CENVAT CREDIT RULES, 2004

AUTHOR

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ESPPECIALLY MADE FOR DEAR FRIEND A.N.S VIJAY (THE BACKBONE OF LEARN LABZ) AND HIS TEAM OF PROFESSIONALS

I HOPE THE STUDENT OF CS/CA/CWA COURSE WOULD FIND THIS MATERIAL TO BE VERY USEFUL AND PRODUCTIVE

DEFINITIONS UNDER RULE 2

CAPITAL GOODS - RULE 2(a)	**MEANS – The following goods namely,** **(i) Goods like,** ➢ **Tools, hand tools, knives etc. falling under chapter 82 ,** ➢ **Machinery covered under chapter 84** ➢ **Electrical machinery under chapter 85** ➢ **Measuring, checking and testing machines etc. falling under chapter 90** ➢ **heading No. 68.04, 68.05 of the First Schedule to CETA** **(ii) Pollution control equipment.** **(iii) Components, spares and accessories of the goods specified above.** **(iv) Moulds and dies.** **(v) Refractories and refractory material.** **(vi) Tubes, pipes and fittings thereof, used in the factory** **(vii) Storage Tank** **Used in the factory of the manufacturer of the final products,** **BUT DOES NOT INCLUDE - any equipment or appliance used in an office; or for providing output service;** **(B) Motor vehicle registered in the name of provider of output service** ➢ **for providing specified taxable services**
EXEMPTED GOODS - RULE 2 (d)	**MEANS** excisable goods which are exempt from the whole of the duty of excise leviable thereon, **INCLUDES** goods which are chargeable to "Nil" rate of duty
EXEMPTED SERVICES - RULE 2 (e)	**MEANS** taxable services which are exempt from the whole of the service tax leviable thereon **INCLUDES** services on which no service tax is leviable under section 66 of the Finance Act.
FINAL PRODUCTS –RULE 2(h)	means excisable goods manufactured or produced from input, or using input service;
FIRST STAGE DEALER – RULE 2 (ij)	**MEANS** a dealer, who purchases the goods directly from:- (i) **the manufacturer** or ➢ depot of the said manufacturer, or ➢ premises of the consignment agent of the said manufacturer or ➢ any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice or (ii) **an importer** or

	➢ depot of an importer or ➢ premises of the consignment agent of the importer, under cover of an invoice
<u>**INPUT – RULE 2 (k)**</u>	**MEANS - (i) All goods,** ⇒ **used in or in relation to the manufacture of final products** ⇒ **whether directly or indirectly and** ⇒ **whether contained in the final product or not** ⇒ **and includes** → **lubricating oils, greases, cutting oils, coolants,** → **accessories of the final products cleared along with the final product,** → **goods used as paint, or as packing material, or as fuel, or** → **goods used for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production** **Except – Light Diesel Oil (LDO), High Speed Diesel oil (HSD) and Motor Spirit (Petrol)** **(ii) All goods,** ⇒ **used for providing any output service** **Except – Light Diesel Oil (LDO), High Speed Diesel oil (HSD) and Motor Spirit (Petrol)** **Explanation 1 - The LDO, HSD and Petrol shall not be treated as an input for any purpose whatsoever.** **Explanation 2 - Input include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer but shall not include cement, angles, channels, Centrally Twisted Deform bar(CTD) or Thermo Mechanically Treated bar(TMT) and other items used for construction of factory shed, building or laying of foundation or making of structures for support of capital goods".**
<u>**INPUT SERVICE - RULE 2(l)**</u>	**MEANS** any service used by:- (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, **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

INPUT SERVICE DISTRIBUTOR – RULE 2 (m)	**MEANS** - an office of the manufacturer or producer of final products or provider of output service, ➔ which receives invoices from input service provider towards purchases of input services and ➔ issues its own invoice/ challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider, as the case may be
OUTPUT SERVICE – RULE 2 (p)	**MEANS** any taxable service, provided by the provider of taxable service, ⇒ to a customer, client, subscriber, policy holder or any other person **Excluding** the taxable service referred to in sub-clause (zzp) of clause (105) of section 65 of the Finance Act, (i.e. Transfer of goods by road) **AND - the expressions 'provider' and 'provided' shall be construed accordingly.**
SECOND STAGE DEALER – RULE 2 (s)	**MEANS** - a dealer who purchases the goods from a first stage dealer.

