

CENVAT CREDIT RULES 6 AS EFFECTIVE FROM 1-4-2011

Exempted goods/output services & Cenvat credit

1 No Cenvat credit if final product/service exempt

Cenvat credit is not available if inputs or input services are used for manufacture of exempted goods or provision of exempted output services.

As per basic principle of VAT, credit of duty or tax can be availed only for payment of duty on final product or output services. As a natural corollary, if no duty is payable on final product or output services, credit of duty/tax paid on inputs or input services cannot be availed.

As per Rule 6(1) of Cenvat Credit Rules, Cenvat credit is not admissible on such quantity of input or input service which is used in manufacture of exempted goods or provision of exempted services.

Thus, if inputs and input services are partly used in exempted final product/output service, Cenvat credit of that portion of input/input service will not be available.

Partial manufacture/provision of exempted products/services – Cenvat credit of inputs and input services is not available if final product/output service is exempt from excise duty/service tax. In case of manufacturer manufacturing both exempt and dutiable goods (or service provider providing taxable as well as exempt services), it may happen that 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 following four options w.e.f. 1-4-2011 –

- (a) Maintain separate inventory and accounts of receipt and use of inputs and input services used for exempted goods/exempted output services – Rule 6(2) of Cenvat Credit Rules
- (b) Pay amount equal to 5% of value of exempted goods (if he is 'manufacturer) and of value of exempted services (if he is service provider) – Rule 6(3)(i) [The 'amount' payable was 6% of value of exempted services during the period 7-9-2009 to 31-3-2011].
- (c) Pay an 'amount' equal to proportionate Cenvat credit attributable to exempted final product/exempted output services, as provided in rule 6(3A) – Rule 6(3)(ii) of Cenvat Credit Rules
- (d) Maintain separate accounts for inputs and pay 'amount' as determined under rule 6(3A) in respect of input services - – Rule 6(3)(iii) of Cenvat Credit Rules as inserted w.e.f. 1-4-2011.

Cenvat credit on capital goods – If capital goods are partly used for exempted goods and partly for dutiable final products, entire Cenvat credit of duty paid on capital goods is available. Cenvat credit of duty on capital goods is not allowable only when it is *exclusively* used for manufacture of final products [rule 6(4)]

No reversal or payment of amount in certain cases – If excisable goods are removed to SEZ, EOU, EHTP, STP, UN agencies or for exports or removal of gold or silver arising in manufacture of copper or zinc by smelting, payment of 5% 'amount' is not required [rule 6(6)].

Cenvat credit of service tax in case of supplies made by DTA to EOU - Supplies from DTA to EOU are entitled to Cenvat credit of service tax paid – para 6.11(v) of FTP.

Maintaining Separate Accounts of Input and Input Services

1-1 Rule 6(2) of Cenvat Credit Rules as recast w.e.f. 1-4-2011 elaborates how records in respect of exempted goods and exempted services shall be maintained.

(a) the receipt, consumption and inventory of inputs used- (i) in or in relation to the manufacture of exempted goods; (ii) in or in relation to the manufacture of dutiable final products excluding exempted goods; (iii) for the provision of exempted services; (iv) for the provision of output services excluding exempted services.

Assessee shall take CENVAT credit only on inputs under sub-clauses (ii) and (iv) of clause (a).

(b) the receipt and use of input services- (i) in or in relation to the manufacture of exempted goods and their clearance upto the place of removal; (ii) in or in relation to the manufacture of dutiable final products, excluding exempted goods, and their clearance upto the place of removal; (iii) for the provision of exempted services; and (iv) for the provision of output services excluding exempted services,

Assessee shall take CENVAT credit only on input services under sub-clauses (ii) and (iv) of clause (b).

1.1A Overriding special provisions for payment of 'amount' in respect of banking and insurance services

In respect of banking service [section 65(105)(zm)], the Bank or NBFC is required to pay 'amount' equal to 50% of Cenvat Credit availed on inputs and input services [Rule 6(3C) of Cenvat Credit Rules as inserted w.e.f. 1-4-2011].

