

“In the manufacture of goods”

The Cenvat scheme allows credit on inputs used in or in relation to the manufacture of final products. It was held that the expression “in the manufacture of goods” should normally encompass the entire process carried on by the dealer of converting raw materials into finished goods **J.K.Cotton Spinning and Weaving Mills Co. Ltd v. S.T.O. 1997 (91) E.L.T. 34, (SC)**

Raw material or component or part

It was held that anything that enters into and forms the part of the manufacturing process or is required to make the article marketable must be deemed to be a raw material or component part of the end product and must be deemed to have been used in completion or manufacture of the end product. In this specific case, wrapping paper was held to be a raw material and component of wrapped paper. **Monotype India Ltd. v. CCE - (1996) 83 ELT 594 (CEGAT) * Joy Foam Pvt. Ltd. v. CCE - (1996) 83 ELT 72 (CEGAT 3 member bench order). Collector v. East End Paper Industries Ltd - 1989 (43) E.L.T. 201 Supreme Court**

Inputs need not be contained in the final product

It Was held that sodium sulphate used for chemical reaction at pulp stage is treatable as raw material used in the manufacture of paper even though, sodium sulphate is burnt up and does not retain its identity in the end product. The Supreme Court specifically held that the test would be to see whether without the presence of the said raw material it would be possible to manufacture the end product. **In CCE v. Ballarpur Industries Ltd - 1989 (43) E.L.T. 804, Supreme Court**

The Cenvat scheme allows credit on inputs used in or in relation to the manufacture of final products. **The Supreme Court in case of J.K.Cotton Spinning and Weaving Mills Co. Ltd v. S.T.O. 1997 (91) E.L.T. 34**, has held that the expression “in the manufacture of goods” should normally encompass the entire process carried on by the Manufacturer of converting raw materials into finished goods

Waste and scrap is final product for Cenvat - As per Cenvat provisions, waste or scrap is treated as a final product within definition of rule 57AA(c) [Now new rule 2(h)] and its clearance is as if it is a final product. - MFDR TRU No. 345/2/2000-TRU dated 29-8-2000.

Direct despatch from manufacturer to final buyer, but sale is through dealer i.e. Transit sale - If whole consignment is despatched to buyer from manufacturer, Cenvat will be permissible, if name of the final buyer is shown as consignee. (Invoice will be in name of dealer). The consignee can avail Cenvat on the basis of duplicate copy of manufacturer issued under Rule 11 (that time Rule 52A). In such cases, the goods need not be brought to the premises of registered person. Invoice of Registered person (dealer) is not required for availing Cenvat by the consignee - **CBE&C Circular No. 96/7/95-CX dated 13-2-1995.**

Cenvat credit on capital goods used in manufacture of exempt intermediate product - It may happen that capital goods may be used in manufacture of an exempt intermediate product, but final product may be dutiable. In such case, Cenvat credit is available on such capital goods, if final product is chargeable to duty. - **CBE&C circular No. 665/56/2002- CX dated 25-9-2002.**

Circulars Notifications and Case laws on Cenvat Credit

As per notification No. 67/95-CE dated 16-3-1995, capital goods (as defined in Cenvat Credit Rules) manufactured in a factory and used within the factory of production are exempt from excise duty. Further, as per Explanation 2 to rule 2(g) of Cenvat Credit Rules, inputs include goods used in manufacture of capital goods, which are further used in the factory of manufacturer. Thus, if capital goods are manufactured and used within the factory, Cenvat credit can be availed of goods, which are used to manufacture such capital goods. Moreover, no duty will be payable on such capital goods.

Department has expressed an opinion that in view of specific definition of 'input' in new Cenvat Credit Rules, Cenvat credit will be available only if inputs/capital goods are used within the factory. - **CBE&C circular No. 637/28/2002-CX dated 8-5-2002.**

Cenvat Credit is to be reversed, if Final product was destroyed and remission of duty was granted – **CBE&C Circular 800/33/2004-CX dated 01.10.2004 /Mafatlal Industries (2003) 154ELT543**

Allowability of Cenvat credit on Inputs

Examples of Inputs eligible for Cenvat Credit:

