

Distribution of CENVAT by Input Service Distributor

This rule has been changed by Notification no. 18/2012 dated 17.3.2012 applicable from 1.4.2012. Now this has been made more logical and rational as the distribution of CENVAT to various units has been made realistic.

RULE -7 & 7A Manner of Distribution of Credit by ISD

The input service distributor may distribute the CENVAT credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following conditions, namely:—

- (a) the credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon;
- (b) credit of service tax attributable to service used in a unit exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed;
- (c) credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit; and
- (d) credit of service tax attributable to service used in more than one unit shall be distributed pro rata on the basis of the turnover during the relevant period of the concerned unit to the sum total of the turnover of all the units to which the service relates during the same period.

Explanation 1 - For the purposes of this rule, —unit” includes the premises of a provider of output service and the premises of a manufacturer including the factory, whether registered or otherwise.

Explanation 2 - For the purposes of this rule, the total turnover shall be determined in the same manner as determined under rule 5.

Explanation 3. - (a) The relevant period shall be the month previous to the month during which the CENVAT credit is distributed.

(b) In case if any of its unit pays tax or duty on quarterly basis as provided in rule 6 of Service Tax Rules, 1994 or rule 8 of Central Excise Rules, 2002 then the relevant period shall be the quarter previous to the quarter during which the CENVAT credit is distributed.

(c) In case of an assessee who does not have any total turnover in the said period, the input service distributor shall distribute any credit only after the end of such relevant period wherein the total turnover of its units is available.

7A. Distribution of credit on inputs by the office or any other premises of output service provider.

- (1) A provider of output service shall be allowed to take credit on inputs and capital goods received, on the basis of an invoice or a bill or a challan issued by an office or premises of the said provider of output service, which receives invoices, issued in terms of the provisions of the Central Excise Rules, 2002, towards the purchase of inputs and capital goods.
- (2) The provisions of these rules or any other rules made under the Central Excise Act, 1944, as made applicable to a first stage dealer or a second stage dealer, shall mutatis mutandis apply to such office or premises of the provider of output service

1.1 Input Service Distributor

Manufacturer or service provider may have its head office or regional office at different places . These office may receive the services on behalf of their factory or units which may be transferred to them as per the rule stated above. Such head office or regional offices can be registered as Input service distributor with central excise department.

If the assessee distribute the CENVAT as ISD , he has to apply for registration in Form ST-1.

Provision of registration was introduced w.e.f. 7.6.2005. During the period 10.9.2004 to 7.6.2005 , the HO distributed the credit even without registration- prima facie view in Hindustan Coca Cola Beverage V.CCE [2011] 32STT 266 ELT 347 [CESTAT]

In my view , registration and distribution of CENVAT credit are two independent aspect. Even if registration was obtained later, Cenvat credit of prior period at ISD can be distributed, if otherwise eligible.

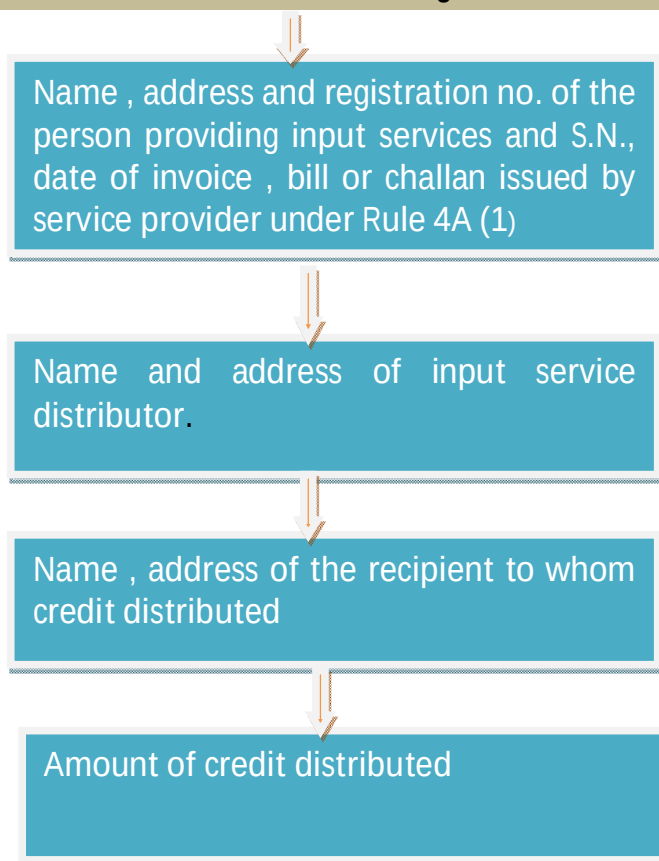
Who is Input Service Distributor –As per Rule 2(m) of the Cenvat Credit Rules, Input Service Distributor means a) an office managing the business of manufacturer or producer of final product or provider of output service b) which receive invoices under rule 4A of STR,1994 towards purchase of input services and c) issue invoice , bills or as the case may be , challan for the purpose of distributing the credit of service tax paid on the aid services to such manufacturer or producer or provider , as the case may be.