In respect of general insurance services [section 65(105)(zx)] and life insurance service [section 65(105)(zzzza)], 'amount' payable is equal to 20% of Cenvat credit availed on inputs and input services in the month [Rule 6(3C) of Cenvat Credit Rules as inserted w.e.f. 1-4-2011].

These are overriding provisions irrespective of any provision in rule 6(1), 6(2) and 6(3).

The purpose of the overriding provisions has been explained in Annexure C to MF(DR) DOF No. 334/3/2011-TRU dated 28-2-2011 as follows –

Para 1.16 A substantial part of the income of a bank or a life insurance company is from investments or by way of interest in which a number of inputs and input services are used. There have been difficulties in ascertaining the amount of credit flowing into earning these amounts. Thus a banking company or a financial institution including NBFC, providing banking and financial services are being obligated to pay an amount equal to 50% of the credit

availed. In case of services relating to life insurance or management of ULIPs such amount will be equal to 20% of credit availed. Other options of payment of amount under Rule 6 shall not be available for these taxpayers.

Payment of 'amount' or reversal not required in case of supplies to SEZ unit or developer

1-2 Payment of 'amount' or reversal of Cenvat credit is not required in case the taxable service is provided to SEZ Unit or SEZ developer for their authorised operations. These are overriding provisions irrespective of any provision in rule 6(1), 6(2), 6(3) and 6(4) [Rule 6(6A) of Cenvat Credit Rules inserted w.e.f. 1-4-2011].

1-3 Provisions relating to option

Option has to be exercised in respect of all exempted goods manufactured and all exempted output services provided. The option once exercised shall not be changed in remaining part of financial year – *Explanation I* to Rule 6(3) - reiterated in para 2 of CBE&C Circular No. 868/6/2008-CX dated 9-5-2008.

Education cess and SAH education cess is payable only on 'duties of excise'. 'Amount' is not 'duty'. Hence, education cess or SAH education cess is not payable on such 'amount'.

The 'amount' should be paid in accounting code applicable to service tax i.e. 0044 - para 4 of CBE&C Circular No. 868/6/2008-CX dated 9-5-2008.

1-4 Option is to person availing Cenvat credit

Rule 6(3) uses the words 'if manufacturer or provider of output service opts not to maintain separate accounts'. Thus, whether to maintain separate accounts or not is at the option of person availing Cenvat credit. He cannot be compelled to maintain or not maintain separate accounts.

The option is with assessee and he cannot be forced to maintain separate inventory under rule 6(2) – *Tahir Ali Industries v. CCE* (2006) 195 ELT 225 (CESTAT).

1-5 Meaning of exempted goods

As per Rule 2(d) of Cenvat Credit Rules, 'exempted goods' means goods which are exempt from whole of duty of excise leviable thereon and includes goods which are chargeable to 'Nil' rate of duty and the goods in respect of which the benefit of an exemption under Notification No. 1/2011-CE dated 1st March 2011 is availed [The words in italics have been inserted w.e.f. 1-4-2011].

Exempted goods do not mean non-excisable goods - Goods which are not mentioned in Tariff are not 'exempted goods' as they are neither 'goods chargeable to 'Nil' duty as per Tariff' nor 'goods which are exempt by a notification issued under section 5A'.

'Exempted goods' do not cover goods which are not excisable at all, i.e. which are not included in Central Excise Tariff at all. Such goods are not 'exempted goods'. Similarly, goods not specified in tariff at all are not goods 'chargeable to 'Nil' rate of duty'. Thus, rule 6(2) applies only if all the final products are 'excisable goods'. The rule does not apply if one of the products is not 'excisable goods' at all. Goods

which are not 'excisable goods' cannot be said to be exempt from duty or chargeable to Nil rate of duty. – view confirmed in *CCE v. Kesar Enterprises Ltd.* 2001(130) ELT 93 (CEGAT).