- ☐ Process losses and handling loss are allowable
 - ☐ Loss of inputs during handling eligible
 - ☐ Excessive loss also permissible
 - ☐ All inputs necessary to make the goods marketable are eligible
 - ☐ Inputs required for quality control tests are eligible
 - ☐ Inputs used in effluent treatment plant eligible
 - ☐ Repeated use is not a bar for availing Cenvat credit
 - ☐ Defective final product is 'input' for purpose of availing Cenvat credit
 - ☐ Inputs used even in trial production eligible
 - ☐ Credit if goods lost/destroyed in process but no credit if inputs are lost or destroyed in store-room or pilfered
 - ☐ Loss/shortage in transit during receipt of goods is not allowable
 - ☐ Loss in transit due to natural causes allowable
 - ☐ Excess use due to abnormal conditions eligible
 - ☐ Capital goods not defined, as 'capital goods' will be eligible as 'inputs' ☐
- Indirect use is permissible
- ☐ Inputs eligible for Cenvat credit even if intermediate product exempt

Assessee used LSHS and furnace oil for generation of electricity which is then used in manufacture of "final product". Certain part of electricity so generated is also used in residential colony of workers which is adjacent to the factory

LSHS and furnace oil used to generate electricity which is captively consumed for manufacture of final product (such as caustic soda, cement etc). - Without continuous supply

Circulars Notifications and Case laws on Cenvat Credit

of such electricity generated in the plant, manufacture of cement/caustic soda not possible
Assessee entitled to Cenvat credit on LSHS in view of expression “used in relation to the manufacture – Even otherwise, goods used in generation of electricity which is used in or in relation to manufacture of final product are eligible as input in terms of inclusive part of definition of input.

However, credit is not admissible on that quantity of input which is in generating electricity which is consumed by residential colony of factory’s workers’ families, schools etc SOLARIS CHEMTECH LTD. – 2007 - SC

Spares used for rope way partly inside and partly outside the factory

Assessee, a cement manufacturer, used ropeway system for brining crushed limestone to the factory from mines located 4.2 km away from the factory. A part of ropeway system was installed in the factory and the system was controlled from the factory. Treating the spares for ropeway as capital goods,

The assessee took cenvat credit thereon. The department contended that spares for ropeways were not used in the factory of the manufacturer and thus, they could not be treated as “capital goods”, therefore, cenvat credit on such spares was denied.

Held: Cenvat credit available “the ropeways, in the instant case, are partly outside the factory and partly within the factory. The extension outside the factory is a part of a ropeway inside the factory. Thus, the use of spares is within the factory of assessee. That being so, credit thereon shall be admissible” **BIRLA CORPORATION LTD.2007SC**

212 EL162

All inputs necessary to make the goods marketable are eligible - It is settled law that use of any material to render the goods marketable can be taken to be used in relation to manufacture of the final product - *Monotype India Ltd. v. CCE* - (1996) 83 ELT 594 (CEGAT)

* *Joy Foam Pvt. Ltd. v. CCE* - (1996) 83 ELT 72 (CEGAT 3 member bench order).

Tyres and Tubes are raw material for vehicle

In *Telco v. State of Bihar* - 1994 (74) E.L.T. 193, the Supreme Court held that the term raw material varies from industry to industry and decided that items like batteries, tyres and tubes, which, though are finished products in themselves, can be considered as raw materials for vehicles.

Name plate for fan is a rawmaterial

In *CCE v. Jay Engg. Works Ltd.* - 1989 (39) E.L.T. 169, the Supreme Court held that name plate fixed on a fan is an input eligible for set off under Notification 201/79 in view of the fact that without the said name plate the fans cannot be marketed.

Bowl and spoon supplied along sikakai powder are necessary items to avoid contamination. Cenvat Credit is allowed- **R K Herbals (2004)167ELT448**

Quality control is a process of manufacture; inputs used in quality control are eligible for cenvat Credit- **Biddle Sawyer Limited (2004) 168ELT119**

Raw materials used for making cartons eligible for MODVAT (Now Cenvat Credit) - *Britannia Industries Ltd v. CCE* 1993 (67) E.L.T. 980 (T-EZB) -

Circulars Notifications and Case laws on Cenvat Credit

Oil paint used to mark under Rule 51 on packages eligible - Sterlite Inds Ltd v. CCE 1995 (75) E.L.T. 712 (T-WZB)

Duplex boards used for producing cartons which was used to pack torches is eligible for MODVAT - Geep Indl Syndicate Ltd v. CCE 1995 (76) E.L.T. 399 (T-NZB)

Cellophane tapes used for sealing cartons eligible - Kashmir Vanaspati Ltd v. CCE 1996 (85) E.L.T. 150 (T-NZB SM)

CENVAT ON DEFECTIVE GOODS RETURNED

In CCE v. Tin Manufacturing Co -2000 (119) E.L.T. 290 (T-LB) the Large Bench of the Tribunal held that so long as the defective goods were specified and were duty paid, they would become inputs since they would have to be remade. Now this concept has been brought in under rule 16 of Central Excise Rules, 2002 giving benefit of the Cenvat credit on the goods returned for repair, reprocessing, remaking or for any other purpose.

