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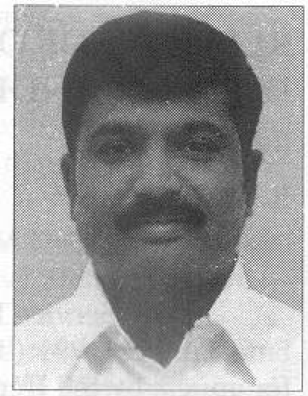
REFUND OF SERVICE TAX TO EXPORTERS ON TERMINAL HANDLING CHARGES

By

L. Camilus P. Rayen, M.Com., M.F.C. (Finance)

ASST. MANAGER, ACCOUNTS & CORPORATE AFFAIRS

CHAKIAT AGENCIES PVT. LTD.



L. Camilus P. Rayen

Under Port service & Other Port service all exporters are eligible to get refund from Department. But some practical problems are being faced by exporters in getting refund.

In general any exporter cannot directly involve himself in loading his cargo into vessel. In this area some service providers (i.e. Steamer Agent service/Customs House Agent) are doing the service to exporters in their area on behalf of exporters.

But Service tax Notification No. 3/2008-S.T. provides for refund only under "Port service". As mentioned above exporters book their cargo for loading through shipping line operators which are coming under "Steamer Agent service". The next process is on behalf of exporters steamer agent has to inform to the terminal operator which is inside port area to handle and load the container into the vessel and for this service they are registered under "Port service". Now billing part starts from terminal operator to steamer agent for the containers loaded into the vessel as per the Equipment Inter Change Receipt which is filed by steamer agent on behalf of exporters. Next activity is particular shipping line will pay the service charges to terminal operator (Port service) towards handling charges with Service tax. After that shipping line (i.e. steamer agent) will raise invoice to exporters individually towards handling charges plus Service tax which is charged by terminal operator. [Authorised Person by Port - Section 65 (105) (zzl)]. Now exporters are settling their dues to shipping line based on their invoice.

Finally, exporters may go for refund on Service tax paid against their terminal handling charges which are paid to shipping line (steamer agent service), and they are not paid directly to the terminal operator (i.e. Port service). This is general practice in all ports and terminal operator cannot raise invoice to each and every exporter individually.

The legal objections raised by Service Tax Department are that the Steamer Agent service is not a notified service for grant of refund. Though Port service (Major Port) and Other Port service (Minor Port) are notified services for refund; but the Service tax payment is not in the name of exporters and moreover, the shipping lines have already availed the credit of Service tax paid on such services. The Department has to consider and add two more export related services to claim refund.