RULE 3(1) - DUTIES ELIGIBLE FOR CENVAT CREDIT

[Cenvat Credit = Credit of 9 types of ED + 2 types of CD + 3 types of ST]

A manufacturer or producer of final products or a provider of taxable service shall be allowed to take credit of duty paid on inputs, capital goods and input service as follows–

CENVAT CREDIT IN RESPECT OF	DUTIES ELIGIBLE FOR CENVAT CREDIT
DOMESTIC INPUTS AND CAPITAL GOODS	I. Basic Excise Duty (BED) leviable under CEA, 1944; II. Special Excise Duty leviable under CEA, 1944; III. Additional duty of excise leviable Additional Duties of Excise (Textile and Textile Articles) Act; IV. Additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act; V. National Calamity Contingent Duty (NCCD) leviable under Finance Act, 2001; VI. Education Cess on excisable goods leviable under the Finance Act, 2004; VII. Secondary & Higher Education Cess (SHEC) leviable under Finance Act, 2007; VIII. Additional duty of excise leviable under Finance Act, 2003; IX. Additional Duty of Excise leviable under Finance Act, 2005; (known as **Health Cess**)
Imported goods or Capital Goods	I. Additional Duty of Customs leviable under section 3(1) of the Customs Tariff Act,(CVD) equivalent to the duty of excise ***specified under I to VI above***; II. Additional Duty of Customs leviable under section 3(5) of the Customs Tariff Act.
Input Service	I. Service tax leviable under the Finance Act, 1994; and II. Education Cess on taxable services leviable under Finance Act, 2004, III. Secondary & Higher Education Cess (SHEC) leviable under Finance Act, 2007

RULE 3(2) & (3) - INTIALLY EXEMPTED BUT BECOMES DUTIABLE BEFORE REMOVAL

RULE 3(2)	***Notwithstanding anything contained in sub-rule (1) of Rule 3***, ***The manufacturer or producer of final products*** shall be allowed to take CENVAT credit of the duty paid on ➢ inputs lying in stock or ➢ inputs lying in process or ➢ inputs contained in the final products lying in stock on the date on which any goods manufactured becomes dutiable(Exemption Withdrawn)
RULE 3(3)	***Notwithstanding anything contained in sub-rule (1) of Rule 3,*** ***The Provider of the Output Service*** ➢ shall be allowed to take Cenvat Credit of the duty paid on the ⇒ inputs lying in stock ➢ on the date on which any service ceases to be exempted Service.

RULE 4 - CONDITIONS FOR AVAILMENT OF CENVAT CREDIT

RULE 4(1)- CENVAT CREDIT IN RESPECT OF INPUTS – 100%

⇒ ***100% CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service***

However, in respect of final product namely - ***articles of jewellery*** falling under heading 7113 of the First Schedule to the CETA,

- CENVAT credit of duty paid on inputs may be taken immediately
- on ***RECEIPT OF SUCH INPUTS IN THE REGISTERED PREMISES*** of the person who get such final products manufactured ***on his behalf***, on job work basis,
- subject to the condition that the inputs are used in the manufacture of such final product by the job worker.

RULE 4(2) - CENVAT CREDIT IN RESPECT OF CAPITAL GOODS – 50% – 50% SUBSEQUENT

(a) ***50% CCR IN CURRENT YEAR*** - The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service at any point of time in a given financial year shall be taken only for an amount not exceeding 50% of the duty paid on such capital goods in the same financial year.

However,

100% CCR if Capital Goods removed as Such in the year of Receipt - Provided that the CENVAT credit in respect of capital goods shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year if such capital goods are cleared as such in the same financial year.

100% CCR of Special CVD - CENVAT credit of the additional duty leviable under section 3(5) of the Customs Tariff Act (CTA), in respect of capital goods shall be allowed immediately on receipt of the capital goods in the factory of a manufacturer.

(b) ***50% CCR IN SUBSEQUENT YEARS*** - The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, or in the premises of the provider of output service, if the capital goods (other than spare parts etc) are in the possession of the manufacturer of final products, or provider of output service in such subsequent years.

EXCEPTIONS:- *Possession is not necessary in case of -*

⇒ *components,*
⇒ *spares and accessories,*
⇒ *refractories and refractory materials,*
⇒ *moulds and dies and*

- ⇒ *goods falling under heading 6805,*
- ⇒ *grinding wheels and the like, and parts thereof falling under heading 6804*

Illustration:- A manufacturer received machinery on the 16th day of April, 2002 in his factory. CENVAT of Rs. 2 Lakh is paid on this machinery. The manufacturer can take credit upto a maximum of Rs. 1 Lakh in the financial year 2002-2003, and the balance in subsequent years.

RULE 4(3) - OWNERSHIP OF CAPITAL GOODS NOT NECESSARY FOR CLAIMING CCR

The CENVAT credit in respect of the capital goods shall be allowed to a manufacturer, provider of output service even if the capital goods are acquired by him

- ✓ **on lease,**
- ✓ **on hire purchase or**
- ✓ **on loan agreement, from a financing company.**

RULE 4(4) - IN RESPECT OF EXCISE DUTY PORTION – EITHER CLAIM CCR OR DEPRECIATION

The CENVAT credit in respect of capital goods shall not be allowed

- ✓ **in respect of that part of the value of capital goods**
- ✓ **which represents the amount of duty on such capital goods,**
- ✓ **which the manufacturer or provider of output service claims as depreciation under section 32 of the Income-tax Act, 1961.**

RULE 4(5) - CENVAT CREDIT FOR GOODS SENT TO JOB-WORKER – CREDIT ALLOWED IF RECEIVED BACK WITHIN 180 DAYS, OTHERWISE CCR REVERSAL

