

Chairman's Pen



My dear fellow exporters,

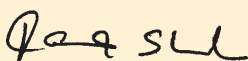
The Council has strongly criticized the recent service tax refund notification on the service tax paid to foreign commission agents announced by the Government on April 1, 2008. In a Press Communique issued by the Council today, the Council has strongly criticized the step-motherly treatment being given to the exporting community by the Government and the bureaucracy stating that it is about time that "our decision makers start initiating meaningful measures to promote exports and stop playing to the gallery". This is because the Service Tax Notification No. 17/2008-Service Tax dated April 1, 2008 issued by the Finance Ministry not only goes against the RBI guidelines but also the Department of Revenues' own Notification issued in 2002. This clearly shows that the intent is to not help the exporters but simply to pretend that some supportive steps are being taken, the Council has stated.

It may be mentioned that Notification No. 17/2008 dated April 1, 2008 has allowed service refund on the service tax paid to foreign commission agents to the extent of only 2% of the FOB value of exports when the RBI guidelines allows foreign commission agents to be paid up to 12.5% of FOB value of exports for availing export promotion schemes. Moreover, the Department of Revenue by its own Circular No. F. No. 605/142/2002-DBK have clarified that for those exporters availing export benefits, the limit for foreign agency commission in 12.5%. Hence it was rather surprising why the service tax refund notification of April 1, 2008 has set a limit of only 2% of FOB value for foreign commission agent's payment to be refundable. In any case, the 2% FOB limit is hardly acceptable in present day and times and will not in any way benefit exporters.

The Council has also pointed out that the principal notification with regard to the 16 services that come under the purview of service tax refund was issued on October 6, 2007 by Notification No. 41/2007-Service Tax has another major problem. This notification has a further restrictive provision which states that the refund claim has to be filed on a quarterly basis, within sixty days from the end of the relevant quarter during which the said goods have been exported. Most exporters pay foreign commission to their respective foreign commission agents only after realization of export proceeds. The period for export realization allowed by the RBI is 180 days for exporters and 360 days for Status Holders. As such, if exporters have to claim service tax refund within a period of 90 days as ordained by the Notification No. 41, dated October 6, 2007, it would further add to the fund squeeze that small and medium scale exporters are currently in, in the midst of Rupee appreciation and sharp increase in raw materials prices.

The Government needs to get its act together to ensure that there is some uniformity in our fiscal laws, since such ineffective policy pronouncements creates considerable confusion and misapprehension over the intent of our policy makers. The Council has also written to the Finance Minister and the Commerce Minister pointing out the above anomalies and requested that the service tax refund limit on foreign commission agents be increased to 12.5% of FOB value from the 2% of FOB value announced on April 1, 2008 in line with RBI guidelines as well as increase the refund filing period to 360 days.

Yours sincerely,



(RAKESH SHAH)