

21st December 2015

**TO ALL MEMBERS:**

**Speedy Disbursal of pending refund claims of exporters of services under Rule 5 of the CENVAT Credit Rules, 2004**

The Central Government has placed great emphasis on reform oriented, non-adversarial and responsive tax administration. In this context, Central Board of Excise and Customs (CBEC) has taken several initiatives over the years to facilitate trade and to simplify and accelerate processes and procedures to reduce interface between tax officials and taxpayers. It is CBEC's Mission to achieve excellence in the formulation and implementation of Customs, Central Excise and Service Tax Policies for the benefit of trade, industry and other stakeholders.

CBEC has been issuing instructions from time to time relating to sanction and disbursal of refund claims under various notifications. This year having been declared as the Year of Taxpayer Services. CBEC has accorded primacy to speedy sanction of refunds in case of export of Services.

Keeping in mind the various legal changes in Service Tax in recent years and the various representations received in this regard, **a new scheme has been drawn up to fast track sanction of refund of accumulated CENVAT credit to exporters of services, vide CBEC Circular No. 187/6/2015-Service Tax dated 10th November, 2015, a copy of which is attached for your kind reference.** It is to mention that this new scheme is not a substitute for the various notifications, but is meant to complement them and is aimed at enabling ease of doing business.

This is for the information of the members.

**Eapen Kalapurakal**  
Secretary

**F. No. 137/62/2015-Service Tax**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Excise & Customs**  
**Service Tax Wing**  
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New Delhi, dated 10<sup>th</sup> November, 2015

To

All Principal Chief Commissioners of Central Excise  
All Chief Commissioners of Central Excise/Service Tax  
Principal Directors General of Goods & Services Tax/Systems/  
Central Excise Intelligence  
Director General of Audit/Tax Payer Services  
All Principal Commissioners/Commissioners of Central Excise/Service Tax  
All Commissioners of Central Excise/Service Tax (Audit)  
Principal Commissioners/Commissioners LTU, Joint Secretary TRU-I/TRU-II/Review  
Commissioner Central Excise/Legal/PAC/Taxpayer Services

Madam/Sir

Subject: Speedy disbursement of pending refund claims of exporters of services under rule 5 of the CENVAT Credit Rules, 2004

The Board has been issuing instructions from time to time relating to the sanction and disbursement of refund claims under various notifications. A simplified procedure for sanction of refund for select categories of exporters was outlined vide Circular No. 828/5/2006-CX dated 20-4-2006 issued from F. No. 268/4/2005-CX-8. This year having been declared as the Year of Taxpayer Services, the Board has accorded primacy to speedy sanction of refunds in case of export of services. Keeping in mind the various legal changes in service tax since 2006 and the various representations received in this regard, I am directed to inform you that the following scheme has been drawn up to fast track sanction of refund of accumulated CENVAT credit to exporters of services. This scheme is not a substitute for the various notifications but is meant to complement them and is aimed at enabling ease of doing business.

## **2.0 Applicability of the scheme**

2.1 This scheme is applicable to service tax registrants who are exporters of services, with respect to refund claims under rule 5 of the CENVAT Credit Rules, 2004, which have been **filed on or before 31-3-2015**, and which have not been disposed of as on date of the issue of this circular. Such registrants will be referred to as 'claimants' in the subsequent paragraphs.

2.2 The phrase 'disposed of' in this context refers to either sanction of refund or denial, either in whole or in part, by way of an adjudication order. Refunds which had been finalized earlier by issuance of an adjudication order but have been remanded back to the original

sanctioning authority will not be covered under this scheme since re-examination of such claims will have to be done strictly in terms of the remand order of the Commissioner (Appeals)/ CESTAT/ High Court.

### **3.0 Additional documents to be submitted (i.e. in addition to those required to be filed along with the claim)**

3.1 A certificate from the statutory auditor in the case of companies, and from a chartered accountant in the case of assesseees who are not companies, in the format given in **Annexure-1**.

3.2 An undertaking from the claimant in the format given in **Annexure-2**.

### **4.0 Operation of the scheme**

4.1 On receipt of the documents referred to in paragraph 3.1 and 3.2 above in respect of pending claims, the jurisdictional Deputy/Assistant Commissioner will give a dated acknowledgement to the claimant. **He will then make a provisional payment of 80% (eighty per cent) of the amount claimed as refund, within five working days of the receipt of the documents.**

4.2 The letter intimating the provisional payment should be in the format given in **Annexure-3**. It is clarified that this payment of 80% of the refund amount shall be purely provisional, based on the documents referred to in paragraphs 3.1 and 3.2 above and without prejudice to the department's right to check the correctness of the claim in terms of the relevant notification and recover any amount which has been provisionally paid. It is also clarified that the decision to grant provisional payment is an administrative order and not a quasi-judicial order and should not be subjected to review.

4.3 After making the provisional payment, the jurisdictional Deputy/Assistant Commissioner shall undertake checking the correctness of the refund claim in terms of the relevant notification.