(a) **REMOVAL FOR JOB- WORK**

- ➔ The CENVAT credit shall be allowed even
  - ⇒ if any inputs as such or after being partially processed
  - ⇒ capital goods as such
- ➔ are ***sent to a job worker for further processing, testing, repair, re-conditioning*, or**
- ➔ **for the manufacture of intermediate goods necessary for the manufacture of final products** or
- ➔ any other purpose,

and it is established from the records (CENVAT Challan) or any other document produced by the manufacturer or provider of output service taking the CENVAT credit that the goods are received back in the factory within 180 Days of their being sent to a job worker and

- ✓ **Reversal of Cenvat Credit (CCR) if Not Received Back Within 180 Days**

If the inputs or the capital goods are not received back within 180 Days, the manufacturer or provider of output service

- ⇒ shall pay an **Amount = CENVAT credit attributable to the inputs or capital goods**

- ✓ **Re - Availment of CENVAT Credit (CCR)**

However, the manufacturer or provider of output service can ***take the CENVAT credit again***

- ⇒ when the inputs or capital goods are ***received back*** in his factory or in the premises of the provider of output service.

(b) **CONDITIONS OF RETURN within 180 days NOT APPLICABLE TO JIGS, FIXTURES ETC**

The CENVAT credit shall also be allowed in respect of

- ✓ jigs, fixtures,
- ✓ moulds and dies
- ✓ sent by a manufacturer of final products to a job worker for the production of goods on his behalf and according to his specifications.

RULE 4(6) - AC/DC MAY PERMIT REMOVAL OF FINISHED PRODUCT FROM JOB-WORKERS PREMISES

The AC/DC having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year,

- ⇒ in respect of removal of such input or partially processed input, and
- ⇒ subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid,
- ⇒ allow final products to be cleared from the premises of the job-worker.

RULE 4(7) - CENVAT CREDIT IN RESPECT OF INPUT SERVICE – 100%

100% CENVAT credit of input service shall be allowed,

- ⇒ on or after the day which payment is made of the value of input service and the ***service tax paid*** or payable
- ⇒ as is indicated in **invoice,** bill or, as the case may be, challan referred to in rule 9.

UTILIZATION OF CENVAT CREDIT – RULE 3(4)

(4) The CENVAT credit may be utilized for payment of –

(a) any duty of excise on any final product; or
(b) an amount equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or
(c) an amount equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or
(d) an amount under sub rule (2) of rule 16 of Central Excise Rules, 2002; or
(e) service tax on any output service:

Provided that

While paying duty of excise	and While paying Service Tax –
the CENVAT credit shall be utilized only to the extent such credit is available on the last day of the month for payment of duty or tax relating to that month	the CENVAT credit shall be utilized only to the extent such credit is available on the last day of the month or quarter for payment of duty or tax relating to that month or the quarter, as the case may be:

However,

- ⇒ No credit of the Additional Duty of Customs leviable under section 3(5) of the Customs Tariff Act (i.e. CVD) shall be utilised for payment of service tax on any output service:
- ⇒ CENVAT credit of any duty specified in sub-rule (1), except the NCCD in item (v) thereof, shall not be utilized for payment of the said NCCD.
- ⇒ CENVAT credit of any duty mentioned in sub-rule (1), other than credit of additional duty of excise leviable under section 85 of Finance Act, 2005 (18 of 2005), shall not be utilised for payment of said additional duty of excise on final product

MANNER OF UTILIZATION – RULE 3(7)(b)

CENVAT CREDIT OF **UTILIZED FOR PAYMENT OF FOLLOWING DUTIES**

1. **Basic Excise Duty (BED)--Any Duty of Excise (Except Health Cess)**
2. **Special Excise Duty (SED)--Any Duty of Excise (Except Health Cess)**
3. **ADD (GSI) ---Any Duty of Excise (Except Health Cess)**
4. **ADD (T & TA) ---Only against ADD (T & TA)**
5. **NCCD Finance Act 2001 ---Only against NCCD**
6. **Education Cess on Excisable Goods Finance Act 2004 --------------EC on Excisable goods/EC on Taxable Services**
7. **SHEC on Excisable Goods Finance Act 2004---------------------------SHEC on Excisable goods/SHEC Taxable Services**

8. **CVD under Sec 3(1) of CTA -------------------In this case, segregate each duty and utilize in the manner as specified above. (Sum of 7 duties mentioned above)**

9. **Additional duty of Excise Finance Act 2003 --------------------Only against Additional duty of Excise Finance Act 2003**

10. **Additional duty of Excise (Health Cess) Finance Act 2005 ------ Only against Additional**

11. **Special CVD leviable u/s 3(5) of CTA --------- Any Duty of Excise (Except Health Cess)**

12. **Service Tax on Input Service---------------------Any Duty of Excise (Except Health Cess)**

13. **Education Cess on Taxable Services Finance Act 2004------------- EC on Excisable goods/EC on Taxable Services**

