



NOTE: - AMENDED OR NEWLY INSERTED PART - BLUE COLOUR PRINTING(bold)

BASIC CONCEPTS

CIR.NO.- 879/17/2008 -

Activities held to be manufacturing activity

- Conversion of sugar into bura, makhana, mishri, hardas and battasas (patashas) - Amount to manufacture.
- However such resultant products (bura, makhana, mishri, hardas and battasas /patashas) will be classified AS SUGUR

CENVAT CREDIT RULES, 2004

Rule 3(7)(a) -Credit in respect of goods purchased from 100% EOU

CENVAT credit in respect of inputs or capital goods,

- Produced or manufactured in, EHTP, STP or 100% EOU and
- Used in the manufacture of the final products *In any other place in India*

Shall be admissible equal to the following amount.

$$\text{Cenvat Credit} = [\text{AV} * \{(1 + \text{BCD}/\mathbf{200}) * \text{CVD}/100\}]$$

Where BCD = the ad valorem rate of basic customs duty

CVD = the ad valorem rate of additional duty of customs.

Rule 6: Obligation of Manufacturer of Dutiable and Exempted Goods

(6) INAPPLICABILITY OF ABOVE SUB-RULES ON CERTAIN EXEMPTED GOODS

The provisions of sub-rules (1), (2), (3) and (4) shall not be applicable in case the excisable goods removed without payment of duty are either –

(i) Cleared to a unit in a special economic zone or to a developer of a special economic zone for their authorized operations; or”

- (ii) Cleared to a **100% EOU**; or
- (iii) Cleared to a Unit **EHTP or STP**; or
- (iv) Supplied to the **United Nations** or an international organization for their official use or supplied to projects funded by them, on which exemption of duty is available under N/N 108/95 or
- (v) Cleared for **export under bond** in terms of the provisions of the CER, 2002; or
- (vi) All goods **supplied against International Competitive Bidding**.

CIR NO. 877/15/2008:

Clarification regarding reversal of Cenvat Credit in case of trade discount

Issue:-

- Whether proportionate credit should be reversed in cases -where a manufacturer avails credit of the amount of duty paid by supplier as reflected in the excise invoice,
- But subsequently the supplier allows some trade discount or reduces the price, without reducing the duty paid by him.

The issue has been examined.

- Since, the discount in such cases are given in respect of the value of inputs and not in respect of the duty paid by the supplier, the effect of reduction of value of inputs may be that the duty required to be paid on the inputs was less than what has been actually paid by the inputs manufacturer.
- However, the fact remains that the inputs manufacturer had paid the higher duty.
- Rule 3 of Cenvat Credit Rules, 2004 allows credit of duty “paid” by the inputs manufacturer and not duty “payable” by the said manufacturer.

In view of above,

- It is clarified that in such cases, the entire amount of duty paid by the manufacturer, as shown in the invoice would be available as credit irrespective of the fact that subsequent to clearance of the goods, the price is reduced by way of discount or otherwise.
- However, if the duty paid is also reduced, along with the reduction in price, the reduced excise duty would only be available as credit.
- It may however be confirmed that the supplier, who has paid duty, has not filed/claimed the refund on account of refund in price.

SMALL SCALE INDUSTRIES**(iv) No credit on inputs up to Rs. 150 lakhs**

- The manufacturer shall, NOT AVAIL the credit of duty, paid on inputs used in the manufacture of the specified goods cleared for home consumption, the aggregate value of first clearances of which does not exceed 150 lakhs.
- **Provided that nothing contained in this clause shall apply to the inputs used in manufacture of specified goods, bearing the brand name or trade name of another person, which is ineligible for grant of this exemption.**

Note: - Assessors can take the credit of "duty paid" on capital goods under E/N 8/2003. (Refer to rule 6(4) of CCR 2004)

"SPECIFIED CLEARANCES" bearing BRAND NAME / TRADE NAME

(Which is *ELIGIBLE CLEARANCES* for computing the limit of **Rs. 150/ 400** lakhs).

