

CENVAT Credit Rules

Recent Amendments

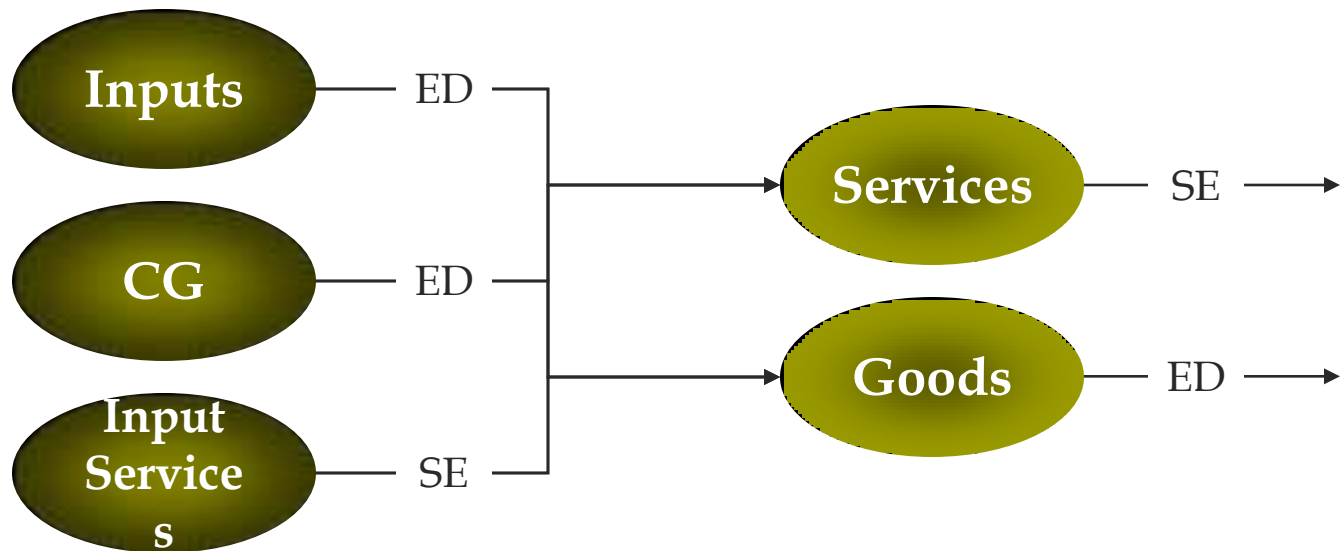
Institute of Chartered Accountants of India
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Introduction

Introduced wef 10.09.2004

- ▶ In supersession of CENVAT Credit Rules, 2002 & Service Tax Credit Rules, 2002
- ▶ Facilitates inter-sectoral credit of SE vis-à-vis ED

Framework



Recent Changes

- ▶ Input Credits
- ▶ Disposal of inputs / CGs
- ▶ Receipt of services from outside India
- ▶ Refund of CENVAT Credit
- ▶ Documentation

Input Credits

ACD

- ▶ Introduced on import of goods into India wef 01.03.2006
 - > In lieu of sales tax / VAT imposed on like goods in India
- ▶ CENVAT Credit restricted in case of OSP

Input Credits

Common Inputs

Fuels

- ▶ Proportionate credit to be allowed when used as common inputs

Distinct Goods & Services

- ▶ Not to qualify as 'common goods / services' if solely used for exempt transactions

Input Credits

EOUs / STPs

- ▶ Procurement of goods from EOUs
 - > Duty payable at the prevalent customs rates
 - > Partial exemption of 25% of BCD

- ▶ CENVAT Credit allowed as follows:

$$\text{Assessable Value} * \left\{ 1 + \frac{\text{BCD}}{400} \right\} * \left\{ \frac{\text{CVD}}{100} \right\}$$

- > Effectively, CVD component of the duty paid
- > Services procured from EOUs / STPs ?

Disposal of Inputs / CGs

- ▶ ED liable to be paid on the transaction value
 - > When inputs / CGs are removed as scrap
 - > Applicable only in relation to manufacturers

- ▶ Service providers availing CENVAT on inputs / CGs
 - > Removal as such
 - > Change in use
 - > Disposed as Scrap

Import of Services

SE paid not to qualify as 'output service tax'

- ▶ CENVAT Credit of other input services would not be allowed
- ▶ Would qualify as 'input services'

Refunds

Refund of CENVAT Credit if 'output services' are exported

- ▶ Exported in terms of Export of Service Rules, 2005
- ▶ Only if it remains unutilised
- ▶ Refund restricted to the proportion of export turnover

$$\left(\begin{array}{l} \text{Unutilised Input} \\ \text{Service Tax} \end{array} * \frac{\text{Export Turnover}}{\text{Total Turnover}} \right)$$

- > ED paid on 'inputs' not considered
- ▶ Not allowed when 'rebate' or 'DBK' claimed

Refunds

Application to be made quarterly

- ▶ Monthly refunds allowed only in case of:
 - > Claims by EOUs
 - > If total monthly clearance is more than 50% of previous quarter's clearances

Rebate: How Different?

Rebate

- ▶ Rebate of CENVAT Credit allowed
 - > When used in providing export services
 - > Exports, to countries other than Nepal & Bhutan
 - > Includes both, SE & ED

- ▶ Conditions
 - > Money received in convertible forex
 - > Only to the extent tax / duty has been paid
 - > CENVAT Credit not availed

Rebate

Procedure

- ▶ Filing of declaration prior to the date of export
 - > Details of 'inputs' & 'input services'
- ▶ Verification of the declaration prior to export
- ▶ Procurement of 'inputs' & 'input services'
 - > Duly covered with invoices as prescribed
- ▶ Presentation of the claim of rebate

Refund *vis-à-vis* Rebate

Refund

- ✓ Export of Taxable Services
- ✓ To qualify as CENVAT
- ✓ CENVAT to remain unutilised
- ✓ In proportion to exports
- ✓ Post facto quarterly claims
- ✓ No DBK or Rebate

Rebate

- ✓ Export of Taxable Services
- ✓ Of all specified duties
- ✓ Wholly relating to exports
- ✓ Prior intimation & post facto claims
- ✓ No CENVAT

Documentation

- ▶ ISDs to file half yearly returns in Form ST-III
- ▶ Tax paid challans to qualify as valid documents to avail ITC
 - > Goods Transport Agencies
 - > Sponsorship Services

Payment of tax on import of Services?

Change in SE due to change in value of services

Will 'debit notes' qualify as valid documents ?

Certain Issues

- ▶ Non maintenance of separate records
 - > Manufacturer & Service Provider
- ▶ Requirement of payment & subsequent refund
 - > Import of services for use in export services
- ▶ Claim of refund on account of 'export of services'
 - > Subsequent disallowance as exports

The best way to invent the future is to invent it.

Alan Kay

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