documents, the jurisdictional adjudicating authority shall issue a dated acknowledgement and make a provisional payment of 80 per cent of the refund claimed within five working days.
- Pursuant to provisional payment of the refund claim, the authorities shall undertake a detailed scrutiny of the claim in terms of the relevant notification.
- If the refund is found to be inadmissible, the authorities will issue a Show Cause Notice (SCN) for recovery of such excess amount paid. However, before issue of an SCN, an intimation will be sent to the claimant so as to enable him/her to avail the benefit of Section 73(3) of Chapter V of the Finance Act, 1994 (service tax law) seeking waiver of the issue of an SCN upon payment of the determined amount.

Our comments

This is a welcome scheme issued by the CBEC and is expected to benefit many service providers whose refund claims have been pending for long. This may also ease the pressure on the working capital requirement of exporters of services. The monitoring mechanism instituted by the CBEC can assist in provisional refunds largely being sanctioned within the given timelines. Service providers may now have to quickly arrange for a certification from their statutory auditors and submit the same to the tax authorities for grant of a provisional 80 per cent refund.



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