- a) Clearances bearing B/N or T/N of the manufacturing unit itself.
- b) Clearances bearing B/N or T/N-

- Where the Goods being in the nature of components/parts of any Machinery/Equipment or Appliances; are cleared for use as OE (Original Equipment) in the manufacture of the said Machinery/Equipment or Appliances; by following End - use based exemption procedures laid down in C.E.R. 2001.
- Where the Goods bear the Brand Name Or Trade Name of -
 - Khadi and Village Industries Commission (KVIC),
 - State Khadi and Village Industry Board (SKVIB),
 - National Small Industries Corporation (NSIC),
 - State Small Industries Development Corp (SSIDC),
 - State Small Industries Corporation (SSIC).

c) If SSI is manufacturing *accounts books, registers, writing pad file folders*, even if they bear brand name of others.

d) **Factory in rural area:-**

Where the branded goods are manufactured in a factory located in rural area.

e) Where the specified goods are in nature of **PACKING MATERIALS**, namely, Printed cartons of Paper/Paper Board, Metal Containers, HDPE **Woven sacks**, Adhesive Tapes, Stickers, PP caps, crown corks, Metal label,

PLASTIC BAGS.

SERVICE TAX

N/N:-01/2009-ST--

Following services provided to a Goods Transport agency shall be fully exempt from Service Tax-

- Manpower recruitment or supply agency service
- Business Auxiliary Services
- Storage and Warehousing Service
- Business Support Services
- Packing Activity service
- Supply of Tangible goods Service
- Clearing and Forwarding Agent Service
- Cargo Handling Service

N/N:- 09/2009-ST:-

- Any taxable services, which are provided in relation to the **Authorized Operations** in a Special Economic Zone,
- and received by a developer or units of a Special Economic Zone,
 - *whether or not the said taxable services are provided inside the Special Economic Zone,*
- shall be exempt from the whole of the service tax.

CIR. NO. 111/05/2009- ST, DT. 24/02/2009

Applicability of the provisions of the Export of Services Rules, 2005 in certain situations

Doubt:-

- As In terms of rule 3 (2) (i) of the Export of Services Rules 2005, a taxable service shall be treated as export of service if “such service is provided from India and used outside India”
- Now the issue is - Whether the following services provided by a person in India to a person in India can also come within the ambit of “ Export of service”
 - (i) **Call centres** engaged by foreign companies who attend to calls from customers or prospective customers from all around the world including from India;
 - (ii) **Medical transcription** where the case history of a patient as dictated by the doctor abroad is typed out in India and forwarded back to him;

(iii) **Indian agents** who undertake marketing in India of goods of a foreign seller. In this case, the agent undertakes all activities within India and receives commission for his services from foreign seller in convertible foreign exchange;

(iv) **Foreign financial institution** desiring transfer of remittances to India, engaging an Indian organisation to dispatch such remittances to the receiver in India. For this, the foreign financial institution pays commission to the Indian organization in foreign exchange for the entire activity being undertaken in India.

Clarification: - YES

THE ABOVE SAID SERVICES DO NOT FALL WITHIN THE AMBIT OF FIRST TWO CATEGORIES, BUT THESE FALL IN CATEGORY- III [RESUDAIRY CATEGORY]

The matter has been examined. Rule 3 (1) of the Export of Services Rule, 2005 categorizes the services into three categories:

Category (I):- Immovable property Based category:-

- [Rule 3(1)(i)] : For services (such as Architect service, General Insurance service, Construction service, Site Preparation service) that have some nexus with immovable property, it is provided that the provision of such service would be 'export'
- **If they are provided in relation to an immovable property situated outside India.**

Category (II) Physical Property based category:-

- Rule 3(1)(ii) : For services (such as Rent-a-Cab operator, Market Research Agency service, Survey and Exploration of Minerals

service, Convention service, Security Agency service, Storage and Warehousing service) where the place of performance of service can be established, it is provided that provision of such services would be 'export'

- If they are performed (or even partly performed) outside India.

Category (III)- Residuary category

- Rule 3(1)(iii) : For the remaining services (that would not fall under category I or II), which would generally include knowledge or technique based services, which are not linked to an identifiable immovable property or whose location of performance cannot be readily identifiable (such as, Banking and Other Financial services, Business Auxiliary services and Telecom services),
- it has been specified that they would be 'export' -
- If they are provided to a recipient located outside India at the time when such services are provided.

In this context, the phrase "used outside India" is to be interpreted to mean that the benefit of service should accrue outside India.

CIR. NO. 111/04/2009-- Road construction & Road maintenance

Road Construction Service	Not liable to Service Tax- ➤ Laying of new Road ➤ Widening of narrow road to broader road
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	➤ Changing road surface(such as graveled road to metal led road)
Road maintenance/ Repair	Liabale to service tax under “MAINTENANCE/REPAIR SERVICE”- ➤ Strengthening ➤ Relaying ➤ Filling of potholes. ➤ Resurfacing ➤ Renovation