Some illustrations of inputs, which are not eligible.

- Ammonia paper used for preparation of drawings is basically a R&D exercise and is not eligible as input **as the process is not integrally connected with the manufacturing process.**
- Electric lamps used for lighting the manufacturing area are not eligible - **Kanoria Sugar v. CCE 1996 (87) ELT 522 (CEGAT).**
- Building material used for factory building, office equipment such as fans, coolers etc. not eligible - **J K Cotton Spinning and Weaving Mills v. STO, Kanpur - 1965 (91) ELT 34 (SC).**

Inputs/intermediate products destroyed in the course of Processing No reversal of Credit, i.e. credit is allowed- because they used in the manufacturing **Asmaco Plastic industries/ - HEG Ltd (2001) 127ELT121**

Light diesel oil is not an input with effective from 1.03.2003. Credit lying in stock on 28.02.2003 need not to reverse. A right that has already accrued cannot be taken away/- **Eicher Motors(SC) 106 ELT 3/Grasim Industries 163ELT10**

Inputs, accessories pilfered and not used in manufacture not eligible for credit. - **Maruthi Udyog limited (2004) 115ELT433**

No Credit on inputs used in the mines, since miners are far away from factory- **J K Udayapur Udyog limited (2004) 171ELT 289 (SC)**

Credit cannot be taken on Inputs, which are used outside the factory. It was held by the Court that the inputs, which are not used in the factory, cannot be termed as Inputs for the purpose of section 2(g) . It is necessary inputs to be received to the factory to avail credit. **CCE Jaipur Vs. J.K.Udaipur Udyog Limited**

Job worker can utilise credit of own material used by him in job work - The job worker can use his own material while undertaking job work. He can avail Cenvat credit of duty paid on such material, even if he clears the final products after job work without payment of duty to person who had supplied the material – **Sterlite Industries v. CCE (2005) 183 ELT 353 (CESTAT)**

Circulars Notifications and Case laws on Cenvat Credit

Supreme Court decision needs review (

Explosives used in the limestone mines and not in the factory for manufacturing cement, held explosives as inputs eligible for cenvat credit. **Vikram Cements Ltd., SC 2005**

This decision is relating old modvat rule 57 etc. Even in that, there is express wording in cenvat credit rules that inputs received in to the factory and used in factory to avail credit. Here the explosives were used in mine for blasting instead of factory to manufacture cement. **This is a judgment given by the great honourable Supreme Court, without referring the law;** This decision needs re-consideration by the Hon'ble SC

Ropeway which connects the mines with factory whether entitled to Cenvat Credit Even if these are not used in the factory, it was held Credit shall be available. "as ropeway is proceeding from the factory" **MAN IKGARH CEMENT LTD. 2005 – S.C.**

In View of revised definition of inputs by notification no 3/2011 dt. 01.03.2011, The vikram cements ltd (SC) and MAN IKGARH CEMENT LTD (SC) Not applicable.

As per the new definition inputs used outside eligible only if they are used in manufacture of generation of electricity which is used for captive consumption

Inputs of packing material used in manufacture of exempted goods which were exported by executing LOUT, rule 6 for denial of credit will not apply assessee eligible for refund of duty on inputs as per rule 5. Jobelle vs. CCE, Mumbai-I 2007(78) RLT 462 (CESTAT-Mum)

Unutilised credit can be refunded in the event of closure of the factory

The assessee stopped production due to the closure of its factory and thus came out of the cenvat Credit scheme. The assessee filed a refund claim in respect of the unutilised Cenvat credit. The High Court allowed the refund claim on the premise that erstwhile rule 5 of the CENVAT Credit Rules, 2002 did not expressly prohibit refund of unutilised credit where there was no manufacture in the light of closure of the factory. **Union of India v. Slovak India Trading Co. Pvt. Ltd. 2006 (201) ELT 559 (Kar.)** The principle pronounced in this judgment may hold good in the new scheme of the CENVAT Credit Rules, 2004 as well.