14. **SHEC (on Taxable Services) Finance Act 2007---------------- SHEC on Excisable goods/SHEC Taxable Services**

RULE 3(5) - INPUTS OR CAPITAL GOODS REMOVED AS SUCH OTHER THEN FOR THE PURPOSE OF JOB-WORK

When inputs or capital goods, on which CENVAT credit has been taken,

- ⇒ are **Removed As Such**
- ⇒ from the factory, or premises of the provider of output service,
- ⇒ the manufacturer of the final products or provider of output service, as the case may be,
  - ➢ shall pay an **amount = CENVAT Credit availed** in respect of such inputs or capital goods and
- ⇒ such removal shall be made under the cover of an invoice referred to in rule 9 of CCR, 2004.

Provided that, such payment shall not be required to be made where any inputs or capital goods are ***removed outside the premises of the provider of output service*** for providing the output service

REMOVAL OF CAPITAL GOODS AFTER USE

Provided also that if the capital goods, on which CENVAT Credit has been taken,

- ⇒ are removed after being used,
- ⇒ the manufacturer or provider of output service
- ⇒ shall pay an amount = CENVAT Credit taken on the said capital goods reduced by 2.5 per cent for **each quarter of a year or part thereof**
- ⇒ from the **date of taking the Cenvat Credit**.

RULE 3(5A) - REMOVAL OF CAPITAL GOODS AS WASTE & SCRAP

If the capital goods are cleared as waste and scrap,

- ⇒ the manufacturer shall pay an **Amount = Duty Leviable On Transaction Value (TV).**

RULE 3(5B) - REVERSAL OF CENVAT CREDIT IF INPUTS OR CG FULLY WRITTEN OFF

If the value of any,

(i) Input, or
(ii) Capital goods before being put to use,

- ⇒ on which CENVAT Credit has been taken is written off fully or
- ⇒ where any provision to write off fully has been made in the books of account,
- ⇒ then the manufacturer shall pay an amount = CENVAT credit taken in respect of the said input or capital goods.

TAKE CCR IF USED SUBSEQUENTLY - Provided that if the said input or capital goods is subsequently used in the manufacture of final products, the manufacturer shall be entitled to take the credit of the amount = CENVAT Credit paid earlier subject to the other provisions of these rules.

REVERSAL IN CASE OF REMITTANCE OF DUTY UNDER RULE 21 OF CER, 2002 – RULE 3(5C)

Where on any goods manufactured or produced by an assessee,

- ⇒ the payment of duty is ordered to be remitted under rule 21 of the CER, 2002,
- ⇒ the CENVAT credit taken on the inputs used in the manufacture or production of said goods shall be reversed.

AMOUNT PAID U/R 3(5) & 3(5A) ELIGIBLE FOR CCR – RULE 3(6)

The amount paid under rule 3(5) and 3(5A) shall be eligible as CENVAT credit as if it was a duty paid by the person who removed such goods under rule 3(5) & 3(5A).

RULE 3(7) (a)– CCR On Inputs and Capital Goods in case of 100% EOU, EHTP etc

(7) Notwithstanding anything contained in Rule 3(1) and 3(4),-

(a) In respect of inputs or capital goods produced or manufactured, by a

- 100% EOU or
- by a unit in Electronic Hardware Technology Park (EHTP) or
- in a Software Technology Park(STP)
- on which such unit pays excise duty under section 3 of the Excise Act

⇒ CENVAT credit = X * {(1+BCD/200) x (CVD/100)}

RULE 5 - REFUND OF CENVAT CREDIT

Where any input or input service is used in the manufacture of final product which is

- ⇒ cleared for export under bond or letter of undertaking(LOU), or
- ⇒ used in the intermediate product cleared for export, or
- ⇒ used in providing output service which is exported,

The CENVAT credit in respect of the input or input service so used shall be allowed to be utilized for payment of

(i) duty of excise on any final product or
(ii) service tax on output service, and

REFUND OF SUCH CCR - Where for any reason such adjustment is not possible,

⇒ the manufacturer or the provider of output service shall be allowed refund of such amount

Provided that

NO REFUND OF CREDIT shall be allowed if

- the manufacturer or provider of output service avails of drawback or
- claims rebate of duty under Rule 18 of CER, 2002, in respect of such duty;

RULE 5A - REFUND OF CENVAT CREDIT TO UNITS IN SPECIFIED AREAS

Notwithstanding anything contrary contained in these rules,

Where a manufacturer has

- ⇒ cleared final products availing area based exemption under Excise Notification No. 20/2007, and
- ⇒ is unable to utilize the CENVAT credit of duty taken on,

Then the Central Government may allow the refund of such credit subject to such procedure, conditions and limitations, as may be specified by notification.

