

Cenvat Credit as amended by F A 2009 and notifications up to 31.01.2010

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***Every attempt is made free from errors and omissions
Any error or omission found it is unintentional***



Cenvat credit introduction

Ram Manufacturer of Material X	Rs	Shyam Manufacturer of Y (purchase X from Ram)	Rs
Ram Material)	100	Raw material	200
Labour and Overhead	80		
Profit	20	Labour and Overhead	164
Selling Price (AV)	200	Profit	36
Excise duty 12%	24	Selling Price (AV)	400
Invoice total	224	Excise duty 14%	56

Duty payable by Shyam on final product Y is Rs. 56,

However he had already paid Rs. 24 on purchase of X from Ram.
Hence he can avail credit of 24 and pay only balance of Rs. 32.



Cenvat Credit Highlights

- Cenvat Credit Rules, 2004 with effective from. 10-9-2004.
- Integration of Central Excise and Service tax
- Applicable for Manufacturer, Service provider
- Manufacturer can take credit for excise duty and Service tax
- Service provider will take credit for service tax and Excise duty
- Credit of duty paid on inputs and Service tax paid on input services
- The input/Input service may be used directly or indirectly in or in relation to manufacture of final product or providing output service
- No input credit if final product/output service exempt from duty/ service tax -
- Credit for specified duties
- Availment of Credit of duty only duty based on documents
- Records to be maintained and returns to be furnished



Definitions

Exempted Goods

- *Excisable goods fully exempted from duty*
- *Excisable goods Charged to Nil duty*

Exempted Service

- *Services Where no service tax payable;*
- *Taxable service wholly exempted from tax*

Final Product

- *Excisable goods manufactured or produced using input or input service*



Definitions

First Stage Dealer

- *Dealer who purchases goods directly from Manufacturer from his factory, depots, Consignment agent with invoice*

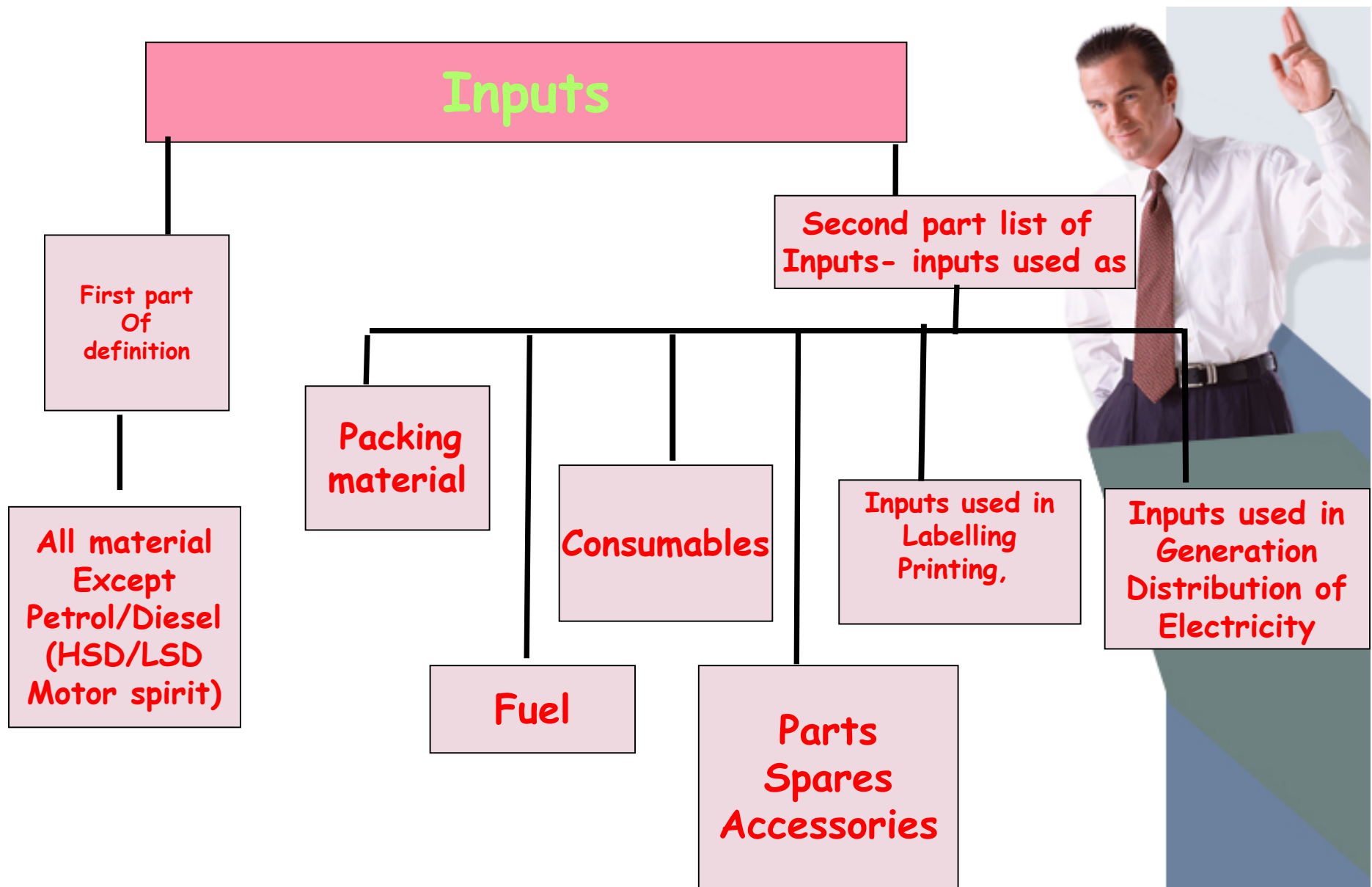
Second Stage Dealer

- *Dealer who purchases goods directly from First Stage dealer*

Output service"

- *any taxable service provided by the provider of taxable service, to a customer, client, subscriber, policy holder or any other person*





Inputs contd.,

- Inputs should be used in the factory.
- If Inputs used outside factory, no credit
- Inputs can be used directly or indirectly
- Inputs may or may not present in final product
- Input output one to one correlation not necessary
- Credit on input process loss will also be allowed
- No credit if inputs destroyed during transit or before issue for production
- Credit can be availed if inputs destroyed during the process/in the course of manufacture.

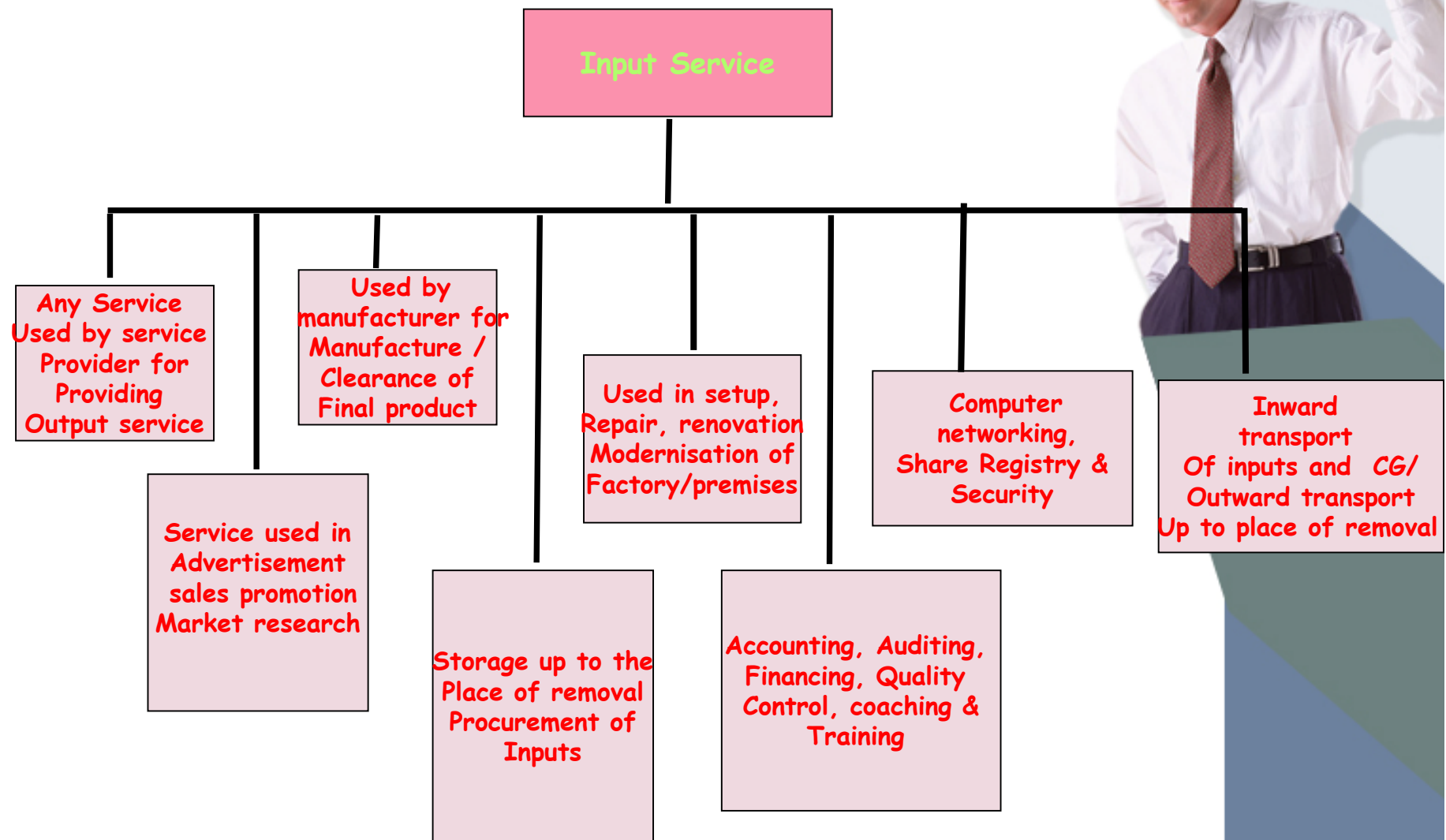


Illustrations on inputs eligible for cenvat credit

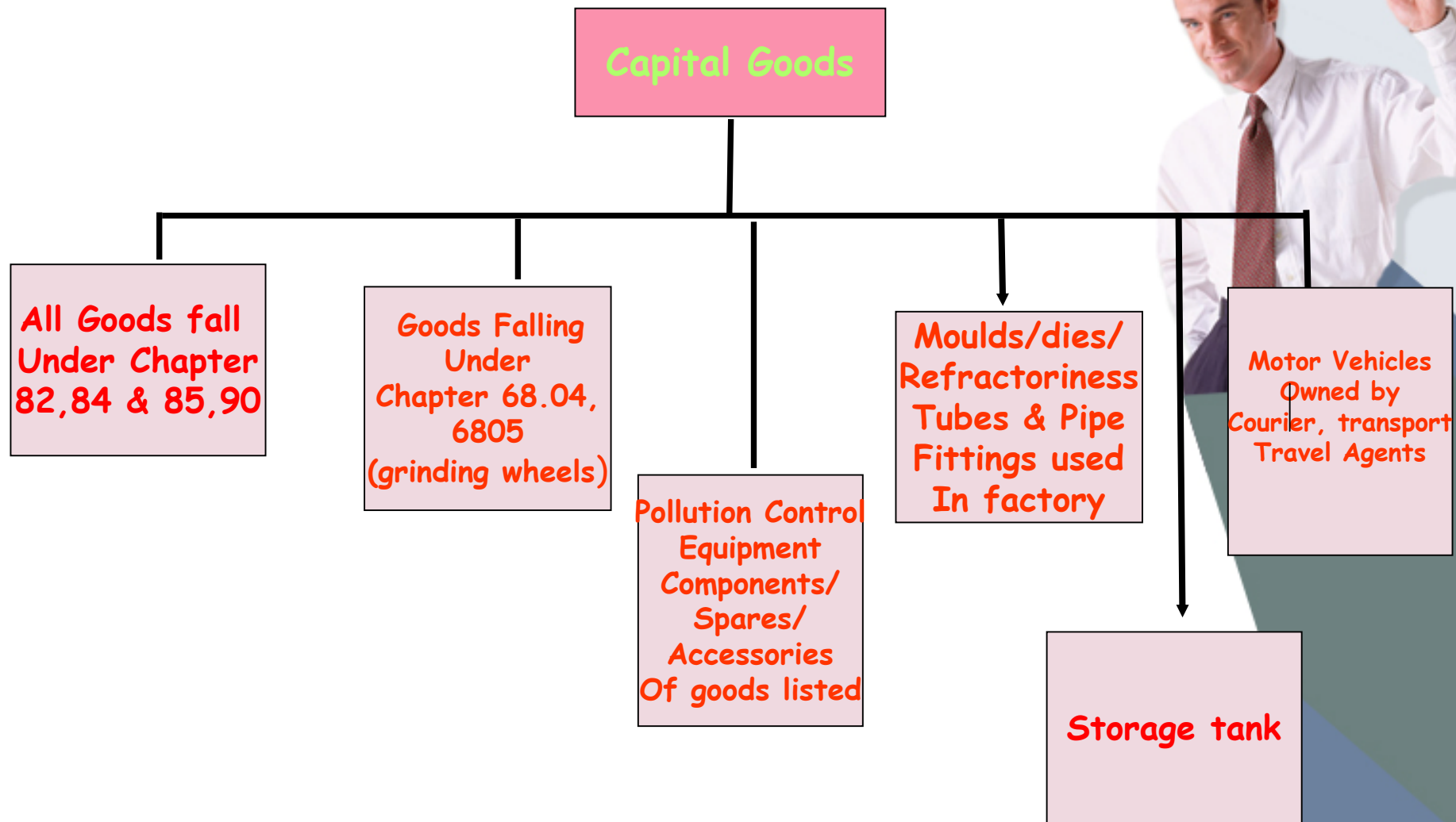
- Process losses and handling loss are allowable
- Inputs required for quality control tests are eligible
- Repeated use is not a bar for availing Cenvat credit
- Defective final product is 'input' for purpose of availing Cenvat credit

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There is no condition that input service should be used/
received in the factory



Capital goods Contd.,

- All Office equipments/Appliances are not capital goods for manufacturer
- Office equipments can be capital goods for service provider if they use in providing output service.
- Capital Goods should be received in the factory of manufacturer/Service provider