Spares for ropeways used for bringing crushed limestone from the mines to the factory are Capital goods and are, thus eligible for cenvat credit. **Birla Corporation Ltd.**

If assessee not follows Cenvat procedures assuming that the product is exempt from duty. If, subsequently, a demand is raised on him for past period, he cannot obviously comply with the procedures prescribed in respect of past period. In such cases, Cenvat credit has to be allowed for past period even if prescribed records were not maintained and Cenvat credit was not claimed that time - **Chamundi Steel Re-rolling Mills v. CCE - 1996 (81) ELT 563**

/ Vivek Re-rolling Mills v. CCE - 1994 (73) ELT 660 (CEGAT)/ Jagraon Machine Tools v. CCE 1993 (65) ELT 300 (CEGAT).

If input becomes waste and sold as scrap, it cannot be said that input is cleared 'as such' under. What is cleared is 'waste' and duty will be payable as if waste has been removed - **Tata Oil Mills Co. Ltd. v. CCE 1998 (102) ELT 479 (CEGAT) * Fluid Line v. CCE 2002(142) ELT 673 (CEGAT SMB).**

Full credit available even if price subsequently reduced - Full credit is available even if supplier subsequently gives price reduction. unless the duty liability of supplier was reduced. **CCE v. Trinetra Texturisers 2004 (166) ELT 384 (CESTAT)**

Circulars Notifications and Case laws on Cenvat Credit

Fuel used in the factory - Definition of 'input' covers fuel used in factory in or in relation to manufacture of final products or for any other purpose. Thus, 'fuel' will be eligible for Cenvat credit even if electricity/steam generated is utilized/sold outside the factory. As explained above, the words used are 'for any other purpose'.

If the input becomes scrap in storeroom itself, Cenvat credit will not be admissible - **CCE v.**

Ashok Leyland Ltd. - (1996) 83 ELT 364 (CEGAT).

Loss due to leakage during process - Cenvat credit is available even if there is loss of input due to leakage in storage tank during process - **Doaba Alco Chemicals v. CCE 2005 (179) ELT 434 (CESTAT SMB).**

Fire during process - If the goods are damaged during production, Cenvat will be available. **Asmaco Plastic Industries v. CCE 1998(100) ELT 129 (CEGAT)**, it was held that Cenvat credit is eligible if inputs are destroyed by fire during the process. - same view in **CCE v. HEG Ltd. 2001(127) ELT 121 (CEGAT SMB) * CCE v. Rajasthan Spg 2001(128) ELT**

239 (CEGAT) * Samtel Colour v. CCE (2004) 171 ELT 101 (CESTAT) * CCE v. Indchem Electronics 2003(151) ELT 393 (CEGAT)

It was held that loss of inputs is admissible even if the fire takes place at the premises of job worker. **Shreeram Capacitors v. CCE 2004 (166) ELT 262 (CESTAT)**

Remission of duty on inputs - It was held that if inputs are lost in fire, remission of duty can be granted [Rule 21 uses the words goods unfit for consumption or for marketing. The words 'finished goods' are not used]. **Asian Paints v. CCE 2004 (173) ELT 187 (CESTAT),**

Damage by flood - It was held that Cenvat credit availed on inputs is eligible even if semi-finished goods and finished goods made out of inputs were washed away by flood water and lost. **CCE v. Colour Chemicals Ltd. 1999(113) ELT 132 (CEGAT), However if remission of duty granted, credit should be reversed**

Shortages in stock of inputs - If inputs are found short in stock taking, they are not used in or in relation to manufacture of finished goods. Hence, Cenvat credit is not admissible - **K-Three Electronics (P.) Ltd. v. CCE 2004 (173) ELT 432 (CESTAT).**

A demand of over Rupees 60 lakhs was confirmed when it was found that many inputs like tyres, stereos and air-conditioners were pilfered and actual cars produced were much less compared to the inputs received and issued to production. **Maruti Udyog Ltd. v. CCE 2000(115) ELT 433 (CEGAT),**

Cenvat credit is available on capital goods used in manufacture of exempt intermediate product, if final product is dutiable. - **CBE&C circular No. 665/56/2002-CX dated 25-9-2002 - quoted and followed in Bharat Forge v. CCE 2004 (165) ELT 339 (CESTAT).**

Circulars Notifications and Case laws on Cenvat Credit

Building material - Building material used for factory building, office equipment such as fans, coolers etc. not eligible - J K Cotton Spinning and Weaving Mills v. STO, Kanpur, (91) ELT 34 (SC).