RULE 6 – OBLIGATION OF MANUFACTURER OF DUTIABLE AND EXEMPTED GOODS AND PROVIDER OF TAXABLE AND EXEMPTED SERVICES

RULE 6(1) - NO CCR OF INPUTS/ INPUT SERVICES IF FINAL PRODUCT/ OUTPUT SERVICE IS EXEMPT

The CENVAT credit shall not be allowed on such quantity of

⇒ input or input service
⇒ which is used in the manufacture of exempted goods or
⇒ for provision of exempted services,
⇒ except in the circumstances mentioned in rule 6(2).

Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the CER, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.

RULE 6(2) & 6(3) - INPUT USED IN BOTH DUTIABLE AND EXEMPTED FINAL PRODUCT

In such a case assessee has two options

OPTION 1- MAINTAIN SEPARATE ACCOUNTS – RULE 6(2)

⇒ Where a manufacturer or provider of output service
⇒ avails of CENVAT credit in respect of any inputs or input services, and
⇒ manufactures such final products or provides such output service which are chargeable to duty or tax as well as exempted goods or services, then,

a) **Maintain separate accounts at the time of Receipt** - The manufacturer or provider of output service

➔ shall maintain separate accounts for receipt, consumption and inventory of input and input service
➔ meant for use in the manufacture of dutiable final products or in providing output service and
➔ the quantity of input meant for use in the manufacture of exempted goods or services and

b) **Avail CCR related to Inputs used in Dutiable Finished Products** - Take CENVAT credit only on that quantity of input or input service which is intended for **use in the manufacture of dutiable goods** or in providing output service on which service tax is payable.

OPTION 2 – DON'T MAINTAIN SEPARATE ACCOUNT – RULE 6(3)

(3) Notwithstanding anything contained in Rule 6(1) and 6(2),

➔ the manufacturer of goods or the provider of output service, **opting not to maintain separate accounts, shall follow either of the following options, as applicable to him, namely**:-

(i) **Pay Notional Amount As Follows:-**

the manufacturer of goods shall pay an amount = 5% of value of the exempted goods and

provider of output service shall pay an amount = 6% of value of the exempted services; or

(ii) **Pay An Amount = Acutal Ccr** Relating to Inputs & Input Service Used in Exempted Goods – As Determined Under Rule 6(3A)

The manufacturer of goods or the provider of output service shall

➔ pay an amount equivalent to the CENVAT credit as determined under rule 6 (3A) attributable to inputs and input services
➔ used in, or in relation to, the manufacture of exempted goods or for provision of exempted services

Explanation I - If the manufacturer of goods or the provider of output service, avails any of the option under this sub-rule, he shall exercise such option for all exempted goods manufactured by him or, as the case may be, all exempted services provided by him, and such option shall not be withdrawn during the remaining part of that year.

Explanation II – No credit shall be allowed on inputs and input services used exclusively for the manufacture of exempted goods or provision of exempted service.

RULE 6(3A) - PROCEDURE FOR PAYMENT AND INTIMATION FOR EXERCISING OPTION UNDER RULE 6(3)(II)

(a)	**While Exercising This Option**	The manufacturer of goods or the provider of output service shall intimate in writing to

		the SCE giving the following particulars:- ➢ name, address and registration No. ➢ date from which the option 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
(b)	**Determine Duty Provisionally For Every Month**	The manufacturer of goods or the provider of output service shall, determine and pay, provisionally, for every month:- **(i) CCR in respect of Inputs used in Exempted FP** ➔ **Based on Actual Consumption of inputs determined from store records.** **(ii) CCR in respect of Input services Used in Exempted FP** ➔ **Shall be calculated as follows** **Value of Exempted FP (Previous Year)** **Value of (Exempted FP + Dutiable FP) of Previous Year]**
(C)	**Determine Finally Ccr** **At The 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:- (i) **CCR in respect of Inputs used in Exempted FP =** ➔ **Based on Actual Consumption of inputs determined from store records. (as certified by CA, CWA)** **(ii) CCR in respect of Input services used in Exempted FP** ➔ **Shall be calculated as follows** **Value of Exempted FP (Previous Year)** **Value of (Exempted FP + Dutiable FP) of Previous Year]**
(d)	**Pay Differential Or Take Credit**	**If the Amount determined Finally is more than(>) the Amount determined provisionally**, ✓ then pay the differential amount ✓ by 30th June. **If the amount determined finally is less than (<) amount determined provisionally,** ✓ then take where the credit of such amount.
(e)	**Interest @ 24% P.A Applicable In Case Of Delayed Payment**	The manufacturer of goods or the provider of output service, shall, ➢ in addition to the amount short-paid, be liable to pay interest at 24% P.A. ➢ 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
(f)	**Intimate SCE Of Year End Adjustments Made**	Give Intimation to SCE **within 15 days** of adjustments made as per (d) & (e) above.
(g)	**First Time Assessee**	If Provisional Determination not possible then, ➢ Determine CCR finally at year end only ➢ And pay such amount upon final determination by 30th June. ➔ Interest @24% is also applicable if payment delayed beyond 30th June.

Explanations to Rule 6 (3) & 6(3A)

Explanation I - "Value" for the purpose of sub-rules (3) and (3A) Shall be Assessable Value(AV) as determined as per Rule 4(1)/4A as the case may be.