Cenvat Credit Rule 3

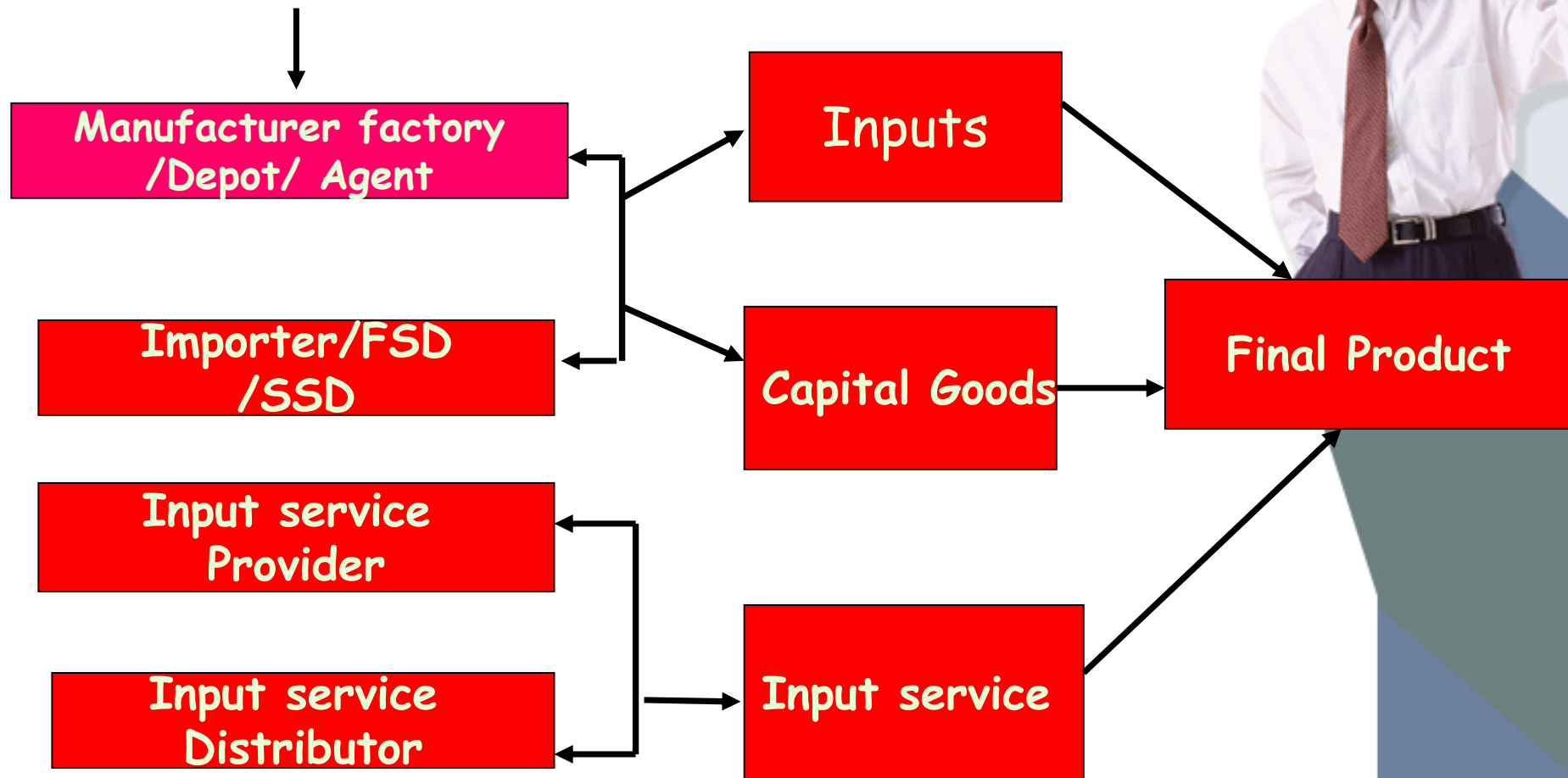
Who can avail Cenvat Credit

- + Manufacturer
- + Service provider
- + *EOU when they clear goods to DTA*



Cenvat credit system for manufacturer of final product

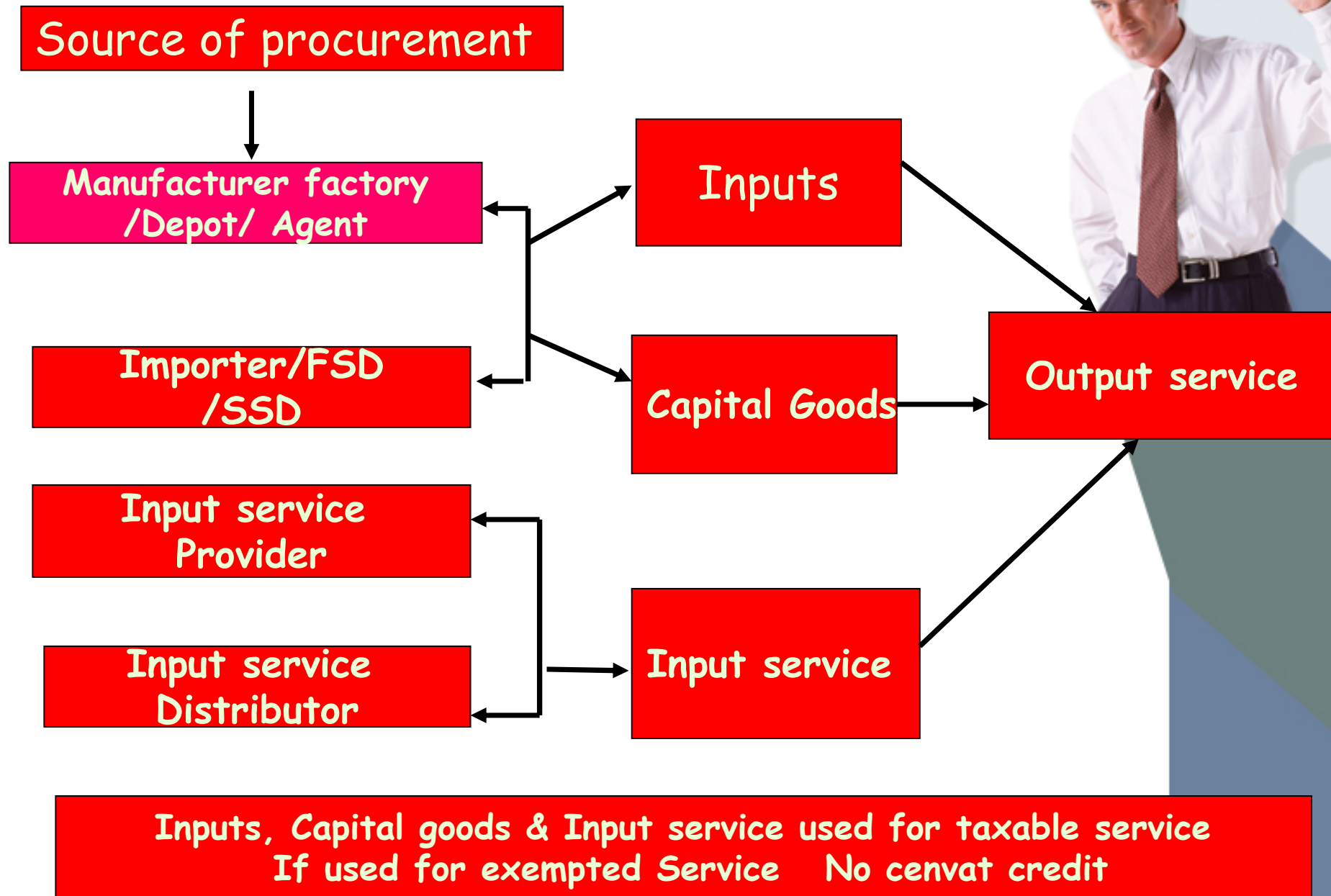
Source of procurement



Inputs, Capital goods & Input service used for Manufacture of dutiable Final Product. If used for exempted FP No cenvat credit



Cenvat credit system for Service provider of output service



Duties on which credit can taken

- 1. Basic excise duty - First Schedule of CETA
- 2. Special excise duty- Second Schedule of CETA
- 3. Additional Excise Duty Of GSI (Service provider cannot avail)
- 4. Additional Excise Duty of Textile Articles
- 5. Additional Excise Duty Clause 85 of Finance Bill 2005 (Payable on tobacco Products)
- 6. National Calamity Contingent Duty



- 7. Education cess on duty of all above
- 8. Additional Customs Duty (CVD) equivalent to 1 to 6
- 9. Education cess Levied on imports equal to above 1 to 6
- 10, Additional Customs Duty (Service provider cannot avail credit) U/s 3(5) of CUTA
- 11 Service tax paid on input Services
- Credit for 4 to 6 and corresponding CVD will be utilized only for payment of respective duties
 - Additional Excise Duty Of GSI credit can be utilised only for same duty as well as Basic excise duty and special excise duty
 - Credit on Education cess will be available only for payment of EC



Utilization of Cenvat Credit Rule 3(4)

The Credit of Cenvat can be utilized for the following- for the payment of

- duty on final product by manufacturer
- an amount equal when inputs removed as such or after partial processing
- amount when capital goods cleared as such
- an amount when goods cleared after repairs



- an amount when inputs sent for Job work not returned within 180 days
- an amount When payment of 10% on the exempted value of goods
- For reversal of Cenvat credit when common inputs used for dutiable and exempted products
- For payment of Service tax by service provider



Duty/Service tax payable on 5th of subsequent month

When duty payable

Credit can be availed only up to month end supplies/ services

Credit cannot be taken on inputs & Capital goods received / input services paid up to 4th



Cenvat credit contd.,

Cenvat Credit When F P ceases to exempt
and dutiable- Rule 3(2)

Cenvat credit can be taken on

- Input lying in stock
- Input present in process and final product

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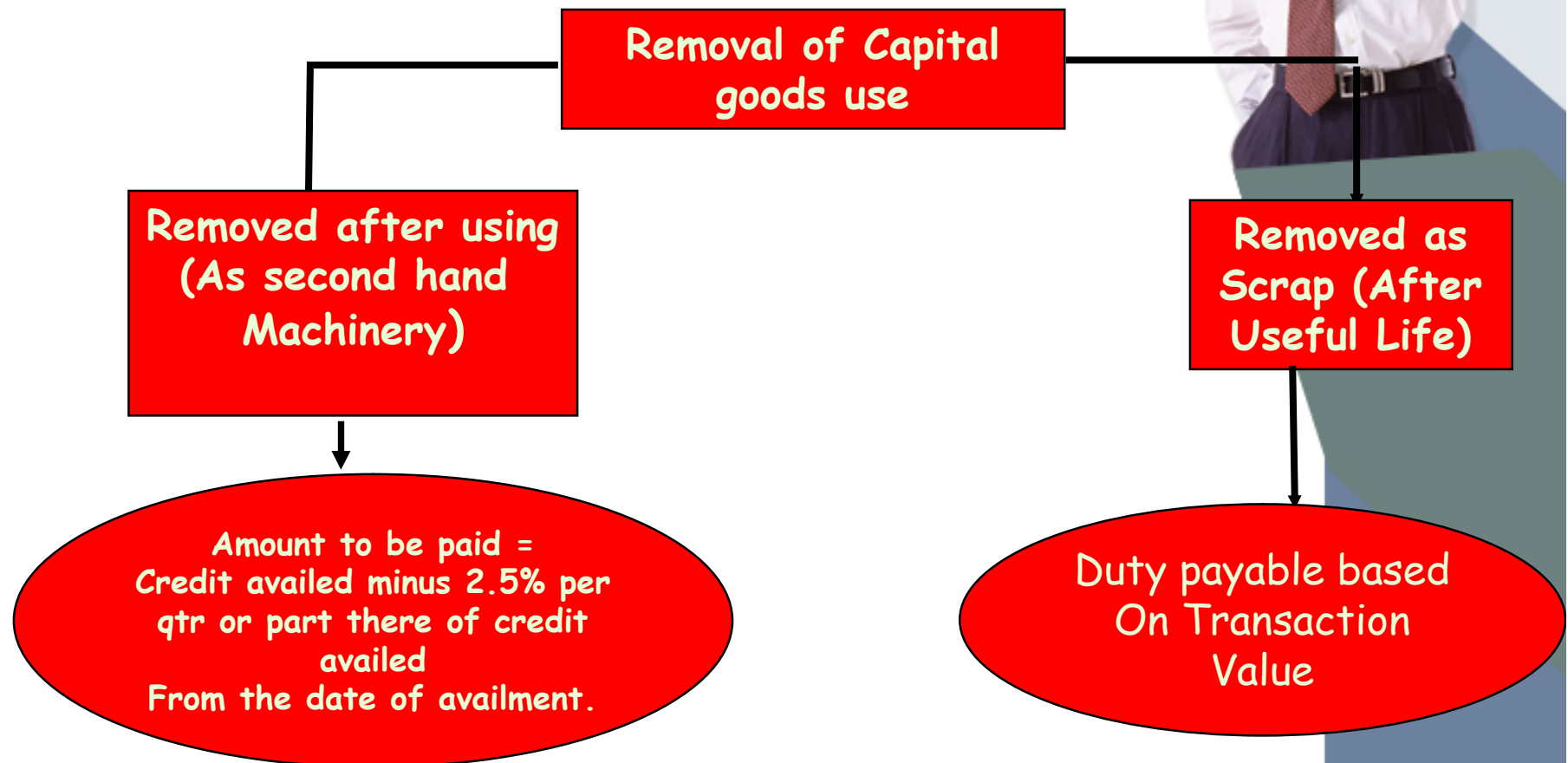


Removal of Inputs/Capital goods As such Rule 3(5)

- When manufacturer/Service provider removes inputs/ Capital goods" as such" after availing Credit-
- An amount equal to cenvat credit availed should be paid
- (as such means- with out using)



Removal of Capital goods after use Rule 3(5A)



when amount paid on capital goods, inputs removed as such or capital goods removed after use or scrap The buyer eligible to take cenvat credit



Written off of inputs and Capital goods in books of account before use

Rule 3 (5B)

- If the value of any,
- Input, or
- Capital goods before being put to use,
- Written off or provision made to write off
- an amount equivalent to the CENVAT credit taken in respect of the said input or capital goods should be paid



- If the said input or capital goods is subsequently used
- manufacturer shall be entitled to take the credit of the amount equivalent to the CENVAT Credit paid earlier

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Reversal of Cenvat Credit in case of Remission of duty Rule 3 (5C)

- Where Remission of granted under rule 21 of the C ER, 2002,
- the CENVAT credit taken on the inputs said goods shall be reversed."



Reversal of cenvat Credit in case of discount after removal/reduction in duty

- When manufacturer availed credit on duty on the basis of invoice
- Subsequently the supplier gives discount by way of reduction of price, but duty was not reduced, no need to reverse of cenvat credit availed,
- However supplier gives discount in reducing the duty also, the manufacturer can avail cenvat credit only the duty amount paid to supplier.
- The reduced amount of duty should be reverse
- CBEC Circular No. 877/15/2008-CX Dated 17/11/2008



Cenvat Credit in respect of EOU/STP/EHTP/FTZ Rule 3(7)

- When goods cleared to DTA Cenvat credit can be availed as below
- $X \times \{(1 + \text{BCD}/200) \times (\text{CVD}/100)\}$
- where X is the assessable value,
- BCD is the basic customs duty and
- CVD is the additional duty of customs.
- **Notification No. 48/2008 CE (N.T.) dated 05.12.2008.**

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Cenvat Credit When dutiable F P
become to exempt and no duty payable
Rule 11(3) & 11(4)

- When the dutiable product becomes exempt by virtue of notification u/s 5 A of Central Excise Act or
- where the manufacturer /service provider is availing conditional exemption, **The manufacturer or service provider should be reverse or pay an amount equal to cenvat credit availed on**
- Input lying in stock
- Input present in process and final product
- There is no necessity to reverse or pay on cenvat credit availed on input service.