4.4 During the course of verification, it may appear that a part of the amount claimed as refund is inadmissible. In such cases, a show cause notice (SCN) has to be issued asking the claimant to show cause why the inadmissible amount should not be denied and wherever relevant, why any amount which has been provisionally paid should not be recovered. However, prior to the issuance of such a SCN, the claimant may be intimated about the inadmissible amount so that he has an opportunity to avail of the provisions of section 73(3) of the Finance Act, 1994. A speaking, appealable order will have to be passed with respect to the SCN. This order will be reviewed by the jurisdictional Commissioner.

4.5 If during review of the refund order, any further amount is found to be inadmissible, then, apart from filing an appeal for setting aside or modifying the relevant portion of the order, a SCN will also have to be issued for the amount not covered by the original SCN. However, prior to the issue of such a SCN, the claimant may be intimated about the inadmissible amount so that he has an opportunity to avail of the provisions of section 73(3) of the Finance Act, 1994.

## 5.0 Monitoring and reporting

5.1 An MIS report in the format specified in **Annexure-4** may be sent by the tenth of every month by email to [commr.st-cbec@nic.in](mailto:commr.st-cbec@nic.in).

5.2 Principal Commissioners/Commissioners should ensure that the provisional payment of refunds is done strictly in terms of the time lines specified and that there are no complaints regarding delays. They should also ensure that the staff dealing with refunds are adequately familiarised about this scheme so that it operates smoothly.

## 6.0 Publicity

6.1 Principal Chief Commissioners/Chief Commissioners should ensure that the contents of this circular are brought to the notice of the claimants as well as the departmental officers.

Yours faithfully,

*Himani*  
10/11/2015  
(Himani Bhayana)

Under Secretary (Service Tax)

Annexure-1

To,  
The Deputy/Assistant Commissioner of Central Excise/Service Tax

Date:

Madam/Sir

1.0 This is to certify that for M/s \_\_\_\_\_, STC No. \_\_\_\_\_

1.1 The refund claim for Rs \_\_\_\_\_ for the quarter \_\_\_\_\_ is complete in all aspects with all the relevant documents and has been filed within the prescribed time limit.

1.2 The amount of Rs. \_\_\_\_\_ claimed as refund for the quarter \_\_\_\_\_ by M/s \_\_\_\_\_ in their application for refund dated \_\_\_\_\_ is correct as per their books of accounts and relevant records and the same is in accordance with the provisions of rule 5 of the CENVAT Credit Rules, 2004, read with the notification no. \_\_\_\_\_ issued thereunder.

1.3 M/s \_\_\_\_\_ is eligible to take CENVAT credit in terms of the CENVAT Credit Rules, 2004, for the amount which is being claimed as refund.

1.4 The services which are claimed to be exported, qualify to be treated as exports in terms of the rules in force at the time of the said export.

Signature of the statutory auditor/chartered accountant/  
authorized signatory of the statutory auditor/chartered accountant

**Annexure-2**

**To**

**The Deputy/Assistant Commissioner of Central Excise/Service Tax**

Date:

M/s \_\_\_\_\_, STC No. \_\_\_\_\_ hereby undertake that for any amount provisionally paid to me for the refund claim for ₹ \_\_\_\_\_ for the quarter \_\_\_\_\_, filed on \_\_\_\_\_, in case there is a difference between the amount provisionally paid to me and the amount found to be admissible, I shall pay the said differential amount upon intimation about its inadmissibility, along with applicable interest thereon.

**Signature of the claimant**

**Annexure-3**

**To,**

**M/s**

**STC No.**

**Date:**

Subject: Provisional payment of amount claimed as refund

Please refer to your refund claim filed for the quarter ----- for an amount of ₹-----, filed on ----- .

2. On the basis of the certificate dated -----issued by the statutory auditor M/s-----/ Chartered Accountant M/s -----dated -----, received in this office on -----, provisional payment of the amount of Rs----- is hereby made vide cheque No. ----- dated ----- on -----Bank, -----,

3. This provisional payment of 80% of the refund amount is purely provisional and without prejudice to the right of the office of the Commissioner of Central Excise/Service Tax, ----- to check the correctness of the claim in terms of the relevant notification and recover the difference, if any, between-

3.1 the amount provisionally paid and the amount held to be admissible; and

3.2 any amount which appears to have been erroneously refunded.

**Signature of Deputy/Assistant Commissioner of Central Excise/Service Tax**

**Annexure-4**

**MIS Report - Speedy disbursal of pending refund claims of exporters of services under rule 5 of the CENVAT Credit Rules, 2004**

**Zone:**

**Month:**

(Amount in ₹ lakhs)

<b>Refund claims pending as on 31-3-2015</b>		<b>Claims for which documents (as required in Para 3 of the Circular) have been submitted</b>				<b>Amount of provisional payment made (Para 4.1 of the circular)</b>			
No.	Amount	No.		Amount		No.		Amount	
		For the Month	Upto the Month	For the Month	Upto the Month	For the Month	Upto the Month	For the Month	Upto the Month