Documents eligible for Cenvat Credit distribution - Invoice , bill or challan as per Rule 9(1)(g) issued by ISD under Rule 4A of STR. Shri Ram Pistons V CCE [2012] 281 ELT 90 CESTAT.

Distribution of credit even if invoice prior to registration - there is no bar in the rule 7 of CCR for distributing of credit of invoices prior to date of registration as Input Service Distributor- Beico Industries Ltd v CCE [2012] 286 ELT 689 CESTAT SMB.

Requirement of Invoice Bill or challan – as per rule 4A[2] of STR, requirement are as follows ;

- ☐ It shall be signed by authorized person
- ☐ The document should be for each recipient of credit distributed
- ☐ Document should be serially numbered

Invoice Should contain the Following Details

Meaning of “Relevant Period” means a] month previous to the month during which Cenvat credit is distributed. B] in case if any of its unit pays tax or duty on quarterly basis as provided in rule 6 of STR , 1994 or rule 8 of the central excise rules ,2002 then the relevant period shall be quarter previous to the quarter in which Cenvat credit has been distributed. C] in case the assessee does not have any turnover in the said period , in that case ISD shall distribute the Cenvat only when unit having turnover.

Calculate the ratio on monthly basis based on turnover of previous quarter or month

Turnover shall be determined as provided in rule 5 and shall be determined on for the month or quarter previous to the month or quarter during which the Cenvat credit is distributed. Turnover so calculated would be on ex duty i.e. not inclusive of taxes and duty on the goods and services supplied.

Turnover as per rule 5 is as follows:

Export turnover of services = payment received during the relevant period for export services+ export service whose provision has been completed for which payment has been received in advance in any period prior to relevant period – advances received for export of services for which the provision of services has not been completed during the relevant period

Distribution of credit in new unit when there is no turnover

In case of an assessee who does not have any turnover in the said period as in case of new company, ISD shall distribute any credit only after the end of such relevant period wherein total turnover of its unit is available. In case of new unit wherein any credit is exclusively used, the credit can be distributed in total to such unit.

Responsibilities of Input Service Distributor

File half yearly return on due date, in prescribed format ST-3 [Rule 9(10)]

Penalty can be imposed on the ISD under rule 15 for taking wrong credit. Credit wrongly taken can be recovered under rule 14.

Suggestive Format of Invoice –Input Service Distributor – Annexure “1”

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Annexure- "1"

Suggestive Format of Input Service Distributor Invoice

Input Service Distributor Invoice									
Name, Address and Registration no. of Input Service Distributor							Name and Address of the recipient of the credit distributed		
Detail of the person providing the services							Serial No.		
							Dated :		
							Amount of Credit Distributed		
Name	Address	Registration no.	Value of Service tax	Service Tax	PEC	SHEC	Service Tax	PEC	SHEC
						Signature of Input Service Distributor or his authorised signatory with Stamp.			