- Similar Provision also applicable in case of SSI units
- who is not availing the benefit of exemption notification and
- decided to avail exemption notification

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When Credit can be availed

Rule 4

Input	Immediately after receiving in to factory/premises
Capital goods	Immediately after receiving in to factory/Premises
Input service	Only after payment of bill. Part payment of bill- credit to the extent of part Advance payment- at the time of payment (Bill to be received) No need to wait till receipt of service



Quantum of Credit

For Inputs- Full (100%)

For input service- full-(100%)



Quantum of credit

In case of Capital goods- 50% in the First year
and Balance in next years

When Capital goods cleared in the same year
full 100% credit can be availed.

No Cenvat credit on duty amount if
manufacturer claims depreciation on duty
u/s 32 of Income tax Act

CENVAT credit can also be availed even capital
goods acquire on lease, hire purchase or loan
agreement.



If inputs, Capital goods, can be sent to job worker.

- - No need to reverse the credit availed when sending for job work.
 - They should be returned back within 180 days.
 - If not returned, an amount equal to cenvat credit is payable.
 - Credit can be taken after they receive back.
 - Jigs, fixtures, moulds, jigs can also be sent to job worker no provision to return in 180 days.



Clearance of goods from Job worker place

- Prior approval of commissioner
- Approval for each job worker in one financial year
- Bond to be executed if required
- Commissioner can impose any restrictions.
- he shall pay duty (rule 8) on such excisable goods and prepare an invoice, (rule 11) except for mentioning the date and time of removal of goods on such invoice.
- The original and the duplicate copy of the invoice so prepared shall be sent by him to other premises, where goods intended to clear.



Removal from Job worker place

- The processor shall fill up the particulars of date and time of removal of goods before the clearance of goods
- and after such clearance the processor shall intimate to the said person,
- the date and time of the clearance of goods for completion of the particulars by the said person in the triplicate copy of the invoice.
- The processor shall clear the goods after filling in invoice the time and date of removal and authentication of such details.
- The rate of duty on such goods shall be the rate in force on date of removal of such goods from the premises of the processor and
- no excisable goods shall be removed except under the invoice.

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Refund of Cenvat Credit Rule 5

Where any input or input service is used in the final products/providing output service which is cleared for export under bond or letter of undertaking, the CENVAT credit in respect of the input or input service shall be utilized towards payment of,

- (i) Duty of excise on any final products cleared for home consumption or for export on payment of duty; or
- (ii) Service tax on output service,

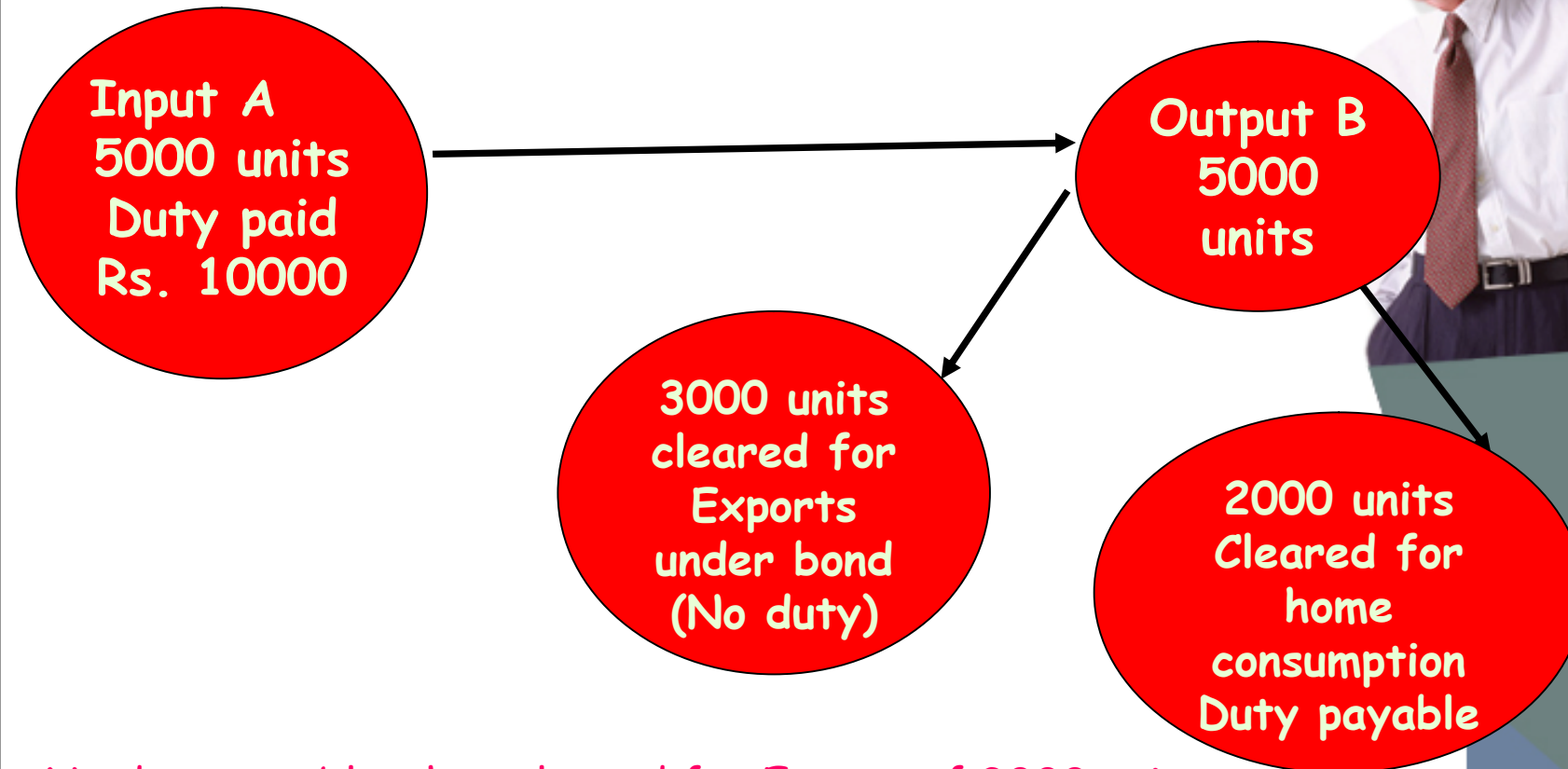


And where for any reason such adjustment is not possible,

- the manufacturer shall be allowed refund of such amount subject to such safeguards, conditions and limitations.
- No refund in case of duty paid on Capital goods.
- Cenvat refund not eligible for Exports to Nepal/Bhutan
- No Cenvat if goods exported and exporter claims duty drawbacks. However customs portion will be paid.



Example Rule 5



No duty payable when cleared for Export of 3000 units

When duty payable on 2000 units cleared for home consumption, credit can be taken on inputs used in manufacturing 3000 units

Example rule 5

Input A 5000 units
Duty paid
Rs.20000



Output X 5000
units Cleared for
Home consumption

Input B 4000 units
Duty paid Rs.
30000



Output Y 4 000 units
Cleared for Export

No duty payable on Y when cleared for Export

Hence when duty payable on X cleared for home consumption, credit can be taken on duty paid on inputs B used in manufacturing of Y

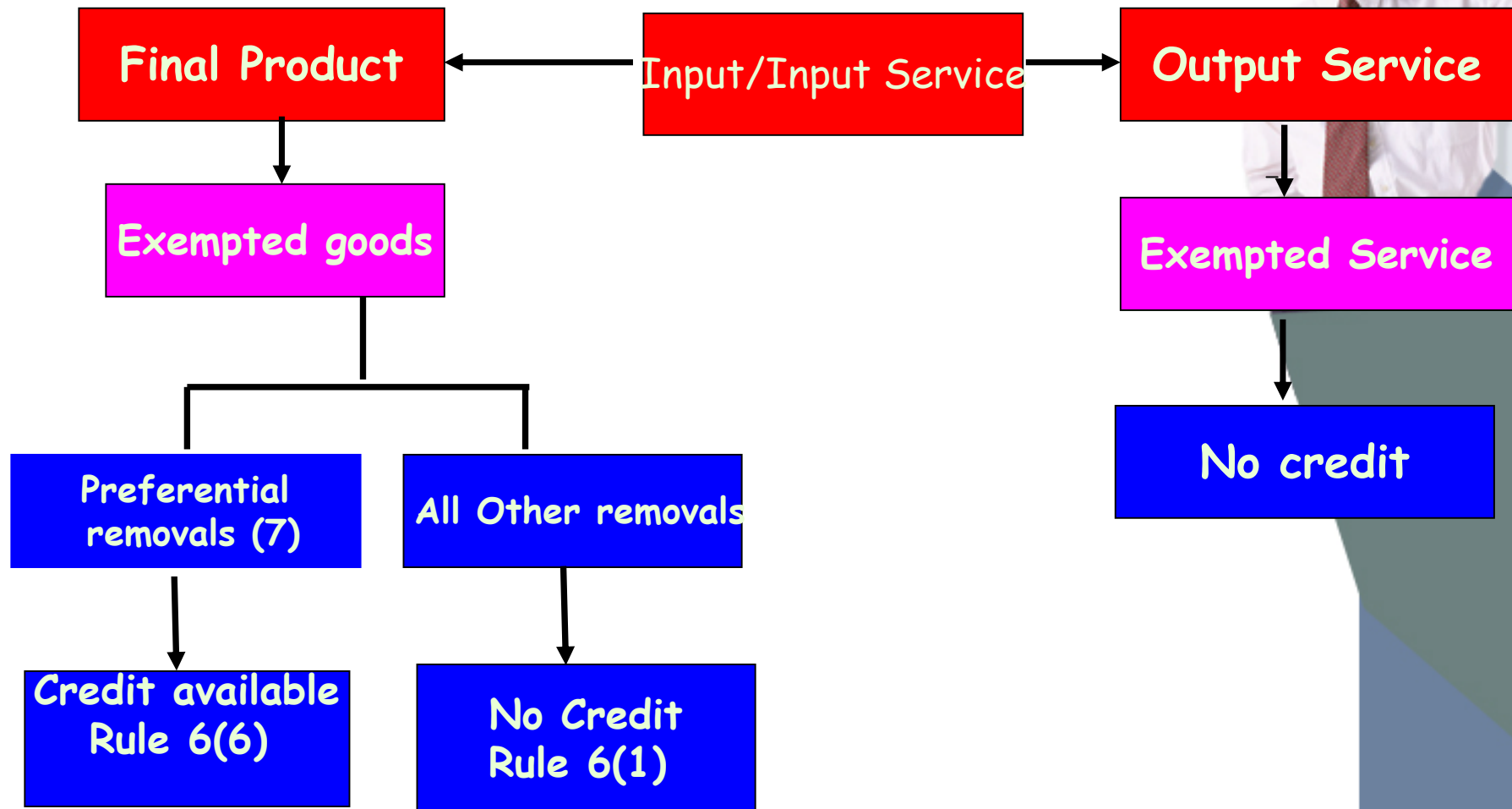


Refund of Cenvat Credit in case of goods cleared to North eastern states Rule 5 A

- Similar to Rule 5
- Instead of Exports goods cleared to North east to be substituted.



Cenvat credit in case of exempted goods and services Rule 6



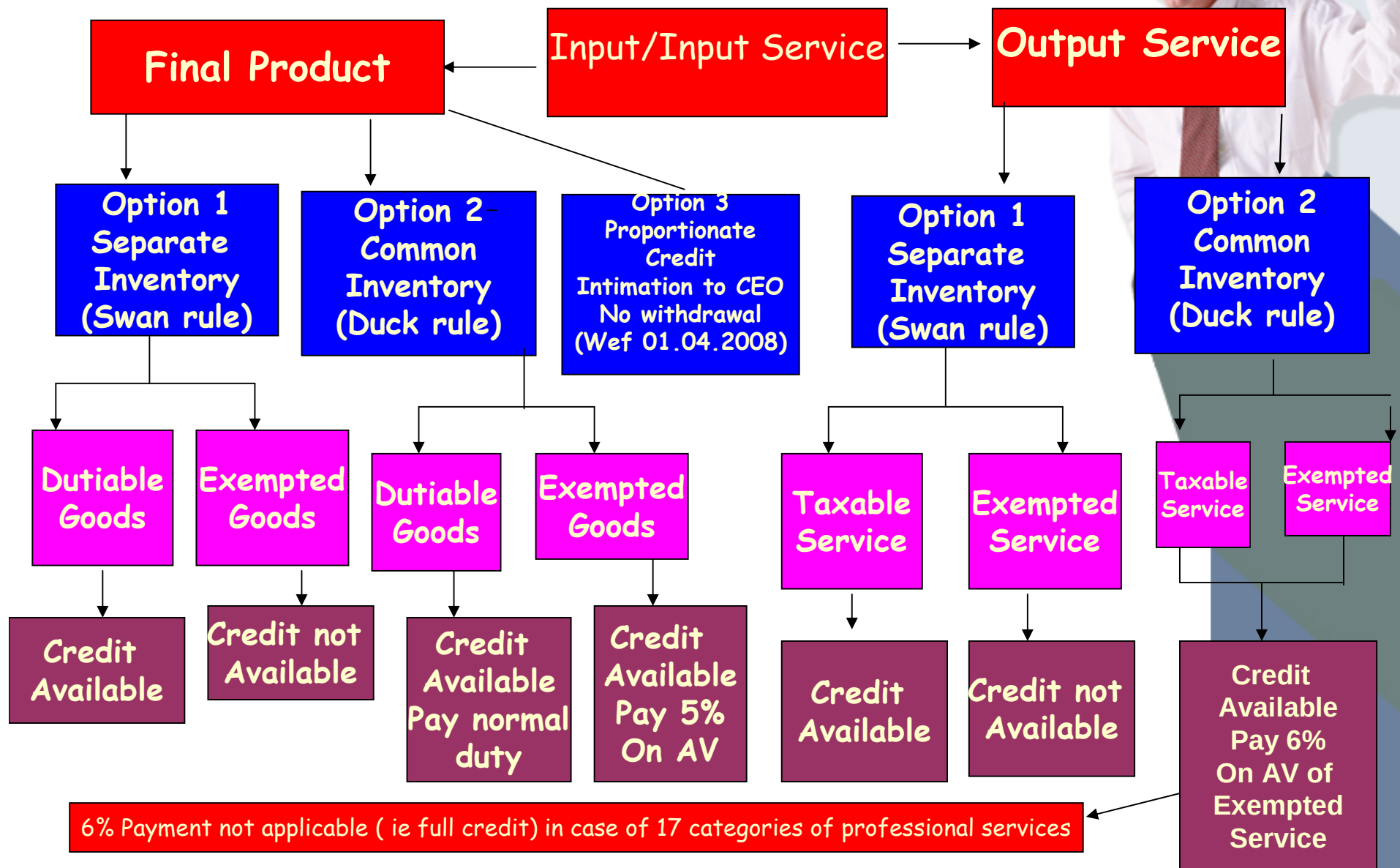
Preferential removals (credit available)

Removals Without payment of ED

- Cleared to unit in SEZ or to a developer of a special economic zone for their authorized operations; , .
- Cleared to 100% EOU,
- Cleared to to EHTP or STP
- Cleared to United Nations or an international organisation for their official use or supplied to projects funded by them, which are exempt from duty.
- When final product is exported under bond without payment of duty
- Gold or silver arising in course of manufacture of copper or zinc by smelting.
- Goods supplied against International Competitive Bidding



Common inputs/input service for dutiable/ exempted goods service



Common inputs for dutiable and exempted goods (mixed variety) Rule 6

Same inputs/input services are used partly for manufacture of dutiable goods / taxable services and partly for exempted goods/services.

