

STUDY NOTE - 4

ISSUES RELATING TO CENVAT

This Study Note includes

- Cenvat Credit
- Input Goods
- Cenvat Credit of Input Services
- Input Service Distributor
- Cenvat Credit of duty paid on Capital goods
- Utilisation of Cenvat Credit
- Reversal of Cenvat
- Practical Examples
- Documents for availing Cenvat Credit
- Exempted Goods/Output Services
- Removal of Input,Capital Goods and Waste
- Other Provisions of Cenvat
- Accounting Treatment of Inputs in Cenvat

4.1 CENVAT CREDIT

Cenvat credit available when one item in a combination pack is bought out - In *Lotte India v. CCE* (2008) 224 ELT 102 (CESTAT SMB), assessee was selling combination pack of coffee bite and butter scotch. Coffee bite was manufactured while butter scotch was bought out. Product was sold under MRP provisions. It was held that combi-pack is a manufactured product and assessee is eligible for credit of duty paid on butter scotch purchases - relying on *CCE v. Gupta Soaps* (2007) 213 ELT 372 (CESTAT).

In *CCE v. Gupta Soaps* (2007) 213 ELT 372 (CESTAT SMB), assessee was supplying soap along with soap dish in one pack. Duty was paid on basis of MRP printed on the soap. It was held that assessee can take Cenvat credit of duty paid on the soap dish.

Evaporation of final product - Loss due to natural causes in inputs as well as final products is permissible. In such case, it is not necessary to reverse Cenvat credit on inputs used in final product which are lost due to natural causes – *CCE v. Ajinkyatara SSK Ltd.* (2007) 210 ELT 223 (CESTAT SMB) * *CCE v. Shree Shiddheshwar SSK Ltd.* (2007) 209 ELT 150 (CESTAT SMB)

Reversal of Cenvat credit in respect of obsolete goods written off - As per rule 3(5B) of Cenvat Credit Rules (inserted w.e.f. 11-5-2007), if (i) inputs or (ii) capital goods before being put to use, are written off fully or provision is made in books of account to write off fully, the manufacturer is required to pay an 'amount' equal to Cenvat credit taken in respect of such inputs or capital goods. If these are subsequently used in manufacture of final products, manufacturer can take Cenvat credit of amount which was paid earlier.

4.2 INPUT GOODS

- Inputs which are used in or in relation to manufacture of taxable final product and inputs directly used for provision of taxable output service are eligible for Cenvat credit.

- Input may be used directly or indirectly in manufacture. Any input integrally connected with manufacturing process is eligible.
- Consumables are eligible. Process loss is eligible.
- Accessories, packing material and paints are eligible as inputs.
- Definition of 'input' is restricted for service providers. Only inputs used directly in providing service are eligible.
- If service provider charges separately for material supplied while providing service, its cost is not includible. Correspondingly, duty paid on such material is not Cenvatable.

4.3 CENVAT CREDIT OF INPUT SERVICE

Cenvat Credit is available on input goods, input services and capital goods.

- Cenvat credit is available of service tax paid on input services.
- Definition of 'input service' is very wide. Any service in relation to business is 'input service'.
- Credit of service tax on input services is available only after payment is made to service provider for service and also service tax.
- Service tax paid at Head Office, Regional/Branch office can be utilised through mechanism of 'Input Service Distributor'.

Manufacturer as well as service provider will be eligible to get Cenvat credit of 'input services'. Rule 2(l) of Cenvat Credit Rules reads as follows, w.e.f. 1-4-2008 –

Rule 2(l) - "Input service" means any service –

- (i) used by a provider of taxable service for providing an output service; or
- (ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, upto the place of removal; (The words 'from the place of removal' have been replaced by ', upto the place of removal' w.e.f. 1-4-2008).

and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry and security, inward transportation of inputs or capital goods and outward transportation upto the place of removal.