



Cenvat Credit to Manufacturer on Inputs – Issues – Part
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Introduction

The Cenvat credit scheme is a beneficial scheme the intention of which is to allow the manufacturer of dutiable goods as well as the provider of taxable services to avail eligible credit. In this article the paper writer examines the eligibility to credit on inputs to a manufacturer of final products.

CENVAT credit rules have unified the credit available on goods and services. With effect from 10.09.2004 the scope had been enlarged by amending the CENVAT credit rules whereby inter-sector set off of credit are allowed to both manufacturers and service providers.

The total credit available for set off against the excise duty payable to the manufacturer would be to the extent of credit availed on inputs, input services and capital goods. Thus reducing the net outflow of excise duty for the manufacturer.

Cenvat credit on inputs

The term input is defined in Rule 2(k) of CCR:

“input” means

- (i) all goods used in the factory by the manufacturer of the final product; or
- (ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or
- (iii) all goods used for generation of electricity or steam for captive use; or
- (iv) all goods used for providing any output service;

but excludes -

(A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;

(B) any goods used for -

- a. construction or execution of works contract of a building or a civil structure or a part thereof; or
- b. laying of foundation or making of structures for support of capital goods, except for the provision of service portion in the execution of a works or construction service as listed under clause (b) of section 66E of the Act;

- (C) capital goods except when used as parts or components in the manufacture of a final product;
- (D) motor vehicles;
- (E) any goods, such as food items, goods used in a guesthouse, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and
- (F) any goods which have no relationship whatsoever with the manufacture of a final product.

Explanation. - For the purpose of this clause, “free warranty” means a warranty provided by the manufacturer, the value of which is included in the price of the final product and is not charged separately from the customer;]

Issues

Issue: Whether credit can be availed on the inputs sent to site and fitted on systems being excisable goods and excise duty paid on the entire price?

Comment: *Yes, when the inputs are directly sent to site and fixed on the systems manufactured at site and excise duty is paid on these systems. The credit related to same could be availed. It is advisable to intimate the range by RPAD letter and seek confirmation of understanding on eligibility to such credits.*

Issue: Whether credit can be availed on inputs used for testing?

Comments: *Yes, it can be availed as testing is linked to the manufacturing process and until the testing is done the manufacturing process is incomplete, as goods cannot be sold and are not marketable.*

Issue: Whether the credit can be availed on the gloves and uniforms of the workmen?

Comments: *Yes, the credit can be availed as the gloves and uniforms are used in factory during manufacture of final product. For example gloves could be used to handle acids in the factory of manufacture of final product.*

Issue: Whether goods are required to be present physically in the final product to avail credit?

Comments: *No, the physical presence of inputs in final products is not necessary to claim credit.*

Issue: Whether credit can be availed on furniture stationary used in office within factory?

Comments: *The goods such as furniture and stationary used in office within factory are goods used in relation to manufacturing and credit related to same could be eligible. This was also clarified in circular no. 943/4/2011-CX., dated 29-4-2011.*

Issue: Whether credit can be availed on the inputs lost during manufacturing process?

Comments: *Yes, credit is available on the entire quantity of input, even if part of input goes in process loss.*

Issue: Whether credit can be allowed on short received inputs?

Comments: *No as the inputs cannot be said to be received and used in manufacture of excisable goods.*

Issue: Whether credit can be availed on inputs being materials used for Research & Development?

Comment: *Maybe, credit could be availed on materials used for R&D. The credit may be denied on the premise that there is no relationship to final product which is not in existence.*

Issue: Whether there is need to reverse credit when there is destruction of Inputs by Fire / any other mode?

Comments: *If the inputs are damaged during production, the credit is available.*

Issue: Whether the credit can be availed on structural components?

Comments: *There is a restriction on availment of cenvat credit on the structural components which are used for foundation or making structure for support of capital goods. Structural components which are essential parts of machinery/equipment could be eligible.*

Issue: Whether credit is required to be reversed for write off of the inputs partly/wholly?

Comment: *Yes. However, if subsequently used in the manufacture of final products, the manufacturer can avail re credit.*

Issue: Whether credit availed on inputs need to be reversed when subsequently product is exempted from excise duty?

Comments: *No there is no need to reverse credit. In CCE v Suvera Processed Foods Pvt Ltd (2015 (315) ELT 517), the Andhra Pradesh High Court held that CENVAT credit availed on inputs was not required to be reversed when the final product was exempted at a later date.*

Issue: Whether inputs can be stored outside factory?

Comments: *Yes, if the manufacturer is unable to store the inputs inside the factory for want of space, hazardous nature of goods. Then can store the inputs outside premises. The permission from the Asst/ Dty Commr is necessary.*

Issue: Whether credit can be availed on invoice when the buyer and Consignee are different?

Comments: *Yes it can be availed by consignee even though invoice is in name of the buyer. As long as the goods are used by consignee in the manufacture of dutiable final goods, the eligible credit can be availed.*

Issue: Whether there is any time limit for availing credit on inputs?

Comments: *Yes wef 1.9.14 the credit is to be availed on inputs and input services within 6 months of invoice date. W.e.f. 1.3.15, credit on inputs and input services is to be availed within 1 year of invoice date. In case of past demand this may not apply and this rule could be challenged.*

Issue: Whether credit is available on Commercial Invoice when backed up by a duty paying dealers documents in dealer's name?

Comment: *It is possible as per the decision in Darshan Industries 2014 (307) E.L.T. 36 (Guj.) rendered by Gujarat High Court.*

Issue: Whether credit can be availed on inputs sent directly sent to job worker premises?

Comments: *Rule 4 of CCR 2004 has been amended by Budget 2015 to provide for Cenvat credit in respect of receipt of inputs directly by job worker when such goods are sent directly on direction of manufacturer or the provider of output service. Earlier credit was available only on receipt of processed goods.*

Conclusion

The immediate action to be taken by the manufacturer who is filing ER-1 returns for Month of March 2015 is to ensure that the eligible credit on inputs and input services which were missed to be availed for past 1 year invoices, to be availed now in March 15 due to amendment brought in by Budget 2015. This is to take advantage of the facility or opportunity for availment of past 1 year eligible credit wef 1.3.15 as opposed to past 6 months credit from date of the specified documents.