In such cases, the
manufacturer/ Service provider has 3
options



Option 1

- Maintain Separate books for all inventory used for exempted goods/Services and dutiable goods and taxable service (Swan Rule)
- Credit can be availed on inputs used in dutiable goods
- No Cenvat available on inputs used in exempted goods/exempted services



Option 2

- Where there is no separate books (Duck rule)
- Manufacturer has to pay an amount at 5% on the assessable value of Exempted goods and he can avail credit on all inputs
- Service provider has to pay an amount at 6% on the assessable value of Exempted Services and he can avail credit on all inputs



Example:

- Input A quantity purchased 2000 units and duty paid Rs. 50,000 and it is used for Manufacture of two Products X and Y, where X is dutiable and Y is exempted. In such cases
- The manufacturer has three options as below

Option 1

- Maintained separate records How much quantity of A was used to X and How much quantity of A was used to Y and avail credit only duty paid on Quantity used to manufacture A

Option 2

- If separate records are not maintained, pay an amount of 5% on the Assessable value of Y and credit can be taken on all units of A

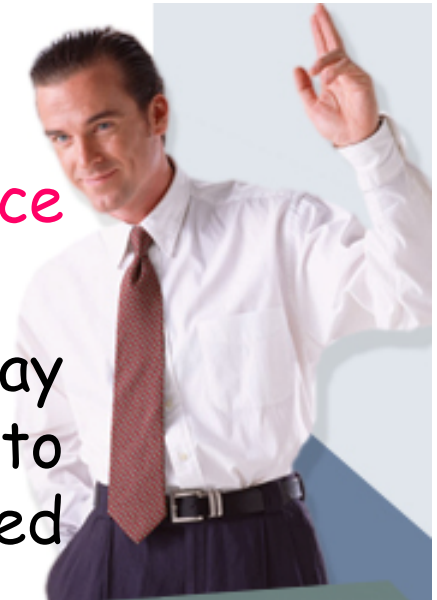
Option 3

If separate records are not maintained credit can be availed
Proportionate credit



Option 3 in case of manufacturer/Service provider

- Manufacturer/service provider has to pay amount of cenvat credit attributable to inputs/input service used in exempted goods/exempted service
- An intimation to be send to CEO for exercising these option giving details of product/services cenvat credit balance on the date of exercising the option



- Option to be exercised for all exempted goods/all exempted services by manufacturer or service provider.
- Once option exercised it cannot be withdrawn during the FY
- Amount to paid is to be determined using Complicated mathematical formulas

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- In case of service provider who is rendering general insurance services 6% is optional and he can follow other prescribed procedure,



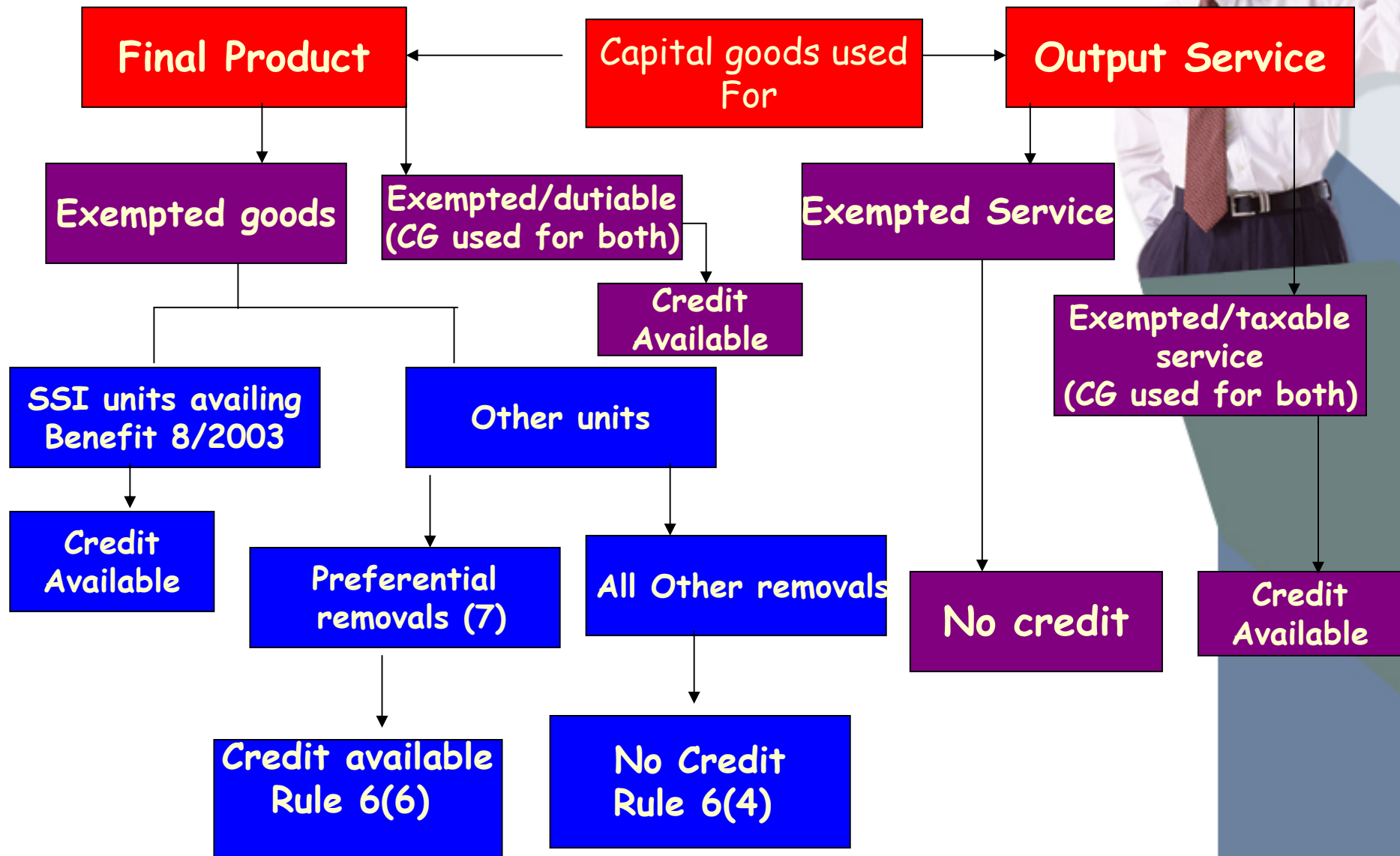
Payment of 6% not Applicable

17 categories of service tax such as (Repairs & maintenance, Installation, inspection, consultancy, interior decoration, Real Estate agency , Auditing etc)

These service should not be used exclusively for exempted services .They can be used partly for exempted service/taxable service



Cenvat credit on Capital goods in case of exempted goods and services Rule 6



Distribution of Credit by Input Service Distributor- Rule 7

Input service distributor means, a person

- Managing Office of business of manufacturer/Service Provider
- Which receives invoices under service tax rules and
- who distribute the credit through bill, invoice Challan



Example

An advertising agency renders service for a company Head office and for its various branches

Ad agency raises bill on Head office and charges service tax of Rs. 3 lakhs on the bill

Head office can distribute this service tax to head office and various branches based on suitable proportion, by way of challan

Branches can take credit on the basis of challan issued by Head office



Conditions

- Credit can be availed only when input service bill was paid
- Total amount of distribution of credit should not exceed the amount of Service tax paid
- Credit of service tax cannot be distributed when the input service was used exclusively for exempted service



Storage of inputs outside factory Rule 8

- AC/DC under exceptional Circumstances
- Considering the
- Nature of goods
- Shortage of space in factory
- By order
- permit manufacturer to store inputs outside the factory
- Cenvat credit can be availed in respect of these inputs
- AC/DC can impose restrictions/Conditions/Limitations
- If these inputs are not used as per rules, the manufacturer shall pay an amount equal to cenvat credit availed



Documents for Availing cenvat credit Rule 9

Cenvat Credit can be only based on the following documents

For Excise Duty / CVD

- An invoice of the manufacturer factory/deport/consignment agent place
- An invoice of the importer
- An invoice of the First / Second Stage Dealer
- A supplementary Invoice
- A bill of entry
- A certificate issued by an appraiser of customs



Documents for Availing cenvat credit Rule 9

Service Tax

- Invoice / bill / challan of the service provider
- Invoice / bill / challan of the input service distributor
- Service tax paid Challan



Documents for Availing cenvat credit Rule 9

Essential Requirements of Documents (Mandatory particulars)

- Payment of duty or service tax
- Description of goods or taxable service
- Assessable value
- Excise/ ST Reg No.
- Name and address of the factory
Manufacturer service provider



- Cenvat Credit can be taken only
- if document contain all details as prescribed in Rules (rule 11 of excise and service tax rules) are available. Rule 9(2)
- even one detail is missing (other than the mandatory) permission from AC/DC will be required
- AC/DC can condone defect in the document (other than mandatory)



- In case of invoice issued by FSD/SSD,
- credit can be taken only,
- the invoice should indicate duty suffered or
- prorata duty suffered in case proportionate stock is sold

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Records and Returns in Cenvat credit ..

- For Inputs and Capital Goods: -
The Manufacturer/ provider of output service shall maintain proper records containing the following details:
 - Receipt;
 - Disposal;
 - Consumption;
 - Inventory of Input and Capital Goods;
 - Value of input / capital goods;
 - Duty paid ;
 - Cenvat Credit Taken;
 - Cenvat Credit Utilized; and
 - Particulars of Supplier of input or capital goods.



Records and Returns in Cenvat credit Contd.,

- For Input Services: -
The provider of output service shall maintain proper records containing the following details;
 - Receipt of input services;
 - Consumption of input services;
 - Value of input services;
 - Tax Paid;
 - Cenvat Credit Taken;
 - Cenvat Credit Utilized; and
 - Particulars of provider of service



Returns under Cenvat Credit

- Monthly return by manufacturer within 10 days from close of Month [rule 9(7)]
- Quarterly return by SSI within 20 days from close of quarter [rule 9(7)]
- Quarterly return by first stage/second stage dealer within 15 days from close of quarter [rule 9(8)]
- Half yearly return within 25 days from close of half year, by provider of output services [rule 9(9)]



- Half yearly return within 25 days from close of half year, by Input Service Distributor [rule 9(10)]
- Monthly return by manufacturer in respect of principal inputs within 10 days from close of Month [rule 9A]
- Output service provider or the input service distributor to rectify mistakes or omission and file revised return within 60 days from the date of filing of original return



Transfer of Cenvat Credit- Rule 10

If a manufacturer shifts his factory to another site, transfer his business/ provider of output service transfers his business by way of

- Change of ownership
- Sale, lease
- Merger, Amalgamation
- Manufacturer/Service provider can transfer unutilised Cenvat Credit



Transferee can avail the cenvat credit When only

- Transfer was with the specific provision for transfer of liabilities
- The transferor transfers Inputs, Inputs in process and Capital goods
- Transferee should account credit properly to the satisfaction of AC/DC



Procedure for LTP units Rule 12 A

LTP Can Avail the following facility-

- Can remove excisable goods, except petrol and diesel oil without duty to any person registered premises except FSD/SSD
- Removal should be with invoice or transfer challan
- The goods can be cleared for Home consumption or export with in 6 months from the date of sending the material
- If not cleared the recipient premises has to pay duty will interest u/s 11 AB
- The transfer challan or invoice should contain similar particulars of invoice Rule 11
-



Procedure for LTP units

- A large taxpayer shall submit the monthly returns, as for each of the registered premises.
- A large taxpayer, on demand, may be required to make available all records in electronic media, such as, compact disc or tape for the purposes of carrying out any scrutiny and verification as may be necessary.
- Availment of LTP scheme is optional
- A large taxpayer may, with intimation of at least thirty days in advance, opt out to be a large taxpayer from the first day of the following financial year.



Power to impose restrictions in certain types of cases.

Central Government, if necessary in the public interest to provide for certain measures

Consideration for taking measures

- Extent of evasion of duty,
- Nature and type of offences or
- Such other factors as may be relevant

Measures:

- May place restrictions on a manufacturer, FSD/SSD or exporter, specify nature of restrictions including suspension of registration in case of a dealer
- Types of facilities to be withdrawn
- Procedure for issue of such order by an officer authorized by the Board.