1-6 Meaning of 'exempted services'

As per rule 2(e) of Cenvat Credit Rules, "exempted services" means taxable services which are exempt from the whole of the service tax leviable thereon, and includes services on which no service tax is leviable under section 66 of Finance Act *and taxable services whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken. Explanation – For removal of doubts, it is hereby clarified that 'exempted services' includes trading* [Words in italics inserted w.e.f. 1-4-2011]

Services on which no tax is payable are also 'exempt services' - - For purpose of the definition of 'exempted services', services on which no service tax is leviable are also 'exempted services'. Thus, if a particular service is not taxable under present provisions of Finance Act, 1994, it will be 'exempted service' for purpose of rule 6.

It has been clarified that export of service will not be treated as exempted service - para 6 of CBE&C Circular No. 868/6/2008-CX dated 9-5-2008.

1.7 Manufacturer/service provider engaged in trading

So far, there was no specific in respect of manufacturers/ service providers engaged in trading goods.

Rule 2(e) of Cenvat Credit Rules as amended w.e.f. 1-4-2011 states that 'exempted service' includes trading. As per *Explanation I* to Rule 6(3D) inserted w.e.f. 1-4-2011, in case of trading, value of 'exempted service' shall be the difference between the sale price and the purchase price of the goods traded.

In my view, this provision is reasonable and should apply to period prior to 31-3-2011 also.

1.8 Calculation of 'value' for purposes of rule 6(3) and 6(3A)

As per *Explanation I* to Rule 6(3D) inserted w.e.f. 1-4-2011, "Value" for the purpose of rules 6(3) and 6(3A) of Cenvat Credit Rules -

(a) shall have the same meaning as assigned to it under section 67 of the Finance Act, read with rules made there under or, as the case may be, the value determined under section 3, 4 or 4A of the Excise Act, read with rules made thereunder.

(b) in the case of a taxable service, when the option available under sub-rules (7), (7B) or (7C) of rule 6 of the Service Tax Rules, 1994, or the Works Contract (Composition Scheme for payment of Service Tax) Rules, 2007 has been availed, shall be the value on which the rate of service tax under section 66 of the Finance Act, read with an exemption notification, if any, relating to such rate, when applied for calculation of service tax results in the same amount of tax as calculated under the option availed; or

(c) in case of trading, shall be the difference between the sale price and the purchase price of the goods traded.

The effect of this change has been explained in Para 1.15 of Annexure C to MF(DR) DOF No. 334/3/2011-TRU dated 28-2-2011, as follows -

1.15 For the purpose of applying the formula under rule 6(3A) the value of trading service as well as value of services covered by composition schemes has been defined. The value of trading service shall be the difference between the sale price and purchase price of goods. The value in respect of services covered by a composition scheme will be tax amount divided by the rate of service tax applicable under section 66 read with any general exemption. As the prevalent rate is 10% the value shall be ten times the amount of service paid or payable.

2 Exceptions to provisions of payment of amount

Following are the exceptions to provision of proportionate removal of Cenvat credit or payment of 5% 'amount'.

2-1 Dis-allowance of Cenvat of capital goods only if used exclusively for exempted final product/services

Capital goods used exclusively for manufacture of exempted goods or providing exempt service are not eligible [rule 6(4)]. If capital goods are partly used for taxable services or dutiable final products, Cenvat credit will be available.

Some manufacturers are entitled to exemption based on turnover or quantity (e.g. SSI units). They will be entitled to Cenvat on capital goods. They can take Cenvat on capital goods and utilise it for payment of duty when their exemption limit is crossed.

Inputs used in manufacture of capital goods used within the factory – Notification No. 67/95-CE exempts capital goods manufactured within the factory and used within the factory. In such case, a view is possible that 'amount' is payable on such capital goods. However, since the goods are not sold, there is no question of any 'price' and hence no 'amount' should be payable.

2-2 Some services were eligible even if partly used for manufacture of exempted goods/output services

Rule 6(5) of Cenvat Credit Rules provided that in case of specified services, full Cenvat credit of input service is available even if these services are partly used in manufacture of exempted final product/output services. This sub-rule has been omitted w.e.f. 1-4-2011. Thus, now the provision of proportionate reversal applies to all the input services.