Explanation II.-The amount mentioned in sub-rules (3) and (3A), shall be paid on monthly basis on 5th of next month but for the month of March, shall be paid by 31st March, Cenvat Credit (CCR) can be used for payment of this amount.

Explanation III:- ***Rule 14 applicable*** - If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rule (3) or as the case may be sub-rule (3A), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken.

RULE 6(4) - NO CCR OF CAPITAL GOODS IF FINAL PRODUCT EXEMPT

No CENVAT credit shall be allowed on capital goods

- ➔ which are used exclusively
- ➔ in the manufacture of exempted goods or in providing exempted services,

Exception :- But if the final products which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made in a financial year. (i.e. SSI Units availing the exemption Notification can avail ccr of such capitall goods)

RULE 6(5) - CCR ADMISSIBLE FOR SPECIFIED INPUT SERVICES

Notwithstanding anything contained in sub-rules (1), (2) and (3) of Rule 6,

➔ In respect of the following specified services CCR shall be admissible

⇒ Consulting Engineer, Architect, Banking and Financial, Construction, Erection, Forex Broking, Insurance Auxiliary, Intellectual Property, Interior Decorator, Maintainance or Repair Service, Management consultancy, Real Estate, Scientific / Technical Consultancy, Security Agency, Technical Inspection & Certification, Technical Testing & Analysis

➔ unless such service is used exclusively in or in relation to the manufacture of exempted goods or providing exempted services

RULE 6(6) - CCR ALLOWED ON EXEMPTED FINISHED GOODS IN CERTAIN CASES

➔ Generally, CCR shall not be allowed if FP is an Exempted Good (as per the provisions of sub-rules (1), (2), (3) and (4) of Rule 6)

➔ But there are certain exceptions to the general rule. The exceptions are enumerated in Rule 6(6) as follows:

⇒ The provisions of sub-rules (1), (2), (3) and (4) of Rule 6 shall not be applicable in case of the following:

(1) Finished goods are sold to SEZ,
(2) Finished goods are sold to 100% EOU,
(3) Finished goods are sold to EHTP or STP,
(4) Finished goods are sold to UNO,
(5) Finished goods are Exported under Bond/Letter of Undertaking,; or
(6) Finished goods cleared are Gold or Silver falling within Chapter 71 of the said First Schedule, arising in the course of manufacture of copper or zinc by smelting; or,
(7) Finished goods sold against International Competitive Bidding

Note: As per Notification No. 22/2003 - Goods supplied by Domestic Tariff Area(DTA) to EHTP, STP, 100% EOU are exempt from excise duty.

RULE 7 - MANNER OF DISTRIBUTION OF CENVAT CREDIT(CCR) BY INPUT SERVICE DISTRIBUTOR

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 condition:-

(a) the credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon; or

(b) credit of service tax attributable to service use in a unit exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed.

RULE 7A - DISTRIBUTION OF CENVAT 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 Rule 11 of CER, 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 FSD/SSD, shall apply to such office or premises of the provider of output service.

RULE 8 - STORAGE OF GOODS OUTSIDE THE FACTORY OF MANUFACTURER

The AC/DC having jurisdiction over the factory of a manufacturer of the final products may, by an order, permit such manufacturer to store the input in respect of which CENVAT credit has been taken, outside such factory

- ➔ in exceptional circumstances
  - ➢ having regard to the nature of the goods and
  - ➢ shortage of storage space at the premises of such manufacturer,

subject to such limitations and conditions as he may specify

Provided that

Where such inputs are not used for any reason whatsoever ➔ the manufacturer of the final products shall pay an **amount = credit availed** on input.

RULE 9 - DOCUMENTS AND ACCOUNTS

Rule 9(1) - DOCUMENTS REQUIRED FOR TAKING CENVAT CREDIT (CCR)

A. Supporting Documents for taking Credit of duty paid on Domestic Inputs or Capital Goods:-

(i) Manufacturers Invoice where goods are procured from his factory or his depot or from premises of his consignment agent or any other premises from where goods are sold on behalf of him.
(ii) First Stage Dealers(FSD) Invoice
(iii) Second Stage Dealers(SSD) Invoice

B. Supporting Documents for taking Credit of duty paid on Imported Inputs or Capital Goods:-

1. **Where the Importer uses the imported goods himself and avails credit thereon**;
   (i) Bill of Entry (B/E)
   (ii) a certificate issued by an appraiser of customs in respect of goods imported through a Foreign Post Office

2. **Other Cases**

   (i) Importer's Invoice where goods are procured from his premises or his depot or from premises of his consignment agent;
   (ii) First Stage Dealer's(FSD) Invoice
   (iii) Second Stage Dealer's (SSD)Invoice

C. Supporting Documents for taking credit of tax paid on input service

(i) Invoice of Input Service Provider;
(ii) Invoice of Input Service Distributor;
(iii) GAR- 7 Challan in cases where the service provider is not liable for payment of service tax rather manufacturer in the capacity of service receiver is liable for payment of service tax.(i.e. situation covered under rule 2(1)(d) of Service Tax Rules, 1994)

In case, when additional duty of excise or custom has been paid by the manufacturer or importer and such payment is for reasons other than fraud, collusion, willful misstatement or suppression of facts or contravention of provisions of the CEA or Customs Act with an intention to evade payment of duty, then credit of such additionally paid duty can also be made available to buyer by issuing **'Supplementary Invoice'.**

Explanation:- Supplementary invoice shall also include challan or any other similar document evidencing payment of additional amount of additional duty leviable under section 3 of the Customs Tariff Act.