Power to impose restrictions

The circumstances under which the restrictions are place

- Removal of goods without the cover of an invoice and without payment of duty;
removal of goods with out Correct Value
- Excess sale price realized not accounted;
- Availing CENVAT Credit without the receipt of goods/ specified documents
- Availing CENVAT Credit on invoices or other documents which a person has reasons to believe as not genuine
- issue of excise duty invoice without delivery of goods specified in the said invoice;
- claiming of refund or rebate which are not genuine

Restrictions include When evasion exceeds Rs. 10 lakhs

- Withdrawal of monthly payment , restrictions on availing credit



Recovery of Cenvat Credit Wrongly taken or erroneously refunded- Rule 14

- Where the CENVAT credit has been taken or utilized wrongly has been erroneously refunded
- same along with interest shall be recovered from the manufacturer/Service provider
- sections 11A and 11AB of the Excise Act or sections 73 and 75 of the Finance Act, shall apply

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Confiscations and Penalty Rule 15

- ❖ If any person, takes CENVAT credit in respect of input/ capital goods/input service wrongly
- ❖ contravenes any of the provisions of these rules

Consequences

- ❖ Goods are liable for Confiscation
- ❖ Penalty- Duty payable or Rs. 2000 which ever is higher

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Confiscations and Penalty Rule 15

- ❖ CENVAT credit in respect of input/capital goods or input service has been taken or utilized wrongly on account of fraud, willful mis-statement, collusion or suppression of facts,
- ❖ contravention of any of the provisions of the Excise Act/Service tax Act rules with a intention to Avoid duty
- ❖
- ❖ Penalty provision of sec 11 AC will apply
- ❖ - Penalty equal to duty
- ❖ If duty and Interest paid with in 30 days penalty reduced to 25% of duty

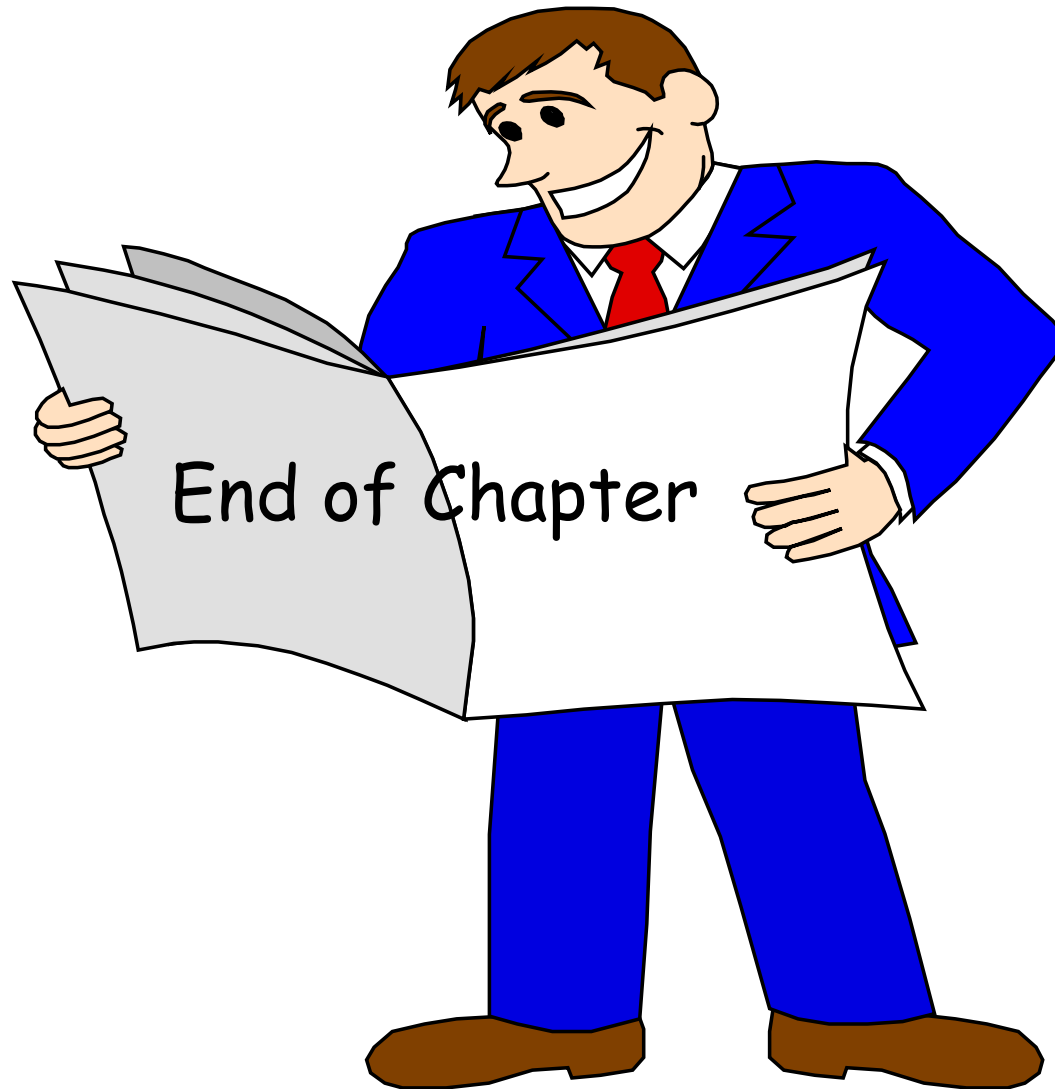


Non reversal of CENVAT credit. Sec 5 B of Central excise Act

- When assessee pays duty on final product and availed cenvat credit
- Subsequently Court held the process is not manufacture
- Central government by order notify non reversal of cenvat credit,
- The order for non-reversal of credit shall not apply where an assessee has preferred a claim for refund of excise duty paid by him:

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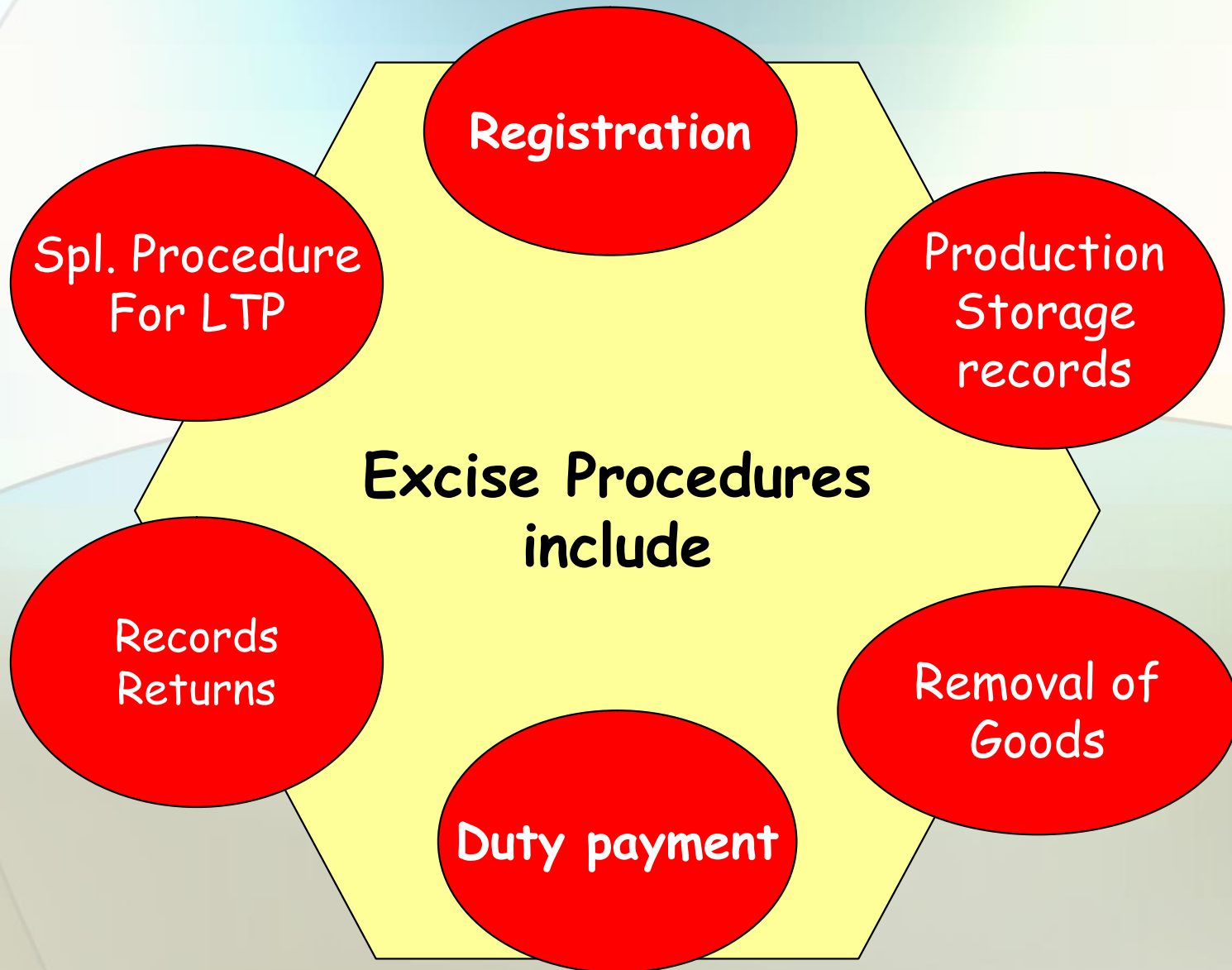
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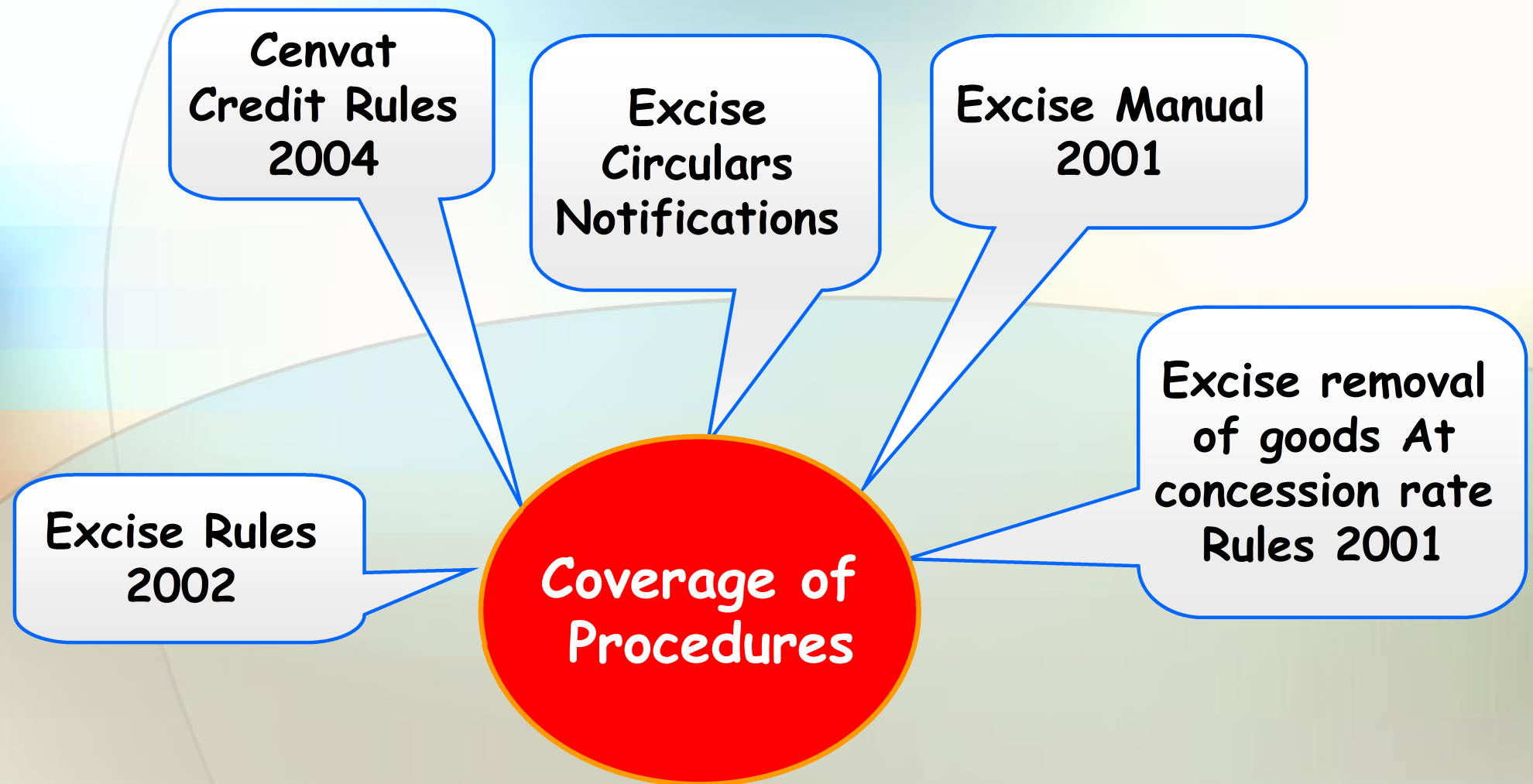


Excise Procedures

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Excise procedures





Registration of factory/warehouse Sec 6 Rule 9 Notification NO 35 &36/2001

Persons requiring registration

Every manufacturer of dutiable excisable goods (including Govt, autonomous corporations).

Persons who obtain excisable goods for availing end-use based exemption notification

An importer/FSD/SSD Dealers who desire to issue CENVATABLE invoices

Exporters manufacturing or processing export goods intending to claim rebate of such duty

Persons holding private warehouses

EOU units procuring goods from DTA or supplying goods to DTA

Registration of factory/warehouse Sec 6 Rule 9

Notification NO 35 & 36/2001

Persons exempt from registration

Persons who manufacture the fully exempted excisable goods, nil rate of duty goods/ non excisable goods
(Declaration to CEO is required)

Persons manufacturing excisable goods by following the warehousing procedure under section 65 of Customs Act (Declaration to CEO is required)

SSI units claiming benefit under a notification turnover up to 150 lakhs
(Declaration to CEO is required)

wholesale trade or deals in excisable goods (except first and second stage dealer,

job-worker of ready-made garments if the principal manufacturer undertakes to discharge the duty liability

100% EOU/FTZ/SEZ already licensed under the provisions of the Customs Act

Procedure for Registration

CBE&C circular No. 662/53/2002-CX dated 17-9-2002

notification No. 35/2001-CE(NT) dated 26-6-2001.

- Application in form A-1 duly filled up and signed along with self-attested copy of PAN should be submitted to AC/DC.
- EOU located in port towns, application should be submitted to DC/AC Customs,
- If PAN is not available, copy of application made for PAN should be submitted

Enclosures required for form A 1

- Self attested Pan Copy and Pan allotment letter
- Ground plan of factory, boundaries details
- Brief write up on the manufacturing process, from the start to end process
- Descriptions and tariff classification of Excisable goods to be manufactured, including waste, scrap. By products, intermediate products etc
- Documents like Partnership deed, MOA, AOA, Board resolution etc

Issue of RC

Scrutiny of application by AC/DC



Registration certificate in form RC will be granted within 7 working days



Reg. No is based on 15 digit PAN (E C C No.)



Range Officer and Sector Officer shall verify address and premises within 5 working days after registration

Other Provisions with regard to registration

- Separate registration is required in respect of separate premises except in cases where two or more premises are actually part of the same factory
- Registration Certificate may be granted to minors if guardians conduct business
- Registration is not transferable.
- Any Change in constitution intimated within 30 days of change. No fresh registration required.
- If there is any change in information given in form A-1, the change should be informed in form A-1

Other Provisions with regard to registration

Closure of business

- Inform
- apply for de-registration.
- Surrender original RC and
- pay duty up to date.
- Declaration should be given that no duty payable and no demand was due

Registration can be revoked or suspended

- if manufacturer or his employee breach of any of the provisions of Central Excise Act or Rules or
- has been convicted under section 161 of Indian Penal Code.