2.3 Supply to EOU/SEZ, export of goods, deemed exports or gold manufacture

Rule 6(6) of Cenvat Credit Rule states that provisions of rules 6(1), 6(2), 6(3) and 6(4) are not applicable, if excisable final product is despatched without payment of duty, in following cases –

- ◆ Final product is despatched to SEZ, EOU, EHTP or STP (Actually, supply to SEZ is 'export' and not 'deemed export').
- ◆ Final product is supplied 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 in terms of Notification No. 6/2006-CE dated 1-3-2006 or earlier Notification No. 6/2002-CE dated 1-3-2002, if such goods are exempt from customs duty when imported in India

In such case, assessee need not reverse Cenvat credit or pay any 'amount'.

If final product is exported, Cenvat credit cannot be denied – *CCE v. VVF Ltd.* (2006) 195 ELT 57 (CESTAT).

International competitive bidding - The last clause has been added w.e.f. 28-1-2005, with intention to exempt goods supplied against International Competitive Bidding as specified in Notification No. 6/2006-CE dated 1-3-2006 (Earlier Notification No. 6/2002-CE dated 1-3-2002).

Payment of 'amount' or reversal not required in case of provision of taxable service to SEZ unit or developer - Payment of 'amount' or reversal of Cenvat credit is not required in case the taxable service is provided to SEZ Unit or SEZ developer for their authorised operations. These are overriding provisions irrespective of any provision in rule 6(1), 6(2), 6(3) and 6(4) [Rule 6(6A) of Cenvat Credit Rules inserted w.e.f. 1-4-2011].

3 Payment of 'amount' on exempted final product/exempt services

Assessee can opt to pay 'amount' of 5% of 'value of exempted final product or 'value of exempted services [rule 6(3)(i)].

The 'amount' should be paid in accounting code applicable to service tax i.e. 0044 - para 4 of CBE&C Circular No. 868/6/2008-CX dated 9-5-2008.

Education cess not payable - Education cess and SAH education cess is payable only on 'duties of excise'. 'Amount' is not 'duty'. Hence, education cess and SAH education cess is not payable on such 'amount'.

Nature of the payment of 'amount' - The payment of 'amount' is really in nature of reversal of Cenvat credit availed on inputs/input services which have been used for manufacture of exempted goods or provision of output services.

3-1 Job worker doing job work under Cenvat may be liable to pay 5% 'amount'

Job work done under Cenvat provisions is exempt from service tax. If the job worker is not availing any Cenvat credit of any common input or input services, question does not arise. However, if the job worker is availing Cenvat credit on inputs or input services, he will be liable to pay 5% 'amount' on job charges under rule 6(3) of Cenvat Credit Rules, or he may have to go in for proportionate reversal of Cenvat Credit as per rule 6(3A) of Cenvat Credit Rules.

If the job worker thinks that the rule 6(3A) is cumbersome, it may be advisable to pay service tax @ 10.30% on job charges, since the customer will be in a position to avail Cenvat credit.

If job worker charges 5% 'amount', buyer cannot avail Cenvat credit, but if job worker charges regular service tax, the customer will be eligible to avail Cenvat credit.

3-2 No Cenvat credit of such 'amount' paid

The 'amount' paid on the exempted final product is not in the nature of excise duty. Hence, department has clarified that buyer of such exempted goods will not be allowed to avail Cenvat credit of 'amount' paid by the manufacturer/service provider. - MF(DR) circular No B-42/1/96-TRU dated 27.9.1996.

The view has been confirmed in *Malviya Chem v. CCE* 2001(127) ELT 274 (CEGAT), where it has been held that 'Nil duty' and 'exemption' cannot co-exist with duty payment.

3-3 When to pay the 'amount'

Para 30(a) of D. O. F. No. 334/1/2007-TRU dated 28-2-2007, issued by Shri Gautam Ray, Joint Secretary, TRU, Ministry of Finance states as follows - An explanation has been inserted in rule 8 to provide that for the purposes of this rule, the expressions 'duty' or 'duty of excise' shall also include the 'amount' payable in terms of the CENVAT Credit Rules, 2004. Therefore, all amount payable like payment under rule 6 (3) of the CENVAT Credit Rules, 2004 etc., can be paid along with duty payable by 5th or 15th of the next month.