RULE 9(2) – CENVAT CREDIT NOT DENIED IF CERTAIN DETAILS MISSING

No CENVAT credit under sub-rule (1) of Rule 9 shall be taken unless all the particulars as prescribed under the CER, 2002 or the Service Tax Rules (STR), 1994, as the case may be, are contained in the said document.

However, if the said document **Does Not Contain All The Particulars But Contains**

- details of duty or service tax payable,
- description of the goods or taxable service,
- assessable value,
- Central Excise or Service tax Registration number of the person issuing the invoice,
- name and address of the factory or warehouse or premises of FSD/SSD or provider of taxable service, and
- AC/DC is satisfied that the goods or services covered by the said document have been received and accounted for in the books of the account of the receiver,

THEN AC/DC may allow the CENVAT Credit.

Thus even single detail as mentioned above is defective or not mentioned then there is no way out and thus No Cenvat Credit .

RULE 9(4), (5) & (6) - RECORDS REQUIRED TO BE MAINTAINED IN RELATION TO CENVAT CREDIT

RULE 9(4) - THE CENVAT CREDIT IN RESPECT OF INPUT OR CAPITAL GOODS PURCHASED FROM A FSD/SSD SHALL BE ALLOWED

⇒ ***ONLY IF*** such ***FSD/SSD***,
⇒ has maintained records indicating the fact that the input or capital goods
⇒ was supplied from the stock on which duty was paid by the producer of such input or capital goods and
⇒ only an amount of such duty on pro rata basis has been indicated in the invoice issued by him.

RULE 9(5) - CCR RECORDS FOR INPUTS AND CAPITAL GOODS

The manufacturer of final products or the provider of output service

Shall maintain proper records for

⇒ receipt, disposal, consumption and
⇒ inventory of the input and capital goods

in which the relevant information regarding
⇒ the value, duty paid,
⇒ CENVAT credit taken and utilized
⇒ the person from whom the input or capital goods have been procured is recorded and

the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.

Rule 9(6) – CCR RECORDS FOR INPUT SERVICES - The manufacturer of final products or the provider of output service shall maintain proper records for

⇒ receipt and consumption of the input services

in which the relevant information regarding
⇒ the value,
⇒ tax paid,
⇒ CENVAT credit taken and utilized,
⇒ the person from whom the input service has been procured is recorded and

the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.

CENVAT RETURN BE FILED – Rule 9(7) to 9(11)

RULE 9(7)	Manufacturer of final products	shall submit **Monthly Return** within 10 days from the close of each month to the SCE, ***SSI*** – Quarterly Return within 21 days after the close of the quarter to which the return relates
Rule 9(8)	FSD/SSD	**Quarterly Return** - within 15 Days from the close of each quarter
Rule 9(9)	Provider of Output Service	**Half Yearly Return** - by the end of the month following the half year
Rule 9(10)	Input Service Provider(ISD)	**Half Yearly Return –** by the end of the month following the half year.

Rule 9(11) allows Provider of Output Service or Input Service Distributor (ISD) to submit a **revised return** to correct a mistake or omission within a period of 60 days from the date of submission of the CENVAT return.

RULE 9A - INFORMATION RELATING TO PRINCIPAL INPUTS

(1)	**ANNUAL DECLARATION OF STANDARD QUANTITY IN ADVANCE**	A manufacturer of final products shall furnish to the SCE, ➔ annually by 30th April of each Financial Year, ➔ a declaration in the Form ER 5 in respect of each of the excisable goods manufactured or to be manufactured by him, the principal inputs and the quantity of such principal inputs required for use in the manufacture of unit quantity of such final products.
(2)	**DECLARATION OF ALTERATION**	If a manufacturer of final products ➔ intends to make any alteration in the information so furnished under sub-rule (1), ➔ he shall furnish information to the SCE together with the reasons for such alteration ➢ before the proposed change or ➢ within 15 days of such change
(3)	**MONTHLY RETURN OF ACTUAL USE**	A manufacturer of final products shall submit, ➔ within 10 days from the close of each month, to the SCE, ➔ a monthly return in the Form ER 6 in respect of information regarding the receipt and consumption of each principal inputs with reference to the quantity of final products manufactured by him.
(4)	**APPLICABILITY**	**This rule applies to** ➔ assessee who manufactures goods specified under this rule and ➔ Who have paid duty of 1 crore or more during the preceding financial year (Super-Cash Rich Assessee)

Explanation: For the purposes of this rule**, "PRINCIPAL INPUTS",** means any input which is used in the manufacture of final products where

⇒ the cost of such input constitutes not less than 10% of the total cost of raw-materials for the manufacture of unit quantity of a given final products.

