



The intention of the Government has been to zero rate exports of services thereby granting the benefit of input tax credits, either as an offset against other output taxes or as refunds. However, exporters of services have been facing serious problems by way of considerable delays in obtaining refunds of input taxes due to procedural bottlenecks.

To address these problems and to ensure the grant of expeditious refunds to service exporters, the CBEC has issued Circular No.120/01/2010-ST dated 19th January, 2010 to clarify several very important points in regard to the matter.

The Circular discusses the legal position on refunds and the procedural impediments responsible for the delays in grant of refunds and the responses that the departmental officers should take to address such impediments. The highlights of the Circular are as follows:

- On the issue of nexus between the input services and the output services, it has been clarified that there cannot be two yardsticks, one for availing credits and another for granting refunds. The phrase '*used in*' mentioned in Notification No. 5/06-CE has to be harmoniously interpreted with the definition of 'input service' mentioned in the Cenvat Credit Rules, 2004. Thus a broad interpretation of the definition of input services is relevant for both purposes.
- The Circular suggests that one way to interpret broadly is to apply the test of whether the absence of such inputs/ input services would adversely impact the quality and efficiency of the exported services. If the answer is in the affirmative, the inputs and input services should be considered as eligible for credits.
- As regards the input services in case of call centres and BPOs, the Circular illustrates the list of input services which would qualify as being eligible for credits. The list includes renting of premises, right to use software, maintenance and repair of equipment, telecommunication facilities, outdoor

catering, rent a cab, and manpower recruitment agency services.

- Certain services which may not be regarded as eligible input services if adequate justification is not provided have also been identified. These services relate to event management, flower arrangements, mandap keepers, hydrant sprinkler systems and rest houses.
- The simplified procedure for refund in case of export of goods as per Notification No. 17/2009- ST will be applicable even for the grant of refunds to the service exporters who file claims under Rule 5 of the Cenvat Credit Rules, 2004.
- Simplified procedure has been provided for verification of refund claims and grant of expeditious refunds within thirty days. An appropriate declaration has to be prepared and certified by an authorized person in case of a limited company and by the proprietor / partner in case of firms where the refund claim is below Rs 5 lakhs in a quarter. In case of refund claims exceeding Rs 5 lakhs, the declaration must be certified by the statutory auditor.
- The accumulated credits relating to the past periods will be eligible for refunds in the subsequent quarters as well.
- It is clarified that a liberal view should be taken with regard to incomplete input service invoices. The essential elements, the mention of which, would suffice for the requirements are as follows:
  - nature of input services received
  - details of service tax paid
  - details specified in Rule 4A of the Service Tax Rules.

The CBEC has issued strict instructions to the tax authorities to process all claims (including pending refund claims) within 30 days of the Circular for past claims and within 30 days of filing of new claims. It has also stated that delays in sanctioning refunds beyond this period will be viewed seriously.



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