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Rule 6 Calculus



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One of the significant amendments made in the budget is the amendment made in Rule 6 of the Cenvat Credit Rules, 2004. The said Rule 6 is always a problematic one. The present amendment, though couched in an alpha – numeric language, is very simple in effect and practice.

Rule 6 is applicable in case a manufacturer manufactures both dutiable and exempted goods or a service provider renders taxable and exempted services. If he is availing Cenvat credit only in respect of the input / input services used for the manufacture of dutiable goods / rendering of taxable services, there is no issue about it. But, in practical situations, this is not possible. In many cases, at the time of taking credit, the manufacturer would not know, whether the final product will be cleared on payment of duty or by claiming some exemption. Similarly, consumption of input services is always common for dutiable / taxable and exempted activities.

Hitherto, the Rule provided for the following, if credit is taken for such common inputs / input services.

- In case of a manufacturer, if the exempted clearances are in respect of some cases mentioned in the rule itself, he has to quantify the credit on inputs / input services, attributable to such clearances and reverse the same.
- In other cases, he has to pay 10 % of the price of the exempted goods.
- In case of a service provider, he can utilize Cenvat credit only to an extent of 20 % of his service tax liability.

The present amendments are to the following effect.

In case of manufacturers, they can choose to follow any of the two options.

- (a) Paying 10 % of the price of the exempted goods. Or
- (b) Calculating the proportionate credit attributable to the exempted goods manufactured by him and reverse the same.

Similarly, in case of service providers, they can choose to follow any of the two options.

- (a) Paying 8 % of the value of the exempted services. Or
- (b) Calculating the proportionate credit attributable to the exempted services rendered by him and reverse the same.

The option to choose any one of the above has to be exercised and intimated to the department and once an option is exercised, the same shall be applicable throughout the Financial year.

Now the question comes, if a person chooses the second option, how the proportionate credit has to be calculated. The present amendment in the Rule provides for detailed formulae in this regard. Every month, such credit reversal has to be made, on or before 5th day of the succeeding month. When such credit for the month of April has to be reversed on 5th May, it may be practically difficult to arrive at the quantum of such credit attributable to the inputs and input services consumed in the manufacture of exempted goods / rendering of exempted service, during April. Hence, the Rule provides for calculation of a provisional determination of such reversal. The final determination has to be done, after the close of the financial year and the final amount to be reversed has to be arrived at before 30th June of the next financial year. If the provisionally reversed amount is less than the amount finally determined, the difference has to be paid on or before 30th June. If not paid on or before 30th June, interest @ 24 %



shall be paid for the delay. If the provisionall reversed amount is more than the amount finally determined, credit of such excess reversal can be taken.

Now the moot question, How to calculate the provisional figure?

The manufacturer or service provider shall continue to take Cenvat credit in respect of inputs and input services, as usual. At the end of the month, the quantum of reversal to be made has to be determined in the following manner.

Rule 6 (3A) (b) (i). First of all the credit attributable to the inputs consumed in the manufacture of exempted final products has to be determined. The quantum of inputs consumed in the manufacture of exempted goods cleared during a month can be calculated without much difficulty, by following the standard input output ratio. This amount is designated as **"A"** in the Rules.

Rule 6 (3A) (b) (ii). This Rule is applicable to a service provider who may also be manufacturing dutiable / exempted final products. The purpose of this rule is to identify the credit on inputs attributable to the exempted services rendered by him. If he is also manufacturing dutiable / exempted goods, the input credit attributable to the exempted goods manufactured by him, shall be first determined, as per Rule Rule 6 (3A) (b) (i) above. Then, the credit attributable to the inputs consumed in the rendering of exempted services has to be quantified, which shall be done as below:

Quantum of input credit attributable
to exempted services =

Value of exempted services provided
During last financial year **(B)**

Value of dutiable goods manufactured
During last financial year **(C-I)** +

Value of taxable services provided
During last financial year **(C-II)** +

Value of exempted services provided
During last financial year **(C-III)**
(C)

X Total Cenvat Credit availed
during a month - **(A) = (D)**

Rule 6 (3A) (b) (iii). This rule deals with the quantum of credit attributable to the input services used in the manufacture of exempted goods / rendering of exempted services.