Penalty for non-registration

- Up to duty of contravening goods or Rs. 2,000 whichever is higher
- In addition, Confiscation of goods
- It is also an offence under section 9 of CEA - imprisonment up to seven years (minimum 6 months)

Factory' under Central Excise - Section 2(e)

- Factory means as any premises, including the precincts thereof, wherein or in any part of which, excisable goods are manufactured
- Precincts means area enclosed by compound wall.
- A Canteen, a recreation club, a shed a cycle stand located in side the compound wall will be a factory
- whole premises will be 'factory' if in any of its part, excisable goods are manufactured.
- It is not necessary that factory registered under factories act.

Records for storage of goods

Daily Stock Account of stored goods Rule 10

- Similar to that of Stock Register
- A daily stock has to be maintained by every assessee.
- DSA should be maintained on daily basis, in a legible manner, (Entry once daily)
- Entry in DSA to be made after goods are fully manufactured, duly tested and packed
- In case of three shifts in a factory, entry should be made before completion of first shift of next day.
- DSA shall be preserved for 5 years.

Daily stock Account

Particular of DSA

- Date
- Description of goods manufactured or produced
- Opening Balance
- Quantity produced or manufactured
- Quantity Removed
- Inventory of goods
- Assessable Value
- Amount of duty payable
- Particulars regarding amount of duty actually paid.

Manufacturer or his authorized agent authenticate the first page and last page of such book.

-

Penalty

- for not maintaining/Overwriting and cutting or
- Difference between DSA and Physical Stocks

Penalty payable will be

duty payable on goods or Rs. 2000 which ever is Higher and Confiscation

Clearance of Goods for home consumption Rule 11

- Clearance' means removal of excisable goods from the factory
- Excisable goods can be removed from factory only under and Invoice'.

Requirements of Invoice

Rule 11(2)

- Invoice should be serially numbered.
- S No by printing or by franking machine.
- The serial number should start from 1st April and will continue for the whole financial year.
- Before using serial numbers S No shall be intimated to Range Superintendent

Requirements of Invoice

Invoice to be prepared triplicate with suitable marks

- Original shall be marked 'ORIGINAL FOR BUYER'
- Duplicate copy shall be marked 'DUPLICATE FOR TRANSPORTER'
- Triplicate shall be marked 'TRIPLICATE FOR ASSESSEE'.
- Additional Copies if any should be marked as 'NOT FOR CENVAT PURPOSES'.
- Non Compliance of above , goods can be detained or Cenvat credit can be denied

Requirement of Invoice

Contents of Invoice

- Name address, Registration Number of Manufacturer
- Name of proprietor in case of proprietor ship firm, Karta, Head in case of HUF
- Name and address of consignee (buyer)
- Description and classification of goods
- Time and date of removal
- Quantity and Value of goods
- Rate of duty
- Duty payable on the goods.
- Mode of transport
- Name and address of central excise office of assessee jurisdiction.

- Only one invoice at a time to be used
- Separate series of invoice for export and home consumption permitted. Assessee has to just intimate AC / DC.
- Authentication of Invoice –*by owner or authorized person*
- *Invoice* should be in book form
- The invoices can be 'loose leaf' only if Invoices are computerized.
- Cancelled invoices original along with intimation should be submitted to superintendent, same day or next day, Triplicate copy should be retained by assessee for records
- Duty in invoice to be rounded off to nearest rupee (sec 37 D)

Clearance of samples

Samples can be issued normally for

- Trade samples sent to customers for trial
- Samples for test – The tests may be in-house laboratory for quality testing
- Sample for supply against sale contracts or for enforcement of control measures
- Samples for market enquiries by CE Officers

If samples are manufactured duty is payable.

Invoice and rule 11 Procedure to be followed.

Special procedure in case of removal of Cigarettes (Physical Control procedure)

- The procedure of removal of cigarettes is same as above , except
- Value of goods and particulars of excise invoice should be certified by CEO before removal of goods

Supplementary Invoice for differential duty –

- Prepared when Assessee may have to pay differential duty
- For example 8% charged instead of 14%
- S I can be raised for difference 6%
- S I can also be raised in case of provisional assessment or price escalation etc.
- S.I. Should contain cross-reference to the original invoice

Computerization of Invoices (CBEC Manual)

No permission is required.

In Case of running stationery

- the stationery should be pre-printed with all details
- After invoices are prepared, triplicate copy shall be retained in bound book form.

.

In case of Blank stationery

Generation of serial number by computer at the time of printing of invoice

- Computer software should generates number automatically
- same number cannot be generated more than once

Price of goods should indicate amount of duty paid there on Sec 12 A

- Every person liable to pay duty at the time of clearance of goods,
- **prominently indicate** in all documents relating to assessment and sales invoice
- the amount of duty which will form part of price at which goods are sold.

Manner of Payment of Duty Rule 8

**Monthly
Basis**

Due date for payment of Excise duty

Nature of Assessee	Period of removal	Due date
Assessee in General & EOU	April to February	5 th of following month
SSI	April to February	15 th of following month
Assessee in General, EOU & SSI, E payment	March	March 31
In case of E Payment	April to February	6 th and 16 th (for SSI) following month respectively

**EOU now can pay duty on monthly basis
vide notification No 23/2008 dt 23/05/2008**

Duty payment contd.

- If due date is holiday payment can be made on next working day
- Discharge of duty liability only if the amount payable is credited to C. G A/c
- Payment by Cheque the date of presentation of the cheque - subject to realization of that cheque.
- Payment of duty also include **payment of an amount** as per cenvat credit rules

E-payment mandatory

effective 01.04.2007

Applicable to Assessee

- who have paid excise duty of,
 - rupees 50 lakh or more in cash during the preceding financial year. Or
 - who have already paid 50 lakhs in Current FY
-
- Payment is to be made through internet banking.
 - Payment made up to 8 P M will be taken of that day payment

E payment procedure

- Application to Commissionerates to allot 15 digit assessee code (Same as excise registration No)
- Application to assessee bank for net banking user Id and pass word
- Login cbec.gov.in → Easiest E payment GAR 7 challan
- Enter the 15 digit assessee code,
- Validation of code and display of Master data of assessee
- Select excise duty payment, type accounting code of excise, Maximum 6 at a time

E payment procedure contd.,

- data is validated in the NSDL central system, a drop down menu will appear indicating the names of various banks
- Select the bank,
- Challan data will be transmitted to bank site
- Make the payment using with user Id and password
- Print acknowledgement
- Same procedure for payment of service tax also

Interest for delay in payment of Duty

- Delay in payment of duty-Interest 13% p.a
- Payable starting from 1st day after due date till the date of payment of duty.

Assessee delay in payment of duty > 30 days



- the assessee will forgoes Monthly payment facility
- till such date on which all dues including interest thereof are paid
- During the punishment period duty should be made on each consignment basis period without availing cenvat credit
- in the event of any failure, it shall be deemed that such goods have been cleared without payment of duty and penalties can be levied

Example when delay in duty payment exceeds 30 days

- March 2008 duty payable on or before 31.03.2008
- 30 days time limit ends on 30.04.2008
- Assume if assessee pays duty along with interest only on 30.09.2008
- Assessee foregoes monthly payment facility from 01.05.2008
- From 01.05.2008 till 30.09.2008 assessee has to pay duty on each consignment basis without availing Cenvat credit

GAR-7 Challan

Excise duty is to be paid using G A R 7 Challan.

Particulars of Challan

- Serial number
- Name, address and Telephone number of assessee
- Excise Commissionerate, Division and Range
- Account head of duty (computer code decided by Excise dept)
- 15 digit E C C Number
- Details of cash/cheque/demand draft.
- Code of branch of Bank.
- The challan should be serially numbered, from 1st April onwards -
- Payment in Bank with signature of Assessee
- Countersignature of excise officer is not necessary -
- Cenvat credit only of inputs received up to end of month.

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- After payment assessee should ensure the counter foil should contain with
- bank seal, BSR code of branch (7 digits) Date of deposit (8 digits) and challan serial number (5 digits).
- Total 20 digits known as CIN (challan identification Number) and it should be quoted in return

Personal Ledger Account (PLA) /Current Account

Maintenance of PLA

- P L A is duty payment register
- Assessee should pay duty through PLA.
- No specific permission is necessary.
- The PLA debited with duty payable is credited when duty is deposited in bank by GAR 7 challan

PLA contains following details

- Serial No., and date,
- Details of debit like duty payable details credit for duty paid like GAR 7 challan number, date and amount for each subhead of excise
- details of balance

Personal Ledger Account (PLA)

- PLA has to be maintained in triplicate using indelible pencil and both sided carbon
- Each entry should be serially numbered and should be made on a separate line.
- The running serial number should start from 1 every financial year.
- Both debit and credit entry should not be on same line

Personal Ledger Account (PLA)

- PLA and Cenvat credit should be used only for payment duty and not for other payments like fines, penalties etc
- Corrections are not allowed.
- If any correction is necessary, the original entry should be neatly scored out and attested by assessee.
- Two copies of PLA and copies of GAR 7 receipted challan shall be submitted along with Excise return
- Form of PLA has been prescribed in Annexure 8 of CBE &C's CE Manual, 2001.

Format of PLA

[illegible]

Periodical Returns Rule 12

Name of Return	Description of Return	whom should file	Due Date
ER 1	Monthly Return by large units for Production removal of goods	Large Units	10 of the following Month
ER 2	Monthly Return by E OU for Production removal of goods	E O U	10 of the following Month
ER 3	Quarterly Return by SSI units for production/removal of goods	SSI	20th of the following Quarter
ER 4	Annual Financial Information	Assesse paying duty Rs. 1 Crore or more Through P L A	30 th November of following F y

Periodical Returns Rule 12

Name of Return	Description of Return	whom should file	Due Date
ER 5	Information relating to Principal inputs	Assesse paying duty Rs. 1 Crore or more Through P L A	30 th April of F Y, Any change revised with in 15 days
ER 6	Monthly return relating to Consumption of Principal inputs	Assesse paying duty Rs. 1 Crore or more Through P L A	10 of the following Month
ER 7	Annual Installed Capacity Statement Declaring annual capacity Of Production	Assesse paying duty Rs. 1 Crore or more Through P L A	30 th April of F Y,
Dealer return	Quarterly return for Cenvat credit duty passed	FSD/SSD	15 th of the following Quarter

Requirements of return

- The return should be on basis of 8 digit Tariff Heading, i.e. there should be separate details about each product having different classification at 8 digit level. If same product attracts different rates of duty, all rates should be mentioned separately, even if such different rates are within the same month.
- If goods are cleared for export under bond, these should be indicated separately
- Quantity should indicate relevant abbreviation e.g. cm, g, kg, kl, m, mm, t (for Tonne), u (For Number)etc.
- Value indicated should be as per Sections 4, 4A or tariff value as applicable.
- In case of exports, ARE-1/ARE-2/Invoice value should be indicated.
- If duty on some invoices is paid on provisional basis, the details are required to be given in the ER-1/ER-3 return.

Records and Returns Contd

Submission of list of records Rule 22(2)

- Every assessee should submit a list in duplicate of all records Prepared or maintained by him
- For receipt, purchase,
- Manufacture, storage,
- Sale or delivery of goods
- for inputs and capital goods.

The above records and Cost Audit Report, Income Tax Audit Report u/s 44AB of Income Tax Act Should be submitted for scrutiny to Range officer, Audit persons

In case of more than one factory separate records for each factory to be maintained.

Meaning of 'record' (CBEC Manual Chapter 6 part I Para 2.2)

- All accounts, agreements,
- invoice, price list,
- return, statement or
- any other source document, whether in writing or in any other form,
- sales invoice, purchase invoice, journal voucher,
- delivery challan and debit or credit notes. -

Electronic records (CBEC Manual Chapter 6 Part III)

- No need for specific permission from the Department and need to give any intimation to the Department.
- The records can be kept on any electronic media, such as hard disk, floppies, CDs or tapes, and in readable format
- The printouts must be taken out at the end of each month and kept in bound folders, separately for each type of record, return, documents
- The person should ensure that proper back-up records
- Records should be preserved for 5 years from the following F Y which it relates.
- He shall also provide account of the audit trail and inter-linkages including the source documents
- In case any person is found to be misusing this facility or not providing access to the information to CEO, the CEO can prohibit the assessee from maintaining electronic records

-

Electronic filing of Returns

- CBE&C has introduced the facility of filing the monthly/quarterly excise returns electronically.
- This facility of e filing of excise returns made effective from 30.06.2004 and it is optional.
- To avail the facility of e filing submits an application in the prescribed form to CEO for user Id and Password
- Login in to exciseandservicetax.nic.in
- Log in with User ID (normally your ECC No) and Password from the Department,
- Select the appropriate return form ER 1/ER 2/ etc
- Fill the data
- Submit the form

JOB WORK

Meaning-- Notification NO 214/86

- processing or working upon of raw materials or semi-finished goods
- Process or working is to complete a part or whole resulting in the manufacture or finishing of an article
- Any operation which is essential for the aforesaid process.

Persons eligible to send materials for job work

- (a) Manufacturers
- (b) Exporters
- (c) Units in SEZ, EOU, EHTP & STP
- (d) persons supplying U N O etc

Inputs that can be sent for job work

- All inputs except diesel petrol and oil, filament yarn
- Job worker can use his own material and recover charges therefore from the principal manufacturer

Duty liability in case of Job Work

- If the process is a manufacture job worker has to pay duty.

Job worker will exempt from payment of duty in the following cases Notification 214/86

- Should not receive material from trader or buyer/receive material only from manufacturer,
- The manufacturer should give declaration that he will undertake duty liability
- After the job work, processed material, balance unused material and scrap Should be returned to supplier.

Exemption from duty when material received under Cenvat provisions

- Material received by a manufacturer under CENVAT can be sent to a job worker
- He should material brought back by the manufacturer for further processing.
- In such cases, there is no duty liability on the job worker and he is exempted from the same.

Large tax payer units

Meaning of Large tax payer unit

- Who is presently assessed to income tax in any of the five cities (Bangalore, Chennai, Delhi, Kolkata or Mumbai)
- and
- registered premises under the Central Excise or service Tax
- and an assessee under the IT Act, 1961, who holds a PAN

who has paid during financial year 2004-05

- excise duty/service tax in cash (account current) of Rs 5 crore or more; or
- advance (income) tax/corporation tax of Rs 10 crore or more

- A large taxpayer who satisfies the conditions may file an application to the Chief Commissioner of Central Excise, indicating his willingness to be a large taxpayer.
- He can avail facility of all the excise, service tax and income tax at one place in single window clearance. However the scheme is only optional.
- Government setup LTP units and appoint Client executive for administration

Procedure for LTP units

LTP Can Avail the following facility-

- Can remove excisable goods, except petrol and diesel oil without duty to any person registered premises except FSD/SSD
- Removal should be with invoice or transfer challan
- The goods can be cleared for Home consumption or export within 6 months from the date of sending the material
- If not cleared the recipient premises has to pay duty will interest u/s 11 AB
- The transfer challan or invoice should contain similar particulars of invoice Rule 11
-

Procedure for LTP units

- A large taxpayer shall submit the monthly returns, as for each of the registered premises.
- A large taxpayer, on demand, may be required to make available all records in electronic media, such as, compact disc or tape for the purposes of carrying out any scrutiny and verification as may be necessary.
- Availment of LTP scheme is optional
- A large taxpayer may, with intimation of at least thirty days in advance, opt out to be a large taxpayer from the first day of the following financial Year.