Inputs used in R&D In this case, it was held that ammonia paper used for preparation of drawings is basically a R&D exercise and is not eligible as input as the process is not integrally connected with the manufacturing process. **CCE v. English Electric Company 1997(93) ELT 293 (CEGAT)**

Inkjet Printer used to print the date of manufacture is considered as capital goods and Cenvat Credit can be Claimed-- **Surat Beverages Ltd VS CCE (2004)165ELT313(CESTAT)**

One to one Correlation is not required

There is no co-relation of the raw material and the final product; that is to say, it is not as if credit can be taken only on a final product that is manufactured out of the particular raw material to which the credit is related. - **CCE v. Dai Ichi Karkaria Ltd. 1999 (112) ELT 353 (SC).**

CBE&C has, vide para 2(viii) of circular No. 33/33/94-CX dated 4-5-1994 has confirmed that there is no 1:1 correlation between input and final product under the Cenvat scheme for utilization of credit.

Installation of capital goods is not a pre requisite before availing Cenvat Credit

Installation/use of capital goods is not a pre-requisite for taking Cenvat credit. First 50% of Cenvat credit taken in respect of capital goods before their installation or use cannot be denied - **Goyal MG Gases v. CCE (2004) 168 ELT 369 (CESTAT).**

Capital goods in factory to manufacture exempted final product.

Capital goods used exclusively for manufacture of exempted goods or providing exempt service are not eligible [rule 6(4)]. Thus, partial use of capital goods for manufacture of exempted goods or provision of exempt output services is permissible, i.e. in such case, Cenvat credit on capital goods will be allowed.

Input used in by-product is also input used in main product

In Hindustan Copper Ltd. v. CCE 2006 (201) ELT 295 (CESTAT), it was held the by-product is not 'final product'. It is not result of deliberate manufacture. It does not enter into equation between input and final product. In this case, it was held that reversal of Cenvat credit or payment of 10% 'amount' is not necessary if part of input goes into a by-product— relying on Swadeshi Polytex Ltd. v. CCE 1988(38) 794 (SC), where it was held that all inputs are used in manufacture of final product, even if part goes in by-product.

Process losses and handling loss are allowable

There will be some loss of inputs during manufacturing process. Cenvat is available on entire quantity of input even if part of input goes in process loss, since all inputs are 'used' in the manufacture of final product, even if it is not reflected in final product - **Multimetals Ltd. v. ACCE 57 ELT 209 (SC) .**

Circulars Notifications and Case laws on Cenvat Credit

Inputs getting used up or consumed eligible – In Eastern Electro Chemical Industries v. CCE 2005 (181) ELT 295 (SC 3 member bench), assessee was using MS casings in manufacture of Calcium Carbide. These got melted during process and got mixed up with other molten materials. It was held that it is 'input'.

Repeated use is not a bar for availing Cenvat credit

Cenvat credit cannot be denied merely because an input is capable of repeated use. Just because it is capable of repeated use, the same cannot be taken to be falling in category of 'appliances' or 'machinery', which are excluded items for definition of inputs - CCE v. Halol Leather Cloth Mfg. Co. Ltd. - 1994 (74) ELT 322 (CEGAT).

No credit on short received inputs

If inputs are short received and there is loss during transit, the goods short received cannot be termed as 'used in or in relation to manufacture'. Hence, Cenvat credit on such short received inputs is not available - **Asea Brown Boveri Ltd. v. CCE 1994(74) ELT 897 (CEGAT) - same view in Bombay Dyeing v. CCE 1999(113) ELT 331 (CEGAT) * Sterlite Industries v. CCE (2007) 212 ELT 193 (CESTAT).**

Cenvat on Paints

Paints used in factory are eligible. As explained above, the extended definition of input says that paints can be used 'for any purpose'. Thus, all paints used in the factory are eligible, for whatever purpose they are used. Paints used to protect plant are eligible as input – **Ruchi Health Foods v. CCE (2007) 218 ELT 716 (CESTAT).**

Service tax on Mobile phones eligible for Cenvat Credit

Earlier Service Tax Rules required 'installation' of telephones in the business premises. Hence, CBE&C had clarified vide circular No. 59/8/2003-ST dated 20-6-2003 that Cenvat credit will not be available in case of mobile phones. Now there is no such requirement. Hence, service tax paid on mobile phones will be eligible for Cenvat credit w.e.f. 10-9-2004, so long as these are used for 'activity relating to business'

Ownership of capital goods is not essential to avail Cenvat on capital goods

In Sharda Motors v. CCE (2002) 51 RLT 33 (CEGAT), it was held that person receiving jigs and fixtures on leave and license basis from clients can avail Cenvat credit of duty paid on jigs and moulds supplied by the client. Ownership is not relevant - followed in HIS Automotives Ltd. v. CCE 2004 (163) ELT 116 (CESTAT SMB).