Quantum of input services credit attributable
to exempted goods / exempted services =

Value of exempted services provided
During last financial year **(E-I)** +
Value of exempted goods manufactured
During last financial year **(E-II)**
(E)

Total value of exempted goods **(F-I)** and
Dutiable goods **(F-II)** manufactured and
Cleared during last financial year.

+

Total value of exempted services **(F-III)** and
Taxable services **(F-IV)** rendered
During last financial year.
(F)

X Total Cenvat credit availed
during a month **(G)**

The rule also provides, if the person has not at all manufactured any dutiable goods or has not at all rendered any taxable service, no provisional reversal is required to be made by such person. Only the final reversal has to be done, on or before 30th June of next financial year. This is for the simple reason that in such cases, both the numerator and denominator of the above formula would be equal and the entire credit has to be reversed by him. A thoughtful provision, indeed!

In order to understand the above complex mathematics, let us see an example.

Let us assume that a person is manufacturing both dutiable and exempted goods and also rendering taxable and exempted services. He has taken Cenvat Credit of Rs.10,00,000 on inputs and Rs.5,00,000 on input services during April 2008. Let us now calculate, as to how much he has to reverse on 5th May 2008, based on some imaginary figures.

1	Value of clearances of exempted goods during 2007-2008	Rs.50,00,000
2	Value of clearances of dutiable	Rs.1,50,00,000

	goods during 2007-2008	
3	Value of exempted services rendered during 2007-2008	Rs.25,00,000
4	Value of taxable services rendered during 2007-2008	Rs.75,00,000
5	Input credit attributable to the inputs consumed in the manufacture and of exempted goods, made during April 2008. This should be calculated with reference to the actual quantity of inputs thus consumed. No formula has been prescribed for this purpose and this has to be quantified on the basis of input / output ratio and the records maintained. Let us assume this to be	Rs. 1,00,000 (A)
6	Input credit attributable to the exempted services rendered during April 2008	Rs.25,00,000 (B) ----- X Rs.9,00,000 (D) Rs.1,50,00,000 + Rs.25,00,000 + Rs.75,00,000 = Rs.2,50,00,000 (C) Rs.90,000
7	Input services credit attributable to the manufacture of exempted goods and rendering of exempted services, during April 2008.	Rs.25,00,000 + Rs.50,00,000 (E) ----- X Rs.5,00,000 Rs.25,00,000 + Rs.75,00,000 + Rs.50,00,000 + Rs.1,50,00,000 (F) Rs.1,25,000

From the above, it may be observed that the person has to reverse a total amount of Rs.3,15,000 (Rs.1,00,000 in respect of the inputs consumed in the manufacture of exempted goods, Rs.90,000 in respect of the inputs consumed in the rendering exempted services and Rs.1,25,000 in respect of the input services consumed for the manufacture of exempted goods and rendering of exempted services).

After the close of the financial year 2008-2009, similar exercise has to be done for all months of 2008-2009, by substituting the figures of 2008-2009, in the place of 2007-2008 figures. Short fall, if any, has to be made good, on or before 30.06.2009. Excess reversal made, if any, can be taken as re-credit.

Before parting...

As per Rule 6 (1) *ibid*, a person may also choose not to avail any credit in respect of his exempted activities. If a manufacturer has opted to do so, in respect of one particular product alone, out of his several products, the value of such exempted clearances would also influence the quantum of credit to be reversed, which is not proper. Hence, the value of exempted goods / services referred to in the formula, shall refer only to those exempted goods / services, in respect of which Cenvat credit has been taken for common inputs / input services. Those exempted goods / exempted services, in respect of which no credit has been taken, even in respect of such common inputs / input services, shall not be considered in the formula, though the wording of the rule is not very categorical in this regard.

