

CENVAT

- By CA Mayur Zanwar

CENVAT

- An Input Duty relief scheme.
- Designed to reimburse the user manufacturer with the duty paid on inputs.
- Prevents cascading effects of duty on final products.
- CENVAT scheme covers capital goods and all inputs barring motor spirit (petrol), high speed diesel and LDO.
- It covers all final products except matches.
- For textiles, CENVAT scheme is optional.
- This scheme applies to whole of India except Jammu & Kashmir.



INTRODUCTION

- EXCISE TAX is levied on the manufacturer of goods
- when those goods leave the place of manufacture formally called the CENTRAL EXCISE DUTY
- this tax is now known as CENTRAL VALUE ADDED TAX .{CENVAT}
- Manufactures may offset duty paid on materials used in manufacturing process by using that duty as a credit against excise tax through a process known as CENTRAL VALUE ADDED TAX CREDIT .
- The offsetting process was formerly known as modified value added tax {MODVAT}. MODVAT was replaced by CENVAT w.e.f. 1.4.2000.



CENVAT CREDIT RULES, 2004

- Rule 2 – Definition
- Rule 3 – Availment of CENVAT Credit
- Rule 4 – Conditions for allowing CENVAT Credit
- Rule 5 – Refund of CENVAT Credit
- Rule 6 – Obligation of Manufacturer of dutiable and exempted goods
- Rule 8 – Rights of Commissioner
- Rule 9 – Documents and Accounts
- Rule 10 – Transfer of CENVAT Credit
- Rule 14 – Recovery of CENVAT Credit wrongly taken
- Rule 15 – General Penalty



RULE 2 : DEFINITIONS


- CAPITAL GOODS means the following goods:

- All goods falling under chapter 82,84,85,90
- Components , spares and accessories
- Moulds and dies
- Refractories and refractory materials
- Tubes ,pipes and fittings thereof
- Pollution control equipments
- Storage tank

above goods can be used:-

- In the factory of the manufacturer of final products
- Outside factory for generation of electricity for captive consumption.



- EXEMPTED GOODS means goods exempted from whole of the duty and includes goods which are chargeable to 'nil' rate of duty.
 - EXEMPTED SERVICES means taxable services which are exempted from the whole of the service tax.
 - FINAL PRODUCTS means excisable goods manufactured or produced from inputs or using input services.
 - FIRST STAGE DEALER means a dealer who purchases goods directly from
 - the manufacturer or from depot or from premises of the consignment agent or from any other premises.
 - an importer or from the depot of an importer or from the premises of consignment agent of importer.
- 

○ INPUT means

- All goods used in the factory by manufacturer for manufacturing final product
- Any goods including accessories the value of which is included in the value of final product
- All goods used for generation of electricity for captive use
- All goods used for providing output service excluding – LSD(low speed diesel) , HSD(High speed diesel) etc.

○ INPUT SERVICE means any service-

- Used by a provider of taxable service for providing on output service
- Used by a manufacturer whether directly or indirectly , in or in relation to the manufacture of final products and clearance of final products up to the place of removals and includes services like advertisement or sales promotion market research , accounting, auditing , financing ,recruitment and quality control , legal services , etc.



RULE 3 : AVAILMENT OF CENVAT CREDIT

A manufacturer/service provider can take credit of :

- 1) Basic excise duty
- 2) Special excise duty
- 3) The additional duty of excise on textile and textile articles
- 4) The additional duty of excise on goods of special importance
- 5) National calamity contingent duty
- 6) Education cess on excise duty
- 7) Countervailing duty of custom duty
- 8) Service tax.



RULE 4: CONDITIONS FOR ALLOWING CENVAT CREDIT

- The CENVAT CREDIT on inputs may be taken immediately on receipt of the inputs.
- The CENVAT CREDIT in respect of Capital goods to be availed within a period of 2 Years i.e.
 - 50% immediately when capital goods received.
 - Balance 50% in next Financial Year
- CENVAT CREDIT is allowed to a manufacturer even if the goods are acquired by him on lease ,hire purchase or loan agreement.
- CREDIT is allowed even if the input /capital goods are sent to the place of job worker for further processing ,testing ,repair ,reconditioning etc. and goods so send must have been received back within 180 days.