4 Reversal of credit or payment of 'amount' means Cenvat credit not availed

Sometimes, assessee may take Cenvat credit by mistake or because he cannot identify the material to be used for exempted final products. This does not mean that he cannot rectify and must pay 10% 'amount'. He can rectify by reversing Cenvat credit.

Cenvat Credit Rule 6(3D) as inserted w.e.f. 1-4-2011 specifically provides that payment of 'amount' under rule 6(3) of Cenvat Credit Rules means Cenvat credit has not been taken, for the purpose of an exemption notification wherein any exemption is granted on the condition that no Cenvat credit of input and input services shall be taken.

Even earlier, Courts have been taking the same view, as discussed below.

In *CCE v. Bombay Dyeing Ltd.* (2007) 10 STT 286 = 215 ELT 3 (SC), it was held that even when Cenvat credit is taken, if it is reversed before utilization, it would mean that Cenvat credit has not been taken. In view of the decision, CBE&C vide its circular No. 858/16/2007-CX dated 8-11-2007, has clarified that if Cenvat credit is reversed before utilization, it would amount to credit not having been taken..

In *Chandrapur Magnet Wire v. CCE* 1996(2) SCC 159 = 1996(81) ELT 3 (SC), it was held that if Cenvat credit taken is reversed, it means no Cenvat credit has been taken. This judgment was on the basis of a specific Board circular, but principle can still apply.

In *Punjab Tractors Ltd. v. CCE* 2005 (181) ELT 380 (SC 3 member bench), assessee paid duty on exempted parts, availed Cenvat and reversed it when utilising it for exempted final product (junior tractors of less than 25 HP). It was held that the procedure followed was revenue neutral and hence duty is not payable. However, penalty was held valid for violation of rules.

5 Proportionate reversal of Cenvat Credit

If assessee intends to pay 'amount' on proportionate basis (and not at flat rate of 5% on exempted goods and services), he has following two options w.e.f. 1-4-2011.

- (a) Pay an 'amount' equal to proportionate Cenvat credit attributable to exempted final product/ exempted output services, as provided in rule 6(3A) – Rule 6(3)(ii) of Cenvat Credit Rules
- (b) Maintain separate accounts for inputs and pay 'amount' as determined under rule 6(3A) in respect of input services – Rule 6(3)(iii) of Cenvat Credit Rules as inserted w.e.f. 1-4-2011.

The option (b) above was not available upto 31-3-2011.

He has to pay 'amount' provisionally on monthly basis, At the year end, he has to calculate exact amount and ay difference if any or adjust excess paid.

5-1 Inform option to Superintendent

The assessee should inform following details to Superintendent, while exercising the option of proportionate reversal [Rule 6(3A)(a)] -

- ◆ name, address and registration No. of the manufacturer of goods or provider of output service.
- ◆ date from which the option under this clause is exercised or proposed to be exercised.
- ◆ description of dutiable goods or taxable services.
- ◆ description of exempted goods or exempted services.
- ◆ CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition.

Such option has to be exercised in respect of all exempted goods manufactured and all exempted output services provided. The option once exercised shall not be changed in remaining part of financial year –

Explanation I to Rule 6(3) inserted w.e.f. 1-4-2008.

If assessee intends to pay 5% 'amount' on exempted final products/exempted final services, such intimation is not required.

5-2 Mode of calculations of proportionate reversal

The mode of calculation is as follows –

Assessee should first take entire Cenvat credit of inputs and input services used in exempted as well as taxable final products and exempted as well as taxable services.

Calculation of amount to be reversed - At the end of month, assessee should calculate Cenvat credit attributable to exempted final products and exempted services on provisional basis, as follows –

Amount to be reversed at end of month		
(1)	Rule 6(3A)(b)(i)	Inputs used for exempted final products
(2)	Rule 6(3A)(b)(ii)	Inputs used for exempted services (On proportionate basis, based on ratio of previous year)
(3)	Rule 6(3A)(b)(iii)	Input services used for exempted final products and exempted services (On proportionate basis based on ratio of previous year).
	Total	1+2+3 = amount to be reversed every month on provisional basis

Calculations at the end of the year - At end of the year, assessee should calculate the ratios on actual basis and make fresh calculations and pay difference, if any, before 30th June. If it is found that he had paid excess amount based on provisional ratio, he can adjust the difference himself by taking credit.

