

## **CENVAT CREDIT DISCLOSURE IN SERVICE TAX RETURN- PRACTICAL ASPECTS: PART 2**

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In the previous article, we had discussed regarding availment of credit while filing of ST-3 Return. It has been very encouraging to receive large number of queries on various aspects related to service tax return filing. To continue the series, in this article we have discussed disclosure of reversal/utilisation of credit.

Once eligible credit has been availed, it becomes part of a pool out of which credit can be utilised to pay output liability. There is no correlation required between availment and utilisation of credit. The disclosure requirement of utilisation/reversal of credit is as below:

### **Utilisation of Credit:**

**Statutory provisions for utilisation of credit:** Utilisation of credit should be distinguished from reversal of credit. Utilisation can be made in accordance with Rule 3 (4) of Cenvat Credit Rules, 2004 for payment of:

- (a) Excise duty; 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) Payment of duty on goods where process done on returned goods does not amount to manufacture; or*
- (e) service tax on any output service*

### **Disclosure in the Returns:**

**I3.1.3:** *Credit utilised:* This section deals with disclosure of credit utilised for different purpose. Separate disclosure is required to be made for utilisation of credit as below:

**I3.1.3.1** **For payment of service tax:** Credit availed on input, input service and capital goods and utilised for payment of service tax is required to be disclosed in this column. Following broad guidelines should be considered while disclosing credit utilisation against service tax liability:

- a) Credit balance at the end of month/quarter can be utilised for payment of service tax liability by the end of said month/quarter.
- b) While making suo moto payment of arrear of tax, credit can be utilised only to the extent cenvat balance as at the end of relevant month/quarter. On the other hand, if

tax is required to be paid consequent to demand made by department, it can be utilised to the extent lying in the Cenvat account as on the date of utilisation. *(E.g. tax liability of Rs. 1 lac pertaining to July 2014 is decided to be paid in June 2015. Closing balance of cenvat credit at the end of July 2014 was Rs. 60,000/- while balance as on June 2015 is Rs. 2 lac. If tax is paid suo moto, credit can be utilised only to the extent of Rs. 60,000/- and balance needs to be paid in cash. On the hand, if duty paid consequent to demand by department, entire liability may be paid by utilising credit balance of Rs 2 lac available as on date of payment.)*

- c) Where Cenvat credit has been used for payment of arrear of tax liability, it must be disclosed in this column. Interest and penalty cannot be paid by utilising credit.
- d) Total credit utilised as disclosed under this column should match with total of columns D2 (service tax paid by cenvat credit) and G2 (Arrear of Tax paid).
- e) Credit cannot be utilised for payment of liability arising under reverse charge/joint charge.
- f) Reversal of credit other than for the purpose of service tax payment should not be disclosed under this column.

**I3.1.3.2 and I3.1.3.3: For payment of Cess:** Service tax credit balance can be utilised for payment of liability of education cess and secondary & higher cess. If done so, disclosure to be made here. There would be no such adjustment post 1.6.2015 where levy of cess has been done away.

**I3.1.3.4 For payment of excise duty:** Credit used for payment of excise duty needs to be shown here. Generally, it has been seen in case of manufacturer that there is difference between Cenvat details as per excise returns and service tax return. This should be avoided. Where any capital goods or inputs are removed as waste and scrap, credit reversal needs to be disclosed here.

**I3.1.3.5 Towards clearance of input/capital goods removed as such or after partial use:** Utilisation of credit under this head is required to be disclosed for the following purpose:

- a) Where credit taken capital goods are removed as such or after partial use, credit is required to be reversed based on period of usages (2.5% per quarter for other than computer). Sale/discarding of assets could be ascertained from fixed assets register/profit and loss account.
- b) Similarly, where credit has been taken on input which is removed as such or after partially processing, credit need to be reversed and disclosed here.

**I3.1.3.6 Inter unit transfer to LTU:** Credit transferred by one unit to another unit of LTU (Large Taxpayer Unit) is required to be disclosed in this column.

**Reversal of credit:** All above columns are intended for disclosure of credit utilisation. Reversal of credit should be distinguished from utilisation of credit. Instance where credit may require to be reversed along with disclosure thereof in the return is discussed below:

- (a) Reversal of credit wrongly availed
- (b) Reversal of credit under Rule 6 of Cenvat Credit Rules related to exempted turnover
- (c) Reversal of credit on amount not paid to service provider within 3 months from the date of invoice
- (d) Payment of amount in respect of obsolete goods written off, partly or fully
- (e) Reversal of credit in respect of input/input service where refund has been claimed
- (f) Reversal of credit for making pre-deposit for filing of appeal
- (g) Reversal of credit under protest
- (h) Reversal of credit on input/capital goods sent to job worker not received within stipulated time period
- (i) Reversal of credit on input and input service where duty remitted under Rule 21 of Central Excise Rules
- (j) Where payment made towards an input service is refunded or credit note is issued, reversal is required to the extent tax charged on amount refunded or credit note issued.

#### **Disclosure in the Return**

**I3.1.3.7: For payment of amount under Rule 6 (3):** Reversal under this rule is required when service provider is engaged in providing taxable as well as exempted services. Detailed discussion on this would be made in the next article.

**I3.1.3.8: Any other payment/adjustment/reversal:** Reversal of credit as mentioned above is required to be disclosed under this column. It is important to note that there should be adequate disclosure of the nature of reversal in the column. Where reversal is on account of more than one reasons, it may be intimated to department by sending RPAD letter mentioning the grounds of reversal.

**Utilisation of Cess:** Disclosure requirement as discussed above shall be equally applicable for reversal/utilisation of cess. Only difference is that cess cannot be utilised for payment of service tax liability. Also unutilised cess balance post 1.6.2015 shall be required to be carried forward and cannot be utilised against cenvat balance unless pending clarification by government. If no clarification is issued, it may need to be

written off. Presently suggested to carry forward in the return of April 15 to September 15.

There could be many other aspects relevant in filing of return. It is expected that these guiding principle would certainly assist in making proper decision for utilising/reversing the credit and its disclosure in the return. For any query/feedback, reach the paper writer at [ashish@hiregange.com](mailto:ashish@hiregange.com)