

Notification No.39/2012 - Service Tax

New Delhi, the 20th June, 2012

GSR (E). In exercise of the powers conferred by rule 6A of the Service Tax Rules, 1994 (hereinafter referred to as the said rules), the Central Government hereby directs that there shall be granted rebate of the whole of the duty paid on excisable inputs or the whole of the service tax and cess paid on all input services (herein after referred to as 'input services'), used in providing service exported in terms of rule 6A of the said rules, to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified hereinafter,-

2. **Conditions and limitations:-**

- (a) that the service has been exported in terms of rule 6A of the said rules;
- (b) that the duty on the inputs, rebate of which has been claimed, has been paid to the supplier;
- (c) that the service tax and cess, rebate of which has been claimed, have been paid on the input services to the provider of service;

Provided if the person is himself is liable to pay for any input services; he should have paid the service tax and cess to the Central Government.

- (d) the total amount of rebate of duty, service tax and cess admissible is not less than one thousand rupees;
- (e) no CENVAT credit has been availed of on inputs and input services on which rebate has been claimed; and
- (f) that in case,-
 - (i) the duty or, as the case may be, service tax and cess, rebate of which has been claimed, has not been paid; or
 - (ii) the service, rebate for which has been claimed, has not been exported; or
 - (iii) CENVAT credit has been availed on inputs and input services on which rebate has been claimed,

the rebate paid, if any, shall be recoverable with interest in accordance with the provisions of section 73 and section 75 of the Finance Act, 1994 (32 of 1994)

3. **Procedure.**

3.1 Filing of Declaration.- The provider of service to be exported shall, prior to date of export of service, file a declaration with the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, specifying the service intended to be exported with,-

- (a) description, quantity, value, rate of duty and the amount of duty payable on inputs actually required to be used in providing service to be exported;
- (b) description, value and the amount of service tax and cess payable on input services actually required to be used in providing service to be exported.

3.2 Verification of declaration.- The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall verify the correctness of the declaration filed prior to such export of service, if necessary, by calling for any relevant information or samples of inputs and if after such verification, the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise is satisfied that there is no likelihood of evasion of duty, or as the case may be, service tax and cess, he may accept the declaration.

3.3 Procurement of input materials and receipt of input services.- The provider of service to be exported shall,-

- (i) obtain the inputs required for use in providing service to be exported, directly from a registered factory or from a dealer registered for the purposes of the CENVAT Credit Rules, 2004 accompanied by invoices issued under the Central Excise Rules, 2002;
- (ii) receive the input services required for use in providing service to be exported and an invoice, a bill or, as the case may be, a challan issued under the provisions of Service Tax Rules, 1994.

3.4 Presentation of claim for rebate.-

- (a) (i) claim of rebate of the duty paid on the inputs or the service tax and cess paid on input services shall be filed with the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, after the service has been exported;

(ii) such application shall be accompanied by, -

(a) invoices for inputs issued under the Central Excise Rules, 2002 and invoice, a bill, or as the case may be, a challan for input services issued under the Service Tax Rules, 1994, in respect of which rebate is claimed;

(b) documentary evidence of receipt of payment against service exported, payment of duty on inputs and service tax and cess on input services used for providing service exported, rebate of which is claimed;

(c) a declaration that such service, has been exported in terms of rule 6A of the said rules, along with documents evidencing such export.

(b) The jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, having regard to the declaration, if satisfied that the claim is in order, shall sanction the rebate either in whole or in part.

Explanation 1.- For the purposes of this notification "service tax and cess" means,-

(a) service tax leviable under section 66 or section 66B of the Finance Act, 1994 (32 of 1994);

(b) education cess on taxable service levied under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004); and

(c) Secondary and Higher Education Cess on taxable services levied under section 136 read with section 140 of the Finance Act, 2007 (22 of 2007).

Explanation 2.- For the purposes of this notification "duty" means, duties of excise leviable under the following enactments, namely:-

(a) the Central Excise Act, 1944 (1 of 1944);

(b) the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);

(c) the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);

(d) National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001), as amended by section 169 of the Finance Act, 2003 (32 of

2003), section 3 of the Finance Act, 2004 (13 of 2004) and further amended by section 123 of the Finance Act, 2005 (18 of 2005);

- (e) special duty of excise collected under a Finance Act;
- (f) additional duty of excise as levied under section 157 of the Finance Act, 2003 (32 of 2003);
- (g) Education Cess on excisable goods as levied under section 91 read with section 93 of the Finance (No.2) Act, 2004 (23 of 2004); and
- (h) the additional duty of excise leviable under section 85 of the Finance Act, 2005 (18 of 2005).
- (i) the Secondary and Higher Education Cess on excisable goods leviable under section 136 read with section 138 of the Finance Act, 2007 (22 of 2007).

Annexure

FORM ASTR-2

(Application for filing a claim of rebate of duty paid on inputs, service tax and cess paid on input services)

(PART A: To be filled by the applicant)

Date.....

Place.....

To,

Assistant Commissioner of Central Excise/Deputy Commissioner of Central Excise
..... (full postal address).

Madam/Sir,

I/We.....(name of the person claiming rebate) holding service tax registration No., located in..... (address of the registered premises) hereby declare that I/We have exportedservice (name of the service) under rule 6A of the Service Tax Rules, 1994 to(name of the country to which service has been exported), and service tax amounting to (amount in rupees of service tax) and education cess amounting to (amount in rupees of cess) has been paid on input services and duty amounting to (amount in rupees of duty) has been paid on inputs.

2. I/We also declare that the payment against such service exported has already been received in India in full..... (details of receipt of payment).

3. I/We request that the rebate of the duty, service tax and cess on inputs and input services used in providing service exported by me/us in terms of rule 6A of the Service Tax Rules, 1994 may be granted at the earliest. The following documents are enclosed in support of this claim for rebate.

- 1.
- 2.
- 3.

Declaration:

- (a) We hereby certify that we have not availed CENVAT credit on inputs and input services on which rebate has been claimed.
- (b) We have been granted permission by Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, vide C. No. _____, dated _____ for working under notification No. _____, dated _____.

(Signature and name of the service provider or his authorised agent with date)

(PART B: To be filled by the sanctioning authority)

Date of receipt of the rebate claim: _____

Date of sanction of the rebate claim: _____

Amount of rebate claimed: Rs. _____

Amount of rebate sanctioned: Rs. _____

If the claim is not processed within 15 days of the receipt of the claim, indicated briefly reasons for delay.

Place:

Date:

Signature of the Assistant Commissioner/
Deputy Commissioner of Central Excise.

4. This notification shall come into force on the 1st day of July, 2012.

F. No. 334/1/2012-TRU

(Raj Kumar Digvijay)
Under Secretary to the Government of India