Manufacture of branded goods under job work

Availment of Cenvat Credit on capital goods (FP exempt at time of receipt and subsequently becoming dutiable)

The assessee is manufacturing socks and was exempted from payment of duty prior to the 2003 Budget. The goods became dutiable only w.e.f. 1-4-2003. Certain capital goods were received by the assessee during June 2002 and September 2002 and installed in March 2003 and some of the capital goods were used in April 2003. Cenvat credit on the goods has been denied on the ground that final products (socks) were exempt at the time of receipt of capital goods. The assessee contended that, capital goods were used at the time of dutiability of goods And eligibility of 50% credit

Held that: Credit eligibility to be determined with reference to the dutiability of the final product on the date of receipt of capital goods SPENTA INTERNATIONAL LTD.. – 2007 – TRI (Larger Bench) 216 ELT 133

Circulars Notifications and Case laws on Cenvat Credit

Where Common inputs used for dutiable and exempted goods and if no separate accounts are not maintained, and if exempted goods are not sold, and captively consumed, 10% amount is payable based on Rule 8 Valuation.

The assessee contention that rule specified 10% amount on the value of goods sold is not tenable.

Held that *The rate of 10% is the measure to calculate the presumptive sum and deemed price. The Assessee liable to pay 10% on the 110% of cost of production*, **BALLARPUR INDUSTRIES LTD.– 2007- SC 215ELT489**

Where Common inputs used for dutiable and exempted goods and if no separate accounts are not maintained and assessee selling goods under FOR contract basis, The valuation rule 5 will apply and 10% amount is payable on FOR price minus transportation cost **KOYA & COMPANY CONSTRUCTION PVT LTD.– 2007- Tribunal214ELT35**

Reversal of wrongly taken credit before utilization thereof, is as good as “non-availment of credit by the assessee” and thus, no question of interest liability under rule 14

Assessee has taken cenvat credit which was not admissible. But later on reversed the credit before utilizing that. The officer took the action for recovery of interest in terms of Rule 14 of Cenvat Credit rules pressing the charge of “credit wrongly taken”. Assessee contended that in absence of utilisation of credit, the assessee was not liable to pay interest. Held Assessee contention is valid and not liable to pay interest. **MARUTI UDYOG LTD 2007 –SC 214 ELT A50**

Reversal of mistakenly taken credit before utilization thereof, is as good as “non-availment of credit by the assessee and hence is eligible to take exemption

Assessee final product was entitled to exemption subject to the condition of non-availment of Cenvat credit. Assessee, however, booked the credit mistakenly but later on reversed the credit before utilizing. Held exemption is available **BOMBAY DYEING & MFG CO LTD 2007 SC 215 ELT3**

Cenvat Credit on goods exempted by notification

The assessee can forgo exemption and pay duty and can avail cenvat credit *Bansal Auto Parts Industries v. CCE - 1998 (79) ECR 850 (T-NZB); Everest Convertors v. CCE - 1995 (80) E.L.T. 91(T-EZB); Polychem Ltd.v. CCE - 1997 (90) E.L.T. 156 (T-NZB), Gothi Plastic Industries v. CCE - 1996 (83) E.L.T. 123 (T-SZB); Mechciv Engineers v. CCE - 1997 (20) RLT 200 (T-NZB SM)*. This decision was given because the Rule 2 definition provide final product include exempted product.

Contrary decision

The A.P. High Court in *Ganesh Metal Processing Industries v. UOI - 1996 (81) E.L.T. 11* held in the context of Notification 202/88 that once an exemption notification exists Modvat credit cannot be availed

There are also some decisions that once absolute exemption without any condition is issued u/s 5 A, it should avail. Availment is mandatory. However in case of conditional exemption or partial exemption, assessee can avail or decide not to avail. When he is not availing he can take cenvat credit.

XX

Circulars Notifications and Case laws on Cenvat Credit