Power to impose restrictions in certain types of cases.

Central Government, if necessary in the public interest to provide for certain measures

Consideration for taking measures

- Extent of evasion of duty,
- Nature and type of offences or
- Such other factors as may be relevant

Measures:

- May place restrictions on a manufacturer, FSD/SSD or exporter, specify nature of restrictions including suspension of registration in case of a dealer
- Types of facilities to be withdrawn
- Procedure for issue of such order by an officer authorized by the Board.

Power to impose restrictions

The circumstances under which the restrictions are place

- Removal of goods without the cover of an invoice and without payment of duty;
removal of goods with out Correct Value
- Excess sale price realized not accounted;
- Availing CENVAT Credit without the receipt of goods/ specified documents
- Availing CENVAT Credit on invoices or other documents which a person has reasons to believe as not genuine
- issue of excise duty invoice without delivery of goods specified in the said invoice;
- claiming of refund or rebate which are not genuine

Excise Administration

Central Board of Excise and Customs
(CBEC)

Chief Commissioner/Director General

Commissioner/Commissioner (Appeals)

Additional/Joint Commissioner

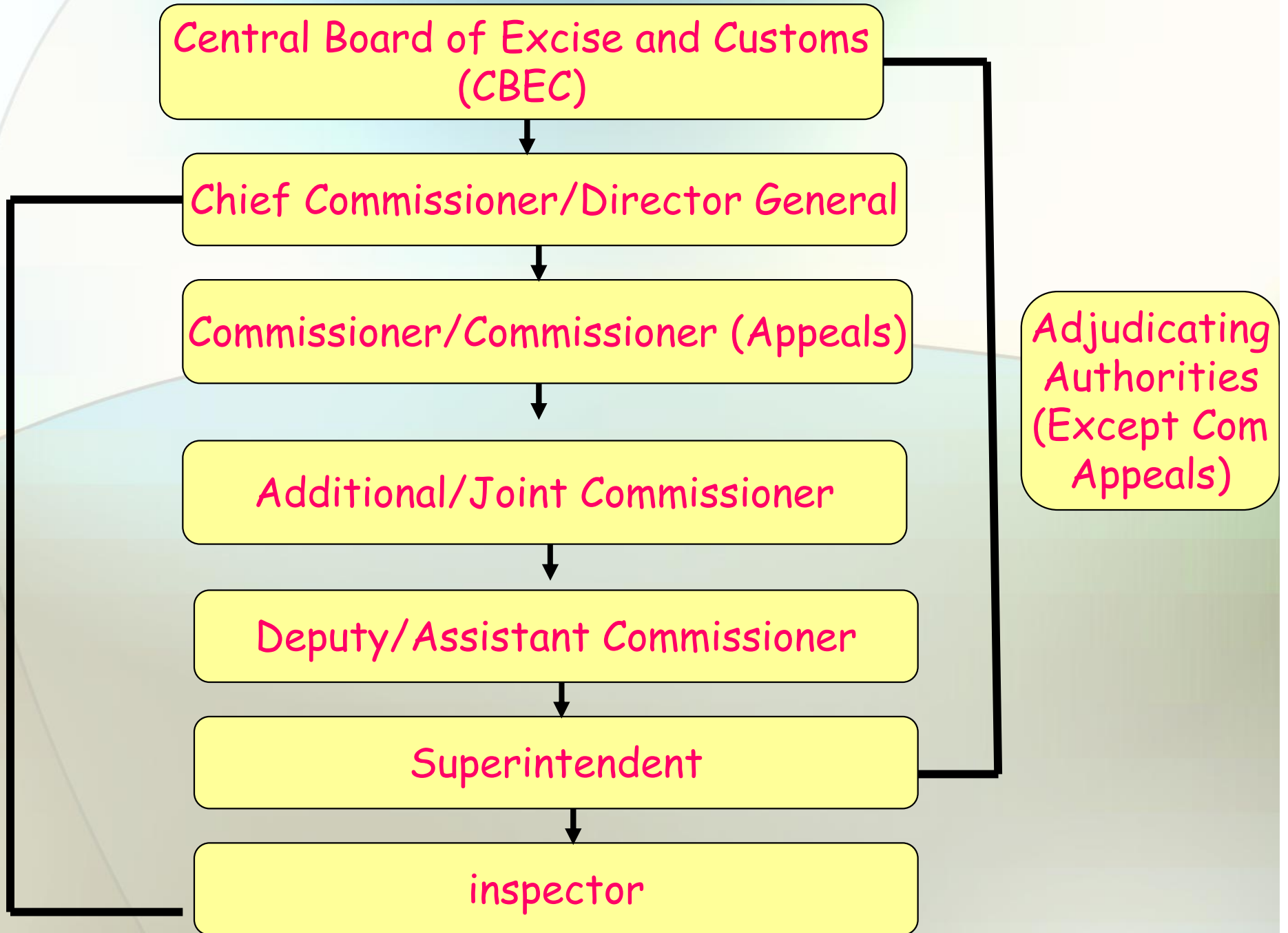
Deputy/Assistant Commissioner

Superintendent

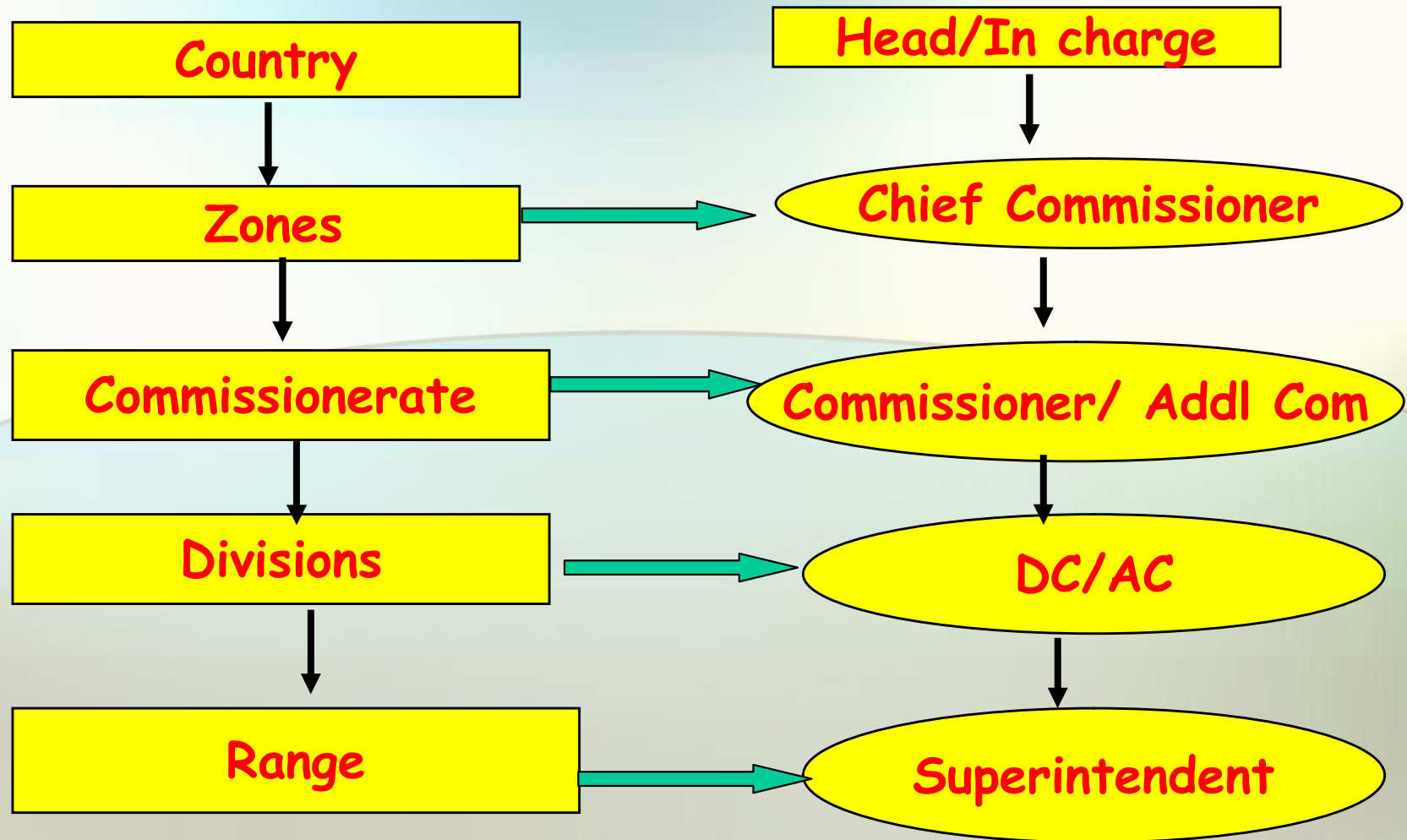
inspector

CEO

Adjudicating
Authorities
(Except Com
Appeals)



Segregation of excise functions



Excise Administration Contd.,

Board - CBE&C.

- Formed under Central Boards of Revenue Act, 1963. Head Quarter in New Delhi
- Consisting of six to seven members, headed by Chairman,
- Chairman has powers to administer the Excise Act/distribute work
- Central Excise Rules authorizes Board to appoint Central Excise Officers. Rule 3(1)
- Board can exercise all powers conferred on these officers under the Central Excise Act.
- Board can authorize CC/C/JC/DC/AC to appoint officers below rank of AC.
- Section 37B of CEA authorizes Board to issue orders, instructions and directions to Central Excise Officers
- Similar Provision in section 4(1) and 151 A of Customs Act

Excise Administration Contd.,

Chief Commissioner of Central Excise

- Country is divided in several zones.
- Each 'zone' is under supervision of '*Chief Commissioner of Central Excise*'
- Board Specify the jurisdiction of Chief Commissioner, Commissioner or Commissioner (Appeals).

Commissioner of Central Excise

- Each 'zone' covers various Commissionerate and
- Commissioner of Central Excise (CCE) is Administrative in-charge of the 'Commissionerate

Additional Commissioner of CE –

- There may be one or more Additional Commissioner in a Commissionerate.
- Restrictions on powers of Additional Commissioner have been placed through administrative instructions.
- Commissioner has unlimited powers of adjudication, while Addl Commissioner has restricted powers of adjudication.

Deputy Commissioner, Assistant Commissioner

- Each Commissionerate of Central Excise is divided into divisions
- Each division is under administrative control of 'Deputy Commissioner' or 'Assistant Commissioner of Central Excise'
- Assistant Commissioner (Senior Scale) is designated as 'Deputy Commissioner'
- Both Assistant Commissioner and Deputy Commissioner have same powers.

.

Superintendent

- The division under each Deputy / Assistant Commissioner of Central Excise is further divided into various ranges
- Each range is under control of Superintendent of Central Excise, who is of the rank of a Gazette Officer.
- Inspectors work under Superintendent and some powers have been delegated to them. Inspectors are not a Gazette Officers

POWERS OF CENTRAL EXCISE OFFICERS

Access to registered premises. Rule 22

- An officer empowered by the Commissioner shall have access to any registered premises
- He can carry out any scrutiny, verification and checks .
- Every assessee, and FSD & SSD shall furnish to the officer, a list in duplicate of all the records
- Records and Audit reports make available to the officer or the audit party

POWERS OF CENTRAL EXCISE OFFICERS

Visit Book of Excise Officers

- Each factory is required to maintain a visit book in prescribed form.
- Inspector and Superintendent visiting the factory are required to fill in the book.

Restrictions on visit to SSI

- Excise Officers and departmental audit parties can visit SSI units for specific purposes only and on specific written permission of Assistant/Deputy Commissioner.

POWERS OF CENTRAL EXCISE OFFICERS

contd

Excise officer stop conveyance, search and seize:

- If he has reason to believe that the goods are being carried with the intention of evading duty.

Power to detain or seize the goods Rule 24 of Central Excise Rules.

- any goods, which are liable to excise duty but no duty, is paid thereon or
- the said goods are removed with intention of evading the duty payable thereon,

POWERS OF CENTRAL EXCISE OFFICERS

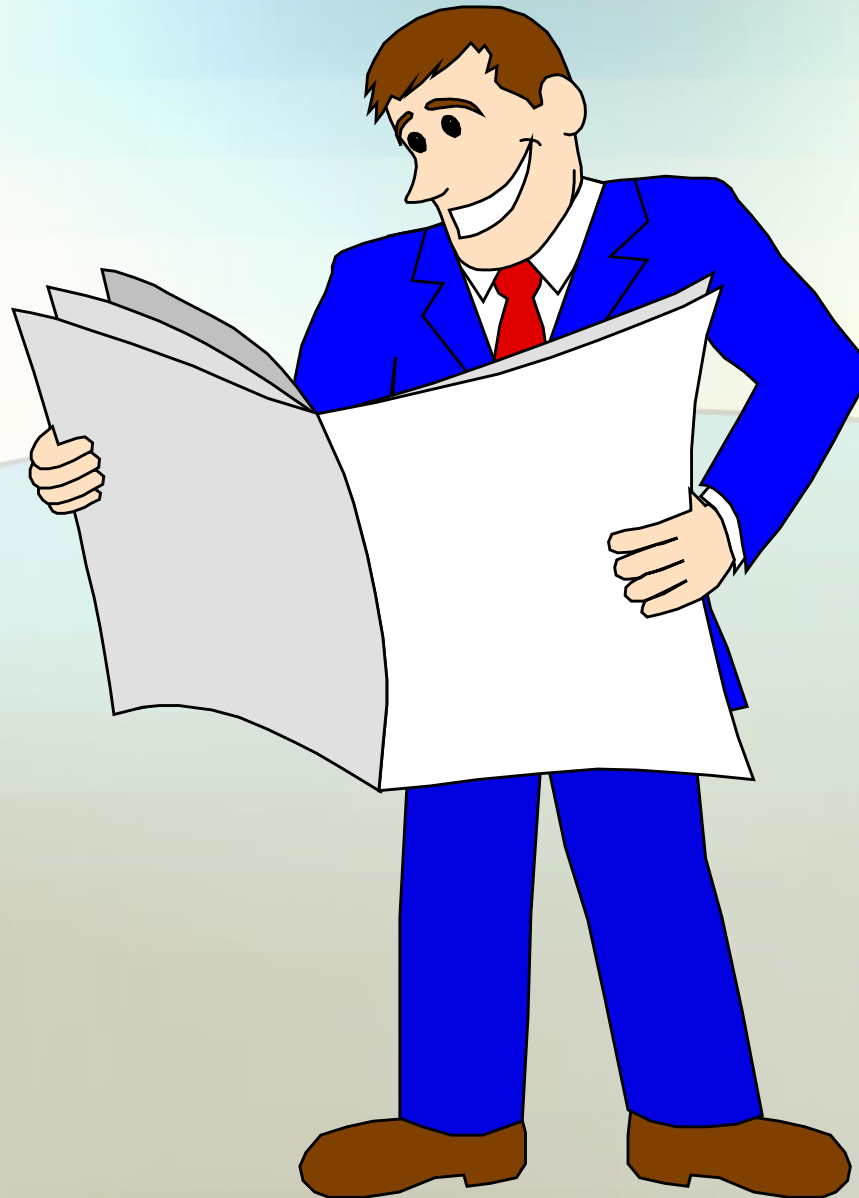
Excise officer can issue Summons: Section 14 of CEA

- Excise Officers to issue summons.
- Asking a person to appear before the named authority and give evidence and produce documents or other things.
- Person summoned is bound to attend and state the truth upon the required subject

Excise officer arrest a person

- An Excise Officer not below the rank of Inspector, to arrest a person whom they have '*reason to believe*' to be liable to be punished under provisions of the Act
- Such arrest can be only with prior approval of Commissioner of Central Excise. [Section 13].