Reversal in first year of production or service only at the end of year - In the first year of production or provision of services, ratios of previous year will not be available. In that case, the calculations need not be made for the whole year. However, calculations should be made after the year is over and amount attributable to Cenvat credit on exempted final products and exempted services should be calculated and paid.

The basic idea behind the mode of calculations is sound and correct as per Vat principles. However, calculations are not easy and are prone to litigation.

There is no provision to calculate input services used exclusively for exempted services. This has to be done on ratio basis only.

5-3 Calculation of 'amount' on provisional basis every month

The manufacturer of goods or the provider of output service shall determine and pay, provisionally, for every month –

Inputs used for exempted final products - The amount equivalent to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods during the month, denoted as A.

This has to be done on basis of input-output ratio or on basis of formula similar to the one applicable in case of inputs for exempted services on provisional basis.

Inputs used for exempted services - The amount of CENVAT credit attributable to inputs used for provision of exempted services (provisional) is to be calculated as follows -

B	Total value of exempted services provided during the preceding financial year
C	Total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during the preceding financial year
D	Total CENVAT credit taken on inputs during the month minus A (i.e. credit taken on inputs for manufactured final products)
(B/C) x D	Amount to be reversed every month on provisional basis as per rule 6(3A)(b)(ii)

Input services used in or in relation to manufacture of exempted goods or provision of exempted services - The amount attributable to input services used in or in relation to manufacture of exempted goods or provision of exempted services (provisional) is calculated as follows -

E	Total value of exempted services provided plus the total value of exempted goods manufactured and removed during the preceding financial year
F	Total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the preceding financial year
G	CENVAT credit taken on input services during the month
(E/F) x G	Amount to be reversed every month on provisional basis as per rule 6(3A)(b)(iii)

5-4 Calculation of 'final amount' after year end

The manufacturer of goods or the provider of output service, shall determine finally the amount of CENVAT credit attributable to exempted goods and exempted services for the whole financial year in the following manner [Rule 6(3A)(c)] -

Inputs used for exempted final products - The amount of CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, on the basis of total quantity of inputs used in or in relation to manufacture of said exempted goods during the financial year, denoted as H [Rule 6(3A)(c)(i)].

This has to be done on basis of input-output ratio and/or on basis of formula similar to the one applicable in case of inputs for exempted services on actual basis.

Inputs used for exempted services - The amount of CENVAT credit attributable to inputs used for provision of exempted services is to be calculated finally on actual basis as follows -

J	Total value of exempted services provided during the financial year
K	Total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during the financial year
L	Total CENVAT credit taken on inputs during the financial year minus H (i.e. credit taken on inputs for manufactured final products)
(J/K) x L	Amount to be reversed finally as per rule 6(3A)(c)(ii)

Input services used in or in relation to manufacture of exempted goods or provision of exempted services - The amount attributable to input services used in or in relation to manufacture of exempted goods or provision of exempted services is to be calculated on actual basis as follows -

M	Total value of exempted services provided plus the total value of exempted goods manufactured and removed during the financial year
N	Total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the financial year
P	CENVAT credit taken on input services during the financial year
(M/N) x P	Amount to be reversed finally at end of year as per rule 6(3A)(c)(iii)

Amount of Cenvat credit to be reversed for whole year - Amount of Cenvat credit attributable to exempted goods and exempted services is to be determined at the end of financial year. The amount is to be calculated as follows

Total amount of Cenvat credit attributable to exempted goods and exempted services for the financial year		
(1)	Rule 6(3A)(c)(i)	Cenvat on Inputs used for exempted final products
(2)	Rule 6(3A)(c)(ii)	Cenvat Credit on Inputs used for exempted services (On proportionate basis, based on actual ratio of financial year)
(3)	Rule 6(3A)(b)(iii)	Cenvat Credit on input services used for exempted final products and exempted services (On proportionate basis based on actual ratio of financial year).
(4)	Rule 6(5)	Cenvat credit on services specified in rule 6(5), which are exclusively used for exempted goods or exempted services
	Total	1+2+3+4 = Total amount attributable to exempted final products and exempted services

5-5 Payment of difference if short payment was made

At the year end, the manufacturer of goods or the provider of output service, shall pay an amount equal to the difference between the aggregate amount determined as per rule 6(3A)(c) and the aggregate amount determined and paid as per Rule 6(3A)(b), on or before the 30th June of the succeeding financial year, if the amount provisionally paid was lower than the amount finally determined at the year end [Rule 6(3A)(d)].