- CENVAT CREDIT is also allowed on jigs ,fixtures ,moulds & dies sent to a job worker for the production of goods on behalf of manufacturer.
- CENVAT CREDIT is not allowed on goods used for office.
- CENVAT CREDIT will not be allowed on that part of the capital goods that represents Depreciation.
- The commissioner of central excise ,having jurisdiction over the factory of manufacturer of final products who has sent the input or partially processed input outside his factory to a job worker ,may by an order [order valid for a financial year } allow final product to be removed from the premises of job worker.



RULE 5: REFUND OF CENVAT CREDIT

- For export under bond ,Cenvat credit on input or input services can be utilised for payment of duty on any final product cleared for home consumption or for export
- Where for any reason such adjustment is not possible ,the manufacturer shall be allowed refund of such amount.



RULE 6: OBLIGATION OF MANUFACTURER OF DUTIABLE AND EXEMPTED GOODS

- CENVAT CREDIT shall **not be allowed** on such quantity of inputs which is used in the manufacture of exempted goods .For this purpose the manufacture [in case of inputs]or output service provider [in case of service]may follow either of following 2 methods;
 - Maintain Separate accounts for different goods.
 - If he does not maintain separate accounts and h avail CENVAT CREDIT on inputs or on input services, then 6% of total price (Excluding all taxes) shall be paid on clearance of final product from factory



RULE 8: RIGHTS OF COMMISSIONER

- It provides that the commissioner of Central Excise can permit the inputs in respect of which the CENVAT CREDIT has been taken to be stored outside the factory of the manufacturer.



RULE 9: DOCUMENTS AND ACCOUNTS

- Documents & accounts used /maintained in CENVAT
- An invoice issued by a manufacturer ,an importer ,a first stage dealer ,a consignment agent .
- A supplementary invoice issued by manufacturer or importer.
- A certificate issued by custom appraiser .
- A challan evidencing the payment of service tax.
- A bill of entry .



RULE 10 : TRANSFER OF CENVAT CREDIT

- If a manufacturer shifts his factory to another site or the factory is transferred on account of change in ownership or on account of sale ,merger etc then he shall be allowed to transfer CENVAT CREDIT lying unutilized ,only if
 - the stock of inputs are also transferred to the new unit.
- And
- After taking approval of assistant or Deputy Commissioner



RULE 14 : RECOVERY OF CENVAT CREDIT

- Where the CENVAT CREDIT has been taken or utilised wrongly ,the same along with interest shall be recovered from manufacturer under provisions of section 11A,11AA &11AB.



RULE 15 : CONFISCATION AND PENALTY

- If a person takes wrong CENVAT CREDIT in respect of input or capital goods or without ensuring that appropriate duty on such inputs or capital goods have been fixed or contravenes any of the provisions of cenvat credit rules, then he shall be liable to penalty
 - Not exceeding the duty on excisable goods or
 - Rs. 10,000 whichever is high
- his goods shall also be liable to confiscation.



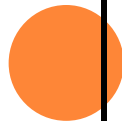
RULE 15A : GENERAL PENALTY

- A general penalty up to Rs.5000 can be imposed in case of contravention of any of the provision of CENVAT CREDIT RULES 2004, for which no specific penal provision exists.



CENVAT RETURNS

Manufacturer of final products.	Monthly Return	By 10 th of next month.
Provider of output service.	Half yearly return	By the end of the month following the particular half year.
First stage or second stage dealer,	Quarterly Return	By 15 th of next month after the end of the quarter.



MODVAT Vs. CENVAT

- MODVAT contained separate provisions for capital goods.
 - It required submission of declaration in respect of details of inputs & capital goods.
 - MODVAT prescribed statutory register RG23a and RG 23C.
 - MODVAT contained separate provisions for waste & scrap.
 - In MODVAT inputs were required to be sent for job work on payments of 10% duty,
 - MODVAT could be availed only on duplicate copy of invoice.
 - MODVAT contained provision that only paying documents will be valid only for 6 months.
 - In MODVAT ,credit on capital goods could be taken immediately.
 - MODVAT required installation of capital goods for availing credit.
 - CENVAT rules combine provisions in respect of capital goods & inputs.
 - CENVAT does not require any such declaration.
 - Such register are not required under CENVAT,
 - but records have to be maintain which require all information as was required those registers.
 - CENVAT does not contain separate provisions for waste & scrap .
 - There is no such provisions in CENVAT.
 - CENVAT can be availed on any copy of invoice.
 - CENVAT does not contain any such restriction .
 - In CENVAT it has to be taken in two yearly installments of 50%each.
 - This requirement has not been specified in CENVAT.
- 