End of Chapter



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Export Procedure



Exports- No Excise duty. But Control necessary to avoid goods divert for home Consumption

Methods of Export

Duty Paid on removal and after Completion of Export refund/rebate is claimed (Rule 18)

Export of goods under bond without payment of excise duty.
Release of Bond after Export (Rule 19)

Export Procedure

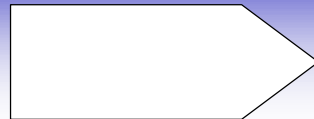
Procedure of Export

Export of goods under
supervision of
Central excise Officer
Under his examination
and seal

Export goods
under Self sealing
without
Supervision of Excise
Officer

Export procedure under supervision of C E O

Phases of export procedure



Step 1

Prepare ARE I & Invoice

- Application for removal Excisable goods in ARE I
 - Time Limit 24 hours before removal
 - 5 Copies of ARE I
 - Original White
 - Duplicate Buff
 - Triplicate Pink
 - Quadruplicate Green
 - Quintuplicate- Blue
 - Color band can also used
- Prepare Invoice Under Rule

11

Step 2

Particulars of ARE I

Similar to that of Invoice
Additional Particulars

1. Duty paid/Bond details
2. Amount of rebate Claim
3. Certification of CEO in part A
4. Certification of Customs officer in Part B
5. Rebate sanction order.

Duty to be paid or
Bond/LOU to be executed

Step 3

Inspection and endorsement

CEO Verify invoice, ARE I

- Physical Verification of goods
Sampling test if require
- Verification of Value
 - Certification and Endorsement of ARE I
 - 2 Copies retain and 2 copies handover to assessee
 - CEO seal the packets
 - Out of 2 copies retain one will send by CEO to maritime commissioner

Step 4

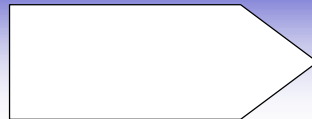
Exporting

Export should be made With in six months

- Submission of documents by mfgr.
- No Physical verification at port unless seals tampered
- Certification by customs officer in Part B of ARE I
- Manufacturer has to submit ARE I and Other documents to claim rebate

Export procedure under Self Sealing By assessee

Phases of export procedure



Step 1

Prepare ARE I & Invoice

- Application for removal Excisable goods in ARE I
 - Time Limit 24 hours after removal
 - 5 Copies of ARE I
 - Original White
 - Duplicate Buff
 - Triplicate Pink
 - Quadruplicate Green
 - Quintuplicate- Blue
 - Color band can also used
- Prepare Invoice Under Rule 11

Step 2

Particulars of ARE I

Similar to that of Invoice
Additional Particulars

1. Duty paid/Bond details
2. Amount of rebate Claim
3. Certification of CEO in part A
4. Certification of Customs officer in Part B
5. Rebate sanction order.

Duty to be paid or Bond/LOU to be executed

Step 3

Inspection and endorsement

No CEO Verification

- Certification of all copies of invoice & ARE I by assessee
Self Sealing
- Verification of Value
 - No Endorsement of ARE I by CEO
 - 2 Copies Duplicate and Triplicate should be send to CEO
 - One will retain by CEO one will send to MTC

Step 4

Exporting Export with in 6 months

- Submission of documents by mfrg.
- verification at port
- Certification by customs officer in Part B of ARE I
- Manufacturer has to submit ARE I and Other documents to claim rebate



Exports to Nepal and Bhutan

- India has Rupee traded with Nepal and Bhutan and hence export incentives are not available
- The clearance should be on normal Invoice on payment of duty.
- Invoice should mention 'For Export to Nepal/Bhutan'
- Extra copy of Invoice should be made, which is to be used at India-Nepal border

Procedure Notification No. 45/2001- dated
26.6.2001 / Chapter 7 Part IV of CBEC Manual,
2005

- the importer of the goods in Nepal or Bhutan, shall make full payment for said goods /open Irrevocable L C
- Exporter has to furnish bond in specified in annexure
- Exporter has to furnish specified form in Annexure 8 (in case LC) from bank that money was fully received.
- After satisfaction of above bond will be discharged



Cancellation of export documents

- When he want to change export destination, old forms can be cancelled and new forms to submitted to CEO with request, or necessary changes can be made in old forms
- Not able to export for any reason and diverted for home consumption
- Request CEO where LOUT/Bond executed for cancellation of ARE I and Invoice.
- Pay duty along with interest 24%
- Bond/LOUT will be discharged

LOUT & Bonds under excise



When goods are exported without payment of duty

- Manufacturer has to execute -Letter of Undertaking- LOUT
- Other Persons has to execute-Bond

LOUT

- Submitted by Manufacturer to CEO/Maritime commissioner in form UT-1
- Executed in favors or President of India through CEO
- Contains the particulars of manufacturer and registration number

Manufacturer has to declare that

- Export goods with in 6 months
- Comply with excise rules, regulations, Act
- Export the goods to the satisfaction of AC/DC
- Duty, interest will be paid in event of failure to export

LOU should be accepted by C E O

Bonds



Bond' means an undertaking given by the assessee to Government for due fulfillment of certain obligation

Types of Bond - 2 types

Surety Bonds

Security Bonds

CA N Raja Sekhar M.Com FCA DISA (ICAI) Chennai
rajdhost@yahoo.com

Surety Bonds



- Surety bonds are covered Indian of Contract Act.
- In Surety Bond, another person stands as surety to guarantee the performance
- Surety should be for full value of bond
- Surety should be solvent to the extent of bond amount.
- The department is at liberty to enforce the recovery of dues either from the obligor or from the surety. -

Security Bonds



- Executed where security is offered instead of guarantee
- Security can be in nature of Post Office saving deposit, NSC, Bank Deposits, **Govt. Securities etc**
- Bank Guarantee can also be accepted as surety/security

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Particulars of Bonds



- Name address, registration no of assessee
- Declaration about compliance of rules, regulations,
- Surety liability clause, damages etc.
- Bond should be accepted by CEO

Forms of Bonds



Bonds are of different nature and for various purposes.

Forms of bond etc. have been standardized.

The main bonds are as follows:



B-1 general bond

- The bond is for due dispatch of excisable goods removed for export without payment of duty.
- The bond can be with surety or security.

B-2 Bond



- This is a General Bond for provisional assessment.
- It can be with security or surety.

B-4 Bond



- The bond is for provisional release of seized goods.
- It can be only security bond.
- Bond should be for whole value of seized goods.
- Amount of security will be as determined by adjudicating authority taking into consideration of gravity of offence (normally 25%)



B-8 Bond

- This bond is for obtaining goods at Nil or concessional rate of duty under Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules.

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B-11 Bond



This is not prescribed under new rules.

- However, old B-11 form should be used to clear seized goods on provisional basis. –

B-17 Bond



- This is a general surety / security bond to be executed by EOU, EHTP/STP units.
- It is for provisional assessment of goods for export of goods to foreign countries without payment of duty and
- for account / disposal of excisable goods procured without payment of duty..

Receipt of goods as return, for repair, rectification recondition

Return of material

Sales return of earlier
Duty paid goods or
Duty paid exported goods
Not exported bring back to
factory

Cenvat credit can be
Taken (reversal of earlier
Payment)- Invoice should receive back

Received for repair
rectification ,recondition

Cenvat credit can be
Availed if received along with
duty Paying document-(Invoice))

Removal after repair etc

If process is
Manufacturing

Pay duty based on
Transaction Value
(Take Cenvat credit)

If process is not
Manufacturing

Pay an amount of
Credit availed
(reversal of credit)



Bringing goods for repairs, re- making , Recondition etc .Rule 16

- Assesses can take Cenvat credit of duty paid as if such goods are received as inputs under Cenvat Credit Rules.
- All such goods brought back should be accompanied by duty paying document,
- If No such document Prior permission from Commissioner is required before bringing such goods to the factory



Removal after repairs / re-making etc.

- At the time of clearance, duty should be paid under Invoice as follows –
- If the process carried out on the goods brought amounts to manufacture, assessee should pay duty at the rate applicable on date of removal.
- If the process does not amount to manufacture, and amount' equal to Cenvat credit taken at the time of receipt of final product is payable.
- The buyer can avail Cenvat credit of this 'amount'. [Rule 16(2)].

Credit on duty paid goods return to Factory Rule 16



When buyer returns goods or reject the goods as they the goods can be brought back.

- There is no time limit and goods can be brought any time.

Procedure to be followed.

- Goods should accompany duty paying document
- Intimation to Superintendent with in 24 hours of receipt
- Assessee should wait 48 hours to enable CEO to verify
- Such goods should be stored separately from non duty paid goods.
- Cenvat credit can be availed.

At the time of clearance

- duty payable if any process done which amount to manufacture on Assessable value
- If no process cenvat credit availed should be reversed



Removal of goods for Job Work- Rule 16 A

- Any inputs received in a factory may be removed for a job worker

Procedure

- Goods can be removed only under Job work challan
- Permission of the Commissioner to be obtained
- Manufacturer has to undertake duty liability
- If required, Bond to be executed
- If goods not returned within 180 days cenvat credit should be reversed
- Commissioner can impose any restrictions and conditions.



Removal of excisable semi finished goods for Certain purposes Rule 16 B

- The Commissioner of Central Excise may by special order and subject to conditions permit a manufacturer
 - to remove semi finished excisable goods for carrying out certain manufacturing processes, to some other premises
 - After the process the goods can be bring back to factory
 - The manufacturer can remove these goods for home consumption with payment or duty or for export without payment of duty from such other registered premises.

Removal of excisable goods for test or for any process not amounting to manufacturing Rule 16 C



- The Commissioner of Central Excise may by special order and subject to conditions permit a manufacturer to remove semi finished excisable goods for carrying out certain manufacturing processes, to some other premises
- After the process the goods can be bring back to factory
- The manufacturer can remove these goods for home consumption with payment or duty or for export without payment of duty from such other registered premises.
- This rule shall not apply to the goods known as "prototypes" which are sent out for trial or development test.



Procedure contd.,

- The processor shall fill up the particulars of date and time of removal of goods before the clearance of goods and after such clearance the processor shall intimate to the said person,
- the date and time of the clearance of goods for completion of the particulars by the said person in the triplicate copy of the invoice.
- The processor shall clear the goods after filling in invoice the time and date of removal and authentication of such details.
- The rate of duty on such goods shall be the rate in force on date of removal of such goods from the premises of the processor and
- no excisable goods shall be removed except under the invoice.

Removal of Goods By EOU to DTA

(Rule 17)



Procedure

- Invoice is to Prepared under Rule 11
- The duty is paid thorough debiting PLA (50% of aggregated of customs duties and CVD)
- Cenvat credit can be availed (Based on the restricted formula)
- Duty payment monthly
- Daily Stock Account should be maintained in Form AC 1 with the Particulars similar to Rule 10 DSA
- The unit should submit monthly return in ER2 by 10 of the following month.

Procedure for clearance to warehouse Rule 20



- Goods are removed from factory on payment of duty. However, in respect of certain goods, provision has been made to store the goods in warehouses without payment of duty.

Applicable to following goods.

- Petroleum products such as benzene, toluene and xylene
- Goods transferred to customs bonded warehouse as 'Stores'.
- Goods removed by export houses or star trading houses for subsequent exports under rule 18 or rule 19 of Central Excise Rules - Notification No. 46/2001-CE(NT) dated 26-6-2001

Ware house procedure contd.



Procedures to be followed

- Consignor is required to prepare application in quadruplicate in form ARE III
- Warehouse should be registered under excise provisions
- He is also required to prepare invoice under rule 11
- Three copies of application and duplicate of invoice should be sent along with goods to consignee.

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Ware house procedure contd.

- On arrival at destination, Consignee has to verify the goods notify the discrepancy if any.
- Consignee will send original to his range superintendent duplicate with endorsement (rewarehousing certificate) to the consignor
- Range superintendent of consignee will counter sign ARE II and send his counterpart of consignor.
- If re-warehousing certificate is not received within 90 days, consignor shall pay the duty.

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Ware house procedure contd.

- Proper accounts shall be maintained at the warehouse. He will be responsible for payment of duty, penalty etc.
- Registered person can keep only goods belonging to him and not to someone else. He can keep other's goods only with permission of Commissioner.
- Owner of warehouse can sort, pack or repack the goods in warehouse and make such alterations as may be necessary for preservation, sale or disposal thereof.
- Maximum period of storage in warehouse 90 days

Receipt of Goods at concessional rate of duty



- The provisions are contained in Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001.

Procedure

- The manufacturer intending to procedure excisable goods to avail the benefit of notification u/s 5 A, should apply to AC / DC in quadruplicate in form specified at Annexure I to rules
- Separate application shall be filed for each supplier.
- B8 Bond to be executed for duty liability
- Bond amount will be prescribed by AC/DC,
- Copy of this application duly signed by AC/DC will be sent to supplier-manufacturer.
- The supplier can clear goods on receipt of the certificate duly countersigned by AC / DC

Receipt of Goods at concessional rate of duty contd.,



- The removal details will be recorded on the application by the supplier-manufacturer.
- Proper accounts should be maintained for Goods
- Goods should be used only for intended purpose (mere intention is not sufficient)
- Clearance to another unit under same procedure

Receipt of Goods at concessional rate of duty contd.,



Return of goods to supplier

- The Supplier will add this return to his non-duty paid stock (in Daily Stock Account) and then deal with it.
- Monthly return should be submitted by procurer in prescribed form given in Annexure II by 10 of the following month. Regarding quantity received, used and balance etc)

Goods lost or destroyed during transport –

- it will not be treated as 'used for intended purpose'. differential duty and interest will become payable. –