Interest payable if amount was short paid - In addition to the amount short-paid, the assessee will be liable to pay interest at the rate of twenty-four per cent per annum from the due date, i.e., 30th June till the date of payment, where the amount short-paid is not paid within the said due date.

Thus, no interest is payable if difference is paid by 30th June of the following year [Rule 6(3A)(e)].

5-6 Intimation of details to Range Superintendent

The manufacturer of goods or the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of payment or adjustment, the following particulars -

- ◆ details of CENVAT credit attributable to exempted goods and exempted services, monthwise, for the whole financial year, determined provisionally

- ◆ CENVAT credit attributable to exempted goods and exempted service for the whole financial year, finally determined
- ◆ amount short paid determined alongwith the date of payment of the amount short-paid
- ◆ interest payable and paid, if any, on the amount short-paid [Rule 6(3A)].

5-7 Self adjustment of excess amount was paid

If at the year end, it is found that the amount provisionally paid was more than the amount finally determined, the manufacturer of goods or the provider of output service may adjust the excess amount on his own, by taking credit of such amount [Rule 6(3A)(f)].

Intimation of details to Range Superintendent - The manufacturer of goods or the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of payment or adjustment, the following particulars -

1. details of CENVAT credit attributable to exempted goods and exempted services, monthwise, for the whole financial year, determined provisionally
2. CENVAT credit attributable to exempted goods and exempted service for the whole financial year, finally determined
3. amount excess paid
4. credit taken on account of excess payment, if any [Rule 6(3A)(g)].

5-8 If assessee does not manufacture dutiable goods or does not render taxable services

If assessee does not manufacture dutiable final products or taxable output service, he can take credit but is not required to pay proportionate amount on provisional basis as provided in rule 6(3A)(b). However, at year end, he should pay amount on proportionate before 30th June [Rule 6(3A)(h)].

The provision applies in case of production in first year when ratios of the previous year are not available to calculate Cenvat attributable to exempted products and exempted services.

If the amount is not paid by 30th June, interest is payable @ 24% after 1st July [Rule 6(3A)(i)].

5-9 Calculation of ‘Value’ of exempt goods or exempt services

“Value” for the purpose of rules 6(3) and 6(3A) shall have the same meaning assigned to it under section 67 of the Finance Act, 1994 read with rules made thereunder or, as the case may be, the value determined under section 4 or 4A of the Central Excise Act, 1944 read with rules made thereunder [*Explanation I* to rule 6(3A)]

Thus, value is to be calculated as per provisions of Central Excise Act (in case of manufactured products) and Finance Act, 1994 (in case of service tax).

In case of goods chargeable to specific rate of duty, value shall be determined under section 4. In case of (partially)exempted services, value shall be gross amount charged for providing exempted services, without abatement - para 3 CBE&C Circular No. 868/6/2008-CX dated 9-5-2008.

5-10 Cenvat credit in case of export of services

If the services are exported, the Cenvat credit is not required to be reversed. Assessee can utilise credit for payment of duty on other products or service tax on other services. If this is not possible, he can get refund [see rule 5 of Cenvat Credit Rules].

Meaning of export of services – As per explanation to rule 5, ‘output services which are exported’ means any output service exported in accordance with the Export of Services Rules, 2005.

5-11 Recovery of the ‘amount’

If assessee does not pay the ‘amount’ as provided in rule 6(3) or rule 6(3A), it can be recovered along with interest under rule 14 of Cenvat Credit Rules, as if it is a credit wrongly taken – *Explanation III to rule 6(3A)*