



GN LAW ASSOCIATES

ARTICLES 2016



www.gnlawassociates.com

Rule 6 – Explained



Author: **G. Natarajan**

Despite various interpretational issues, which may arise out of the amended provisions of the Cenvat Credit Rules (which are highlighted in the previous article – Questions galore on Rule 6), the salient features of the new dispensation are explained below.

The major differences between the old Rule and the new Rule are tabulated below.

S.No.	Old Rule	New Rule
1	As per Explanation II under Rule 6 (3), no cenvat credit can be availed on inputs and input services, which are used exclusively in the manufacture of exempted goods or provision of exempted services.	No such restriction. Credit of such inputs and input services may be taken at the first place, but reversed as per Rule 6 (3A). Still one can opt not to avail any such credit, to make the process of reversal simple.
2	A third option was available under Rule 6 (3) (iii) as to maintenance of separate records as to utilisation of inputs.	This option is no more available. Even for common inputs used in both exempted and dutiable products / services, reversal of proportionate credit on the basis of the formula is envisaged.
3	The proportionate of reversal of input service credit under Rule 6 (3A) referred to “total cenvat credit” and it was not clear whether proportionate reversal would be for all cenvat credit availed or only for common input services credit.	Now it has been made very clear that proportionate reversal would be only on common input and input services credit.
4	If the first option under Rule 6 (3) (i) i.e. payment of 6 % or 7 % of the value of exempted goods or exempted services is opted, such amount shall be paid without any restriction.	The amount payable under this option should not exceed the balance of cenvat credit available at the end of the month for which such payment is made.
5	Interest for delayed adjustment, beyond 30 th June of next year would be attract 24 % interest p.a.	Interest is payable at 15 % p.a. for any delayed reversal beyond 30 th June of next year.
6	The rule was silent as to the status of an activity which is not at all a service (Example : Deemed sale)	An activity which is not at all a service is also specified as an exempted service.
7	The provisional reversals should be made on the basis of the proportion of turnover of the preceding financial year. If there is no manufacture of dutiable goods / provision of output service in the preceding financial year, no provisional reversal needs to be done and only final reversal shall be done by 30 th June of succeeding financial year.	In such case, provisional reversal shall be 50 % of the common credit availed.
8	For Banking companies, FIs and NBFCs, 50% of the credit needs to be reversed	All the options (payment of 7 % of the value of exempted services or proportionate

	and the various other options under this rule are not applicable.	reversal) are made applicable to them also.
--	---	---

Let us now see some examples to understand how this rule operates.

Rule 6 - How it operates for a manufacturer of both exempted and non exempted goods (Provision of exempted and non exempted services by the same person is not considered in the example for ease of understanding)			
S.No	Details	Amount	Remarks
1	Cenvat Credit availed in a month on Inputs used exclusively for manufacture of exempted goods (A)	35000	Under the old provisions, this credit cannot at all be taken at the first place. But under the provisions, this credit can be taken and reversed. But if can also be decided not to avail such credit at all at the first place. IN suh case there will be no (A) and (T)-(B) will be (C).
2	Cenvat Credit availed in a month on Input services used exclusively for manufacture of exempted goods (A)	25000	
3	Cenvat Credit availed in a month on Inputs used exclusively for manufacture of non exempted goods (B)	80000	
4	Cenvat Credit availed in a month on Input services used exclusively for manufacture of non exempted goods (B)	60000	
5	Cenvat Credit availed on common inputs used for manufacture of both non exempted goods and exempted goods	50000	
6	Cenvat Credit availed on common input services used for manufacture of both non exempted goods and exempted goods	40000	
7	Total Credit availed in a month (T)	290000	(1) + (2) + (3) + (4) + (5) + (6)
8	Common Credit availed in a month (C)	90000	(T) - (A+B). In case if no credit is taken for inputs and input services exclusively used for manufacture of exempted goods, (A) will be 0 and hence (C) = (T) - (B)

9	Value of exempted goods cleared last year (E)	100000 0	
10	Value of non exempted goods cleared last year	400000 0	
11	Value of non exempted and exempted goods cleared last year (F)	500000 0	(9) + (10)
12	Ineligible common credit to be reversed (D)	18000	C*(E/F)

After the financial year is over, the above exercise has to be done with reference to the total credits availed last year and based on the proportion of E/F for the said year and differential amount to be paid / if excess reversal has been made re-credit can be taken.

Rule 6 - How it operates for a manufacturer of both exempted goods and non exempted goods and also providing exempted services (trading)			
S.No.	Details	Amount	Remarks
1	Cenvat Credit availed in a month on Inputs used exclusively for manufacture of exempted goods (A)	35000	Under the old provisions, this credit cannot at all be taken at the first place. But under the provisions, this credit can be taken and reversed. But if can also be decided not to avail such credit at all at the first place. IN suh case there will be no (A) and (T)-(B) will be (C).
2	Cenvat Credit availed in a month on Input services used exclusively for manufacture of exempted goods (A)	25000	
3	Cenvat Credit availed in a month on Inputs used exclusively for manufacture of non exempted goods (B)	80000	
4	Cenvat Credit availed in a month on Input services used exclusively for manufacture of non exempted goods (B)	60000	
5	Cenvat Credit availed on common inputs used for manufacture of both non exempted goods and exempted goods	50000	

6	Cenvat Credit availed on common input services used for manufacture of both non exempted goods and exempted goods and also for provision of exempted services (trading)	40000	
7	Total Credit availed in a month (T)	290000	(1) + (2) + (3) + (4) + (5) + (6)
8	Common Credit availed in a month (C)	90000	(T) - (A+B). In case if no credit is taken for inputs and input services exclusively used for manufacture of exempted goods, (A) will be 0 and hence (C) = (T) - (B)
9	Value of exempted goods cleared last year (E)	1000000	
10	Value of non exempted goods cleared last year	4000000	
11.1	Trading Turnover	5000000	
11.2	Cost of goods sold	3800000	
11.3	10 % of cost of goods sold	380000	
11.4	Actual trading margin	1200000	
11.5	Value of trading for the purpose of Rule 6	1200000	Value of trading is the difference between sale price and purchase price, subject to minimum of 10 % of the cost of goods sold
12	Value of non exempted goods and exempted goods cleared last year and value of exempted services (trading) provided last year (F)	6200000	(9) + (10)+ (11.5)

13	Ineligible common credit to be reversed (D)	31935	C*(E/F)
<p>After the financial year is over, the above exercise has to be done with reference to the total credits availed last year and based on the proportion of E/F for the said year and differential amount to be paid / if excess reversal has been made re-credit can be taken.</p>			

