

INDIRECT TAXES UPDATE – 153

CENVAT CREDIT RULES

Amendment in CENVAT Credit Rules

Rule 6 of CENVAT Credit Rules relating to reversal of credit was amended vide *Notification No. 13/2016- Central Excise (NT), Dated: March 1, 2016* to provide that a manufacturer/ provider of output service manufacturing/ providing taxable as well as exempted goods/ services may pay an amount equal to 6% of value of the exempted goods and 7% of value of the exempted services subject to a maximum of the total credit available in the account of the assessee at the end of the period to which the payment relates.

However, para h(iii) of Annexure II of *F. No. 334/8/2016-TRU dated 29th February 2016* has explained this amendment by stating that the option to pay an amount equal to 6% of value of the exempted goods and 7% of value of the exempted services is subject to a maximum of the total credit taken or pay an amount as determined under sub-rule (3A).

Now, the Central Government has issued *Notification No. 23/2016-Central Excise (N.T.), Dated: April 1, 2016* and inserted an amendment to Rule 6(3) of CENVAT Credit Rules to provide that the cap on the said reversal required will be subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period.

Further, Rule 7B of CENVAT Credit Rules has also been amended to provide that for distribution of credit on inputs by warehouse of manufacturer, the manufacturer must receive inputs under cover of "Documents specified in Rule 9". Prior to this amendment, the warehouse could pass on credit of inputs received under cover of invoice issued under Central Excise Rules, 2002 only. With this amendment, credit can be passed even on imported inputs and inputs received from dealers.

Comment: *The anomaly of Rule 6 of CENVAT Credit Rules was highlighted by ICAI in its [Post Budget Memorandum 2016](#).*

Further, one more anomaly remains with this Rule which is that while filing the ER1 return- Table 6 relating to CENVAT statement provides for distinct columns for new credit of inputs, input services and Capital goods. However, the item wise breakup is not available for the opening balance of credit at the beginning of the Month i.e. the opening balance includes credit of capital goods also and thus it will not be possible to identify the "opening balance of credit on inputs and input services available" separately for the purpose of Rule 6(3).

[Notification No. 23/2016-Central Excise (N.T.), Dated: April 1, 2016]

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