

Rule 6A of Service Tax Rules 1994

(i) Conditions to be fulfilled for service to be treated as export of service [Sub-rule (1)]:

The provision of any service provided or agreed to be provided shall be treated as export of service when,-

- (a) the service provider is located in the taxable territory,
- (b) the service receiver is located outside India and the place of provision of the service is outside India,
- (c) the service is not a service specified in the negative list (Section 66D) of the Act,
- (d) the payment for such service has been received by the service provider in convertible foreign exchange, and
- (e) the service provider and service receiver are not merely establishments of a distinct person in accordance with item (b) of Explanation 3 of clause (44) of section 65B of the Act.

As per item (b) of Explanation 3 of clause (44) of section 65B an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons.

Central Government empowered to grant rebate on inputs/input services used in providing service exported [Sub-rule (2)]: Where any service is exported [in terms of sub-rule (1) above], the Central Government may, by notification, grant rebate of service tax or duty paid on input services or inputs, as the case may be, used in providing such service and the rebate shall be allowed subject to such safeguards, conditions and limitations, as may be specified, by the Central Government, by notification.

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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 Rs.1000;
(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).

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Example:

Property tax paid for April to September = Rs. 12,000/-

Rent received for April = Rs. 1, 00,000/-

Service tax payable for April = Rs. 98,000/- (1, 00,000 -12,000/6) * applicable rate of service tax.

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the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the services on which service tax is leviable under section 66B of the said Act, received by a unit located in a Special Economic Zone (hereinafter referred to as SEZ Unit) or Developer of SEZ (hereinafter referred to as the Developer) and used for the authorised operation from the whole of the service tax, education cess, and secondary and higher education cess leviable thereon.

2. The exemption shall be provided by way of refund of service tax paid on the specified services received by the SEZ Unit or the Developer and used for the authorised operations:

Provided that where the specified services received by the SEZ Unit or the Developer are used exclusively for the authorised operations, the person liable to pay service tax has the option not to pay the service tax *ab initio*, subject to the conditions and procedure as stated below.

3. This exemption shall be given effect to in the following manner:

(I) The SEZ Unit or the Developer shall get an approval by the Approval Committee of the list of the services as are required for the authorised operations (referred to as the 'specified services' elsewhere in the notification) on which the SEZ Unit or Developer wish to claim exemption from service tax.

(II) The *ab-initio* exemption on the specified services received by the SEZ Unit or the Developer and used exclusively for the authorised operation shall be allowed subject to the following procedure and conditions, namely:-

(a) the SEZ Unit or the Developer shall furnish a declaration in **Form A-1**, verified by the Specified Officer of the SEZ, along with the list of specified services in terms of condition (I);

(b) on the basis of declaration made in Form A-1, an authorisation shall be issued by the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be to the SEZ Unit or the Developer, in **Form A-2**; “within fifteen working days from the date of submission of Form A-1”**(11.07.2014)**

(ba) the authorisation referred to in clause (b) shall be valid from the date of verification of Form A-1 by the Specified Officer of the SEZ: Provided that if the Form A-1 is not submitted by the SEZ Unit or the Developer to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise having jurisdiction, as the case may be, within fifteen days of its verification by the Specified Officer of the SEZ, the authorisation shall be valid from the date on which it is submitted **(11.07.2014)**

(c) the SEZ Unit or the Developer shall provide a copy of the said authorisation to the provider of specified services, where such provider is the person liable to pay service tax and on the basis of the said authorisation, the service provider may provide specified services to the SEZ Unit or the Developer without payment of service tax: Provided that pending issuance of said authorisation, the provider of specified services may, on the basis of Form A-1, provide such specified services, without payment of service tax, and the SEZ Unit or the Developer shall provide a copy of authorisation to

the service provider immediately on receipt of such authorisation: Provided further that if the SEZ Unit or the Developer does not provide a copy of the said authorisation to the provider of specified services within a period of three months from the date when such specified services were deemed to have been provided in terms of the Point of Taxation Rules, 2011, the service provider shall pay service tax on specified services so provided in terms of the first proviso **(11.07.2014)**