RULE 10 - TRANSFER OF CENVAT CREDIT IN CERTAIN CASES

RULE 10(1) & (2) - If a manufacturer of the final products or provider of output service

⇒ shifts his factory to another site or
⇒ the factory is transferred on account of change in ownership or
⇒ on account of sale, merger, amalgamation, lease or transfer of the factory to a joint venture with the specific provision for transfer of liabilities of such factory,

Then,

➔ the manufacturer or provider of output service shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated factory.

RULE 10(3) - **Conditions for allowing such transfer:**

➔ The transfer of the CENVAT credit allowed

⇒ only if the stock of inputs as such or in process, or
⇒ the capital goods

- ⇒ is also **transferred along with** the factory or business premises
- ⇒ to the new site or ownership and
- ⇒ the inputs, or capital goods, on which credit has been availed of are **duly accounted for to the satisfaction of the AC/DC**

RULE 12 - INPUT OR CAPITAL GOODS PURCHASE FROM A UNIT AVAILING AREA BASED EXEMPTION

Notwithstanding anything contained in these rules, where a manufacturer has cleared any inputs or capital goods from a unit availing area based exemption

- ⇒ The CENVAT Credit on such inputs or capital goods
- ⇒ shall be admissible
- ⇒ as if no portion of the duty paid on such inputs or capital goods was exempted under any of the said notifications.

RULE 13 - POWER OF CENTRAL GOVERNMENT TO NOTIFY GOODS FOR DEEMED CREDIT

Notwithstanding anything contained in rule 3, the Central Government may, by notification,

- ⇒ declare the input or input service
- ⇒ on which the duties of excise, or additional duty of customs or service tax paid,
- ⇒ shall be deemed to have been paid
- ⇒ at notified rate or equivalent to such amount as may be specified and
- ⇒ allow CENVAT credit of such duty or tax deemed to have been paid in such manner and subject to such conditions as may be specified in that notification

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RULE 14 - RECOVERY OF CENVAT CREDIT WRONGLY TAKEN OR ERRONEOUSLY REFUNDED

Where the CENVAT credit has been ***taken or utilized wrongly or has been erroneously refunded***,

- ⇒ the same **along with interest** shall be recovered
- ⇒ from the manufacturer or the provider of the output service and
- ⇒ the provisions of sections 11A and 11AB of the Excise Act or sections 73 and 75 of the Finance Act,
- ⇒ shall apply mutatis mutandis for effecting such recoveries.

RULE 15 - CONFISCATION AND PENALTY

IN CASE OF CCR TAKEN ON INPUTS/ CAPITAL GOODS	IN CASE OF CCR TAKEN ON INPUTS SERVICES
OFFENCES:- ⇒ CENVAT credit in respect of input or capital goods, is taken wrongly or ⇒ in contravention of any of the provisions of these rules in respect of any input or capital goods then, **PENALTY**	**OFFENCES:-** ⇒ CENVAT credit in respect of input or capital goods, is taken wrongly or ⇒ in contravention of any of the provisions of these rules in respect of any input or capital goods then, **PENALTY**

<table>
<tr>
<td>⇒ all such goods shall be liable to confiscation and
⇒ such person, shall be liable to pay higher of the two:-

• the duty on the excisable goods in respect of which any contravention has been committed, or

• Rs. 2000/-

ADDITIONAL PENALTY

In case, where CCR has been taken or utilized wrongly on account of

⇒ fraud, willful mis-statement,
⇒ collusion or suppression of facts, or
⇒ contravention of any provisions

with intention to evade payment of duty,

then,

✓ the manufacturer shall also be liable to pay penalty in terms of the provisions of section 11AC of CEA.(100% of ED involved in Input/ Capital Goods)</td>
<td>⇒ such person, shall be liable to a penalty which may extend to an amount not exceeding Rs. 2000/-.

ADDITIONAL PENALTY

In case, where CCR has been taken or utilized wrongly on account of

⇒ fraud, willful mis-statement,
⇒ collusion or suppression of facts, or
⇒ contravention of any provisions

with intention to evade payment of Service Tax,

then,

the provider of output service shall also be liable to pay penalty in terms of the provisions of section 78 of the Finance Act.(i.e. 100% - 200% of ST involved in Input Services)</td>
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Sub rule (5) of rule 15 states that - Any order under this rule shall be issued by the Central Excise Officer following the principles of natural justice.

RULE 15A - RESIDUARY PENALTY (NEWLY INSERTED IN YEAR 2008)

Whoever contravenes the provisions of these rules

⇒ for which no penalty has been provided in the rules,
⇒ he shall be liable to a penalty which **may extend to Rs. 5000/-**
