

Encouragement- Service Exporters- Change in law

By: [Madhukar N Hiregange](#)

Encouragement to Service Exporters Needed.

India is moving to make its place among the developed nations by 2020. The government has also started policies to make what is spoken happen. The exporters of service have saved the country from destruction and placed the Indian on the world map as a competent professional. Service exports contribute significantly 40+% of the total exports. In the past the falling rupee helped the local exporters. However this trend is expected to be reversed in the next year with the communication improving between the Finance and Commerce Ministries.

Two Areas Needing Reform:

1. **Export Incentives:** There is a big gap between the treatment to the exporter of goods and exporter of services. The FTP other than served from India scheme which is hardly encouraging has nothing to provide for exports. Further the refund for export of goods is available on claim of rebate (credit accumulated used to pay duty) on goods exported and that amount being refunded. This scheme has not been allowed to fructify due to red tapism. The alternate route of refund Under Rule 5 takes 5-7 years with 10,000 crores of refund stuck. Many service exporters have stopped claiming it as a worthless exercise!!!

Suggestions:

- a. Export Incentive schemes in line with goods to be put in place.
 - b. Refund of 80% to be disbursed once identity and turnover confirmed. Balance within reasonable period of 6 months.
2. **Place of Provision of Services Rules:** The rules provide clarity on where the service is deemed to be provided- whether in India or Outside India. The best practices across the world were to be adopted. Of late we see that the objective has changed to how to enhance the revenue by denying the exporters. The areas where we see ambiguity and lack of fairness are as under:
 - i. Intermediaries for goods and services earning revenues in convertible foreign exchange are liable based on the place of provider. The best practices (earlier for goods available upto September 2014) was that it should be based on recipient. This is especially so as most advanced nations provide exemption as long as the customer is outside the nations or European Union.

- ii. Many Indian Companies provide global services and a part of the same maybe provided in India also. [Rule 7](#) sets out that the entire service shall be deemed to be provided in India. Example a call centre which provides services of 95% to rest of world for a large global giant clients and also has 5% of that giants clients in India. Anywhere else in the world this would be an export and not liable as the major proportion is exports. Any exporter who can read between the lines would then be forced to break up his contract into for India and others unnecessarily to avoid this unreasonable imposition.
- iii. Software services from India have made a difference. The technical support (call centre, trouble shooting, updates, resolution) of intangibles should be based on the customer. However it could be interpreted to be “goods” and therefore based on location of the goods. Read with [Rule 7](#) these services would also be disputed unnecessarily. Again the best practice is that place of location of goods should be only for tangible goods.
- iv. Freight Forwarding in this era of free global trade needs more clarity. The fact that there is ambiguity is increasing the cost of export for the exporters of goods from India.
- v. Rule 9 specifies that the services of telecommunication, online access and retrieval and banking are based on the place of provision. This is leading to many such service providers shifting the business to Dubai. As per the best practices again such services could be based on location of customer.

The European Union has been doing substantial work and the Place of Supply rules (there goods and Services are unified in VAT). January 2015 would be the new rules in place. It makes sense to align to those practices. The main methodology/ logic being followed is whatever bring in foreign exchange needs to be granted exemption and considered as exports especially when meant for business or B2B.

This article has been made with the specific purpose of sensitizing the policy makers to enable service providers to continue to provide service from India and earn valuable foreign exchange. There maybe other areas of concern.