(d) the SEZ Unit or the Developer shall furnish to the jurisdictional Superintendent of Central Excise a quarterly statement, in Form A-3, furnishing the details of specified services received by it without payment of service tax, by 30th of the month following the particular quarter:

Provided that for the quarter of July, 2013 to September, 2013, the said statement shall be furnished by the 15th of December, 2013." **(21.11.2013)**

(e) the SEZ Unit or the Developer shall furnish an undertaking, in **Form A-1**, that in case the specified services on which exemption has been claimed are not exclusively used for authorised operation or were found not to have been used exclusively for authorised operation, it shall pay to the government an amount that is claimed by way of exemption from service tax and cesses along with interest as applicable on delayed payment of service tax under the provisions of the said Act read with the rules made thereunder.

Explanation.— For the purposes of this notification, a service shall be treated as used exclusively for the authorised operations if the service is received by the SEZ Unit or the Developer under an invoice in the name of such Unit or the Developer and the service is used only for furtherance of authorised operations in the SEZ **(11.07.2014)**

(III) The refund of service tax on (i) the specified services that are not exclusively used for authorised operation, or (ii) the specified services on which *ab-initio* exemption is admissible but not claimed, shall be allowed subject to the following procedure and conditions, namely:-

(a) the service tax paid on the specified services that are common to the authorised operation in an SEZ and the operation in domestic tariff area [DTA unit(s)] shall be distributed amongst the SEZ Unit or the Developer and the DTA unit (s) in the manner as prescribed in rule 7 of the Cenvat Credit Rules. For the purpose of distribution, the turnover of the SEZ Unit or the Developer shall be taken as the turnover of authorised operation during the relevant period.

(b) the SEZ Unit or the Developer shall be entitled to refund of the service tax paid on (i) the specified services on which *ab-initio* exemption is admissible but not claimed, and (ii) the amount distributed to it in terms of clause (a).

(c) the SEZ Unit or Developer who is registered as an assessee under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, or the said Act or the rules made thereunder, shall file the claim for refund to the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, the as the case may be, in **Form A-4**;

(d) the amount indicated in the invoice, bill or, as the case may be, challan, on the basis of which this refund is being claimed, including the service tax payable thereon shall have been paid to the person liable to pay the service tax thereon, or as the case may be, the amount of service tax payable under reverse charge shall have been paid under the provisions of the said Act;

(e) the claim for refund shall be filed within one year from the end of the month in which actual payment of service tax was made by such Developer or SEZ Unit to the registered service provider or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit;

(f) the SEZ Unit or the Developer shall submit only one claim of refund under this notification for every quarter:

Explanation.- For the purposes of this notification "quarter" means a period of three consecutive months with the first quarter beginning from 1st April of every year, second quarter from 1st July, third quarter from 1st October and fourth quarter from 1st January of every year.

(g) the SEZ Unit or the Developer who is not so registered under the provisions referred to in clause (c), shall, before filing a claim for refund under this notification, make an application for registration under rule 4 of the Service Tax Rules, 1994.

(h) if there are more than one SEZ Unit registered under a common service tax registration, a common refund may be filed at the option of the assessee.

(IV) The SEZ Unit or Developer, who intends to avail exemption or refund under this notification, shall maintain proper account of receipt and use of the specified services, on which exemption or refund is claimed, for authorised operations in the SEZ.

4. Where any sum of service tax paid on specified services is erroneously refunded for any reason whatsoever, such service tax refunded shall be recoverable under the provisions of the said Act and the rules made there under, as if it is recovery of service tax erroneously refunded;

5. Notwithstanding anything contained in this notification, SEZ Unit or the Developer shall have the option not to avail of this exemption and instead take CENVAT credit on the specified services in accordance with the CENVAT Credit Rules, 2004.

6. Words and expressions used in this notification and defined in the Special Economic Zones Act, 2005 (28 of 2005) or the rules made thereunder, or the said Act, or the rules made there under shall apply, so far as may be, in relation to refund of service tax under this notification as they apply in relation to a SEZ.