

IMPORTANT UPDATES IN SERVICE TAX DURING DECEMBER 2008

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1. Amendment in Notification 41/2007 ST regarding refund of service tax on specified services used for export of goods

The Central Government has issued a notification 33/2008 ST dated 07.12.2008 for the purpose of bring about certain changes with regard to the notification 41/2007 ST as amended from time to time. The changes are as follows –

- The condition as to filing of refund claim on a quarterly basis as covered in the said notification within six months from the end of the relevant quarter during which the said goods are exported, has been dispensed with.
- The refund of service tax on services of commission agent located outside India causing sale of goods exported would now be available to the following extent – Lower of service tax actually paid or service tax calculated on 10% of FOB value of export goods. The rate of 2% of FOB value has now been increased to 10%.
- The services of clearing and forwarding agent has also been added to the said notification and refund would now be available of service tax paid on such service. The conditions/process for refund of such service tax has also been stated. The following should be produced by the exporter – Invoice of such clearing and forwarding agent, details as to number and date of shipping bill, description of goods, details of the export invoice, details of charges relating to export goods collected by the clearing and forwarding agent from the exporter, details of other taxable services received from clearing and forwarding agent even if the same does not relate to export goods.

Important Case Laws

Welcome Hotel Vs CCE Vadodara (2009-TIOL-35-CESTAT-MUM)

High tea was held to be a substantial and a satisfying meal for the purpose of meeting the conditions as to exemption under Notification 1/2006 ST dated 01.03.2006 where the services are pertaining to use of mandap with catering facilities i.e. supply of food.

Ishikawajima Harima Heavy Ind Co Ltd Vs CCE Vadodara (2008-TIOL-2105-CESTAT-AHM)

The Tribunal has held once again that a turnkey project cannot be bifurcated to hold a part of the contract liable to service tax.

Bhopal Citi Link Ltd Vs CCE Bhopal (2008-TIOL-2089-CESTAT-DEL)

Selling of spaces on the back of the buses for advertisements would amount to taxable service under sale of space or time for advertisement.

Indian National Shipowners Association Vs UOI (2008-TIOL-633-HC-MUM-ST)

The High Court has held that before enactment of Section 66A of Chapter V of Finance Act, a service receiver resident in India could not be made liable to service tax in respect of services received outside India.

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