

ISSUES IN RULE 6 OF CCR

**JB Nagar CPE Study Circle,
Saturday, 21st May, 2016**

CENVAT CREDIT – RULE 6

- Rule 6 (1) – Credit on Input/ Input Service attributable to exempted goods/ services, not allowed
- Calculation of amount disallowed prescribed under Rule 6(2) or Rule 6(3)
- Explanations 1 to 4 – Explain the scope of coverage definition of exempted goods/ services u/r 2(d) and 2(e)
- Rule 6(2) – for person exclusively having exempt good/ services, **pay** whole amount of credit



CENVAT CREDIT – RULE 6 (3)

- Manufacturer of exempt and non exempt goods
- Service provider rendering exempt and non exempt services
- Erstwhile 4 options:
 - Separate books of accounts
 - Adhoc reversal
 - Formula based reversal
 - Hybrid method



CENVAT CREDIT – RULE 6 (3)

- Now 2 options:

- Adhoc reversal – 6% or 7%

Capped at Op. Bal of credit + Availed during the period

- Reversal based on Formula given u/r 6(3A)
- Condition for capping introduced in Budget and thereafter amended on 1/4/2016 – earlier closing balance on the last day of the period
- For abatement list services having ‘0’ credit condition – 7% of abatement
- Explanation 3 – mainly defines non-exempted goods, non exempted service



CENVAT CREDIT – RULE 6 (3A)

$$C = T - (A+B)$$

Particulars	Description
C	Common credit
T	Credit of inputs and input services taken during the month
A	Eligible credit i.e. credit exclusively for non-exempt
B	Ineligible credit i.e. credit exclusively for exempted goods or exempted service

CENVAT CREDIT – RULE 6 (3A)

$$D = (E / F) \times C$$

Particulars	Description
D	Ineligible credit out of Common credit
E	T/o of Exempt goods + Exempt service
F	T/o of Exempt service + Non exempt service + Exempt goods removed + Non exempt goods removed
C	Common credit

CENVAT CREDIT – RULE 6 (3A)

$$G = C - D$$

Particulars	Description
G	Eligible Common credit
C	Common Credit
D	Ineligible credit out of Common credit

- Done provisionally on monthly basis and then annual
- No previous year – reverse 50% of common credit
- Interest rate now 15%



CENVAT CREDIT – RULE 6 (3)

- Rule 3AA – Cures procedural defect of failure to intimate option to Superintendent
- Discretionary on Superintendent
- Option once opted – follow for entire F.Y.
- Banks/ F.I.s have option of 50% credit reversal



CENVAT CREDIT – RULE 6 (4)

- Credit on Capital Goods to lapse – If used exclusively in exempt T/o, for 2 years from procurement/ commencement of production

Final goods/ services are currently partly taxable and partly exempt, and remains so in future

Final goods/ services are currently partly taxable and partly exempt on the date of receipt, but become fully taxable at a later date

The final goods/ services are fully exempt on the date of receipt of capital goods and remains exempt

The final goods/ services are fully exempt, but become taxable at a later date



CENVAT CREDIT RULES

Issues – Finance Act 2016

CENVAT CREDIT – ISSUES

Exempted services for the purpose of Rule 6 of the Credit Rules

Categories of services covered earlier under Exempted services - Same as defined under Rule 2(e) of the Credit Rules

- Taxable service which is exempt from the whole of the Service tax leviable thereon
- Service, on which no Service tax is leviable under Section 66B of the Finance Act;
- Taxable service whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken

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But Shall not include

- Service which is exported in terms of Rule 6A of the Service Tax Rules, 1994

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Categories of services covered under Exempted services w.e.f. April 1, 2016 unless otherwise specified

- Taxable service which is exempt from the whole of the Service tax leviable thereon
- Service, on which no Service tax is leviable under Section 66B of the Finance Act;
- Taxable service whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken

- **An activity, which is not a 'service' as defined in Section 65B(44) of the Finance Act**

- Service which is exported in terms of Rule 6A of the Service Tax Rules, 1994

- Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India (w.e.f March 1, 2016)

CENVAT CREDIT – ISSUES

- Amendment by way of Explanation - whether prospective or retrospective
- Option 1 always dis-advantegous:
 - Entire credit capable of reversal v/s Common credit
 - Reversal more than credit attributable to exempt T/o as Opening balance considered in Option 1
- Activity which is not service – Wide Interpretation



CENVAT CREDIT – ISSUES

- Activities not for consideration
- Specifically excluded activities in Section 65B(44)
- Absurd interpretation - Manufacturer also an exempt service provider u/s 66D
- Implications on non-service portion
 - Abated list
 - Valuation Rules – Rule 2A or 2C



CENVAT CREDIT – ISSUES

- Classification of credit into the 3 baskets
 - Exclusively exempt
 - Exclusively non exempt
 - Common credit
- Capital Goods costing less than Rs. 10,000/-
- Service providers under Reverse charge
- T/o of export services and export goods



CENVAT CREDIT – ISSUES

- Rule 6(3) applicability - Person who manufacturers non exempted goods and providing exempted service
- Use of the conjunction "AND" in the new sub rule (3AA)
- Interpretation of Rule 6(4)

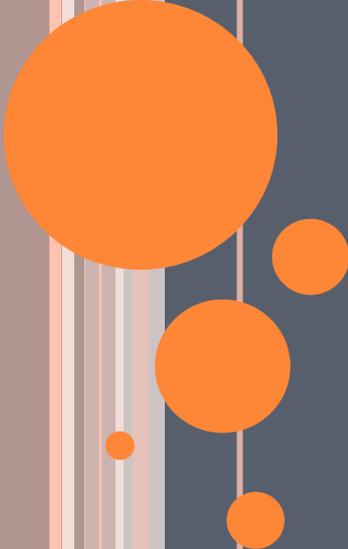


Particulars	Amount (Rs)								
	90	80	70	60	50	40	30	20	10
Taxable (1)	90	80	70	60	50	40	30	20	10
Exempt (2)	10	20	30	40	50	60	70	80	90
Op. balance (3)	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
CENVAT credit taken during the month (4)	4.20	4.20	4.20	4.20	4.20	4.20	4.20	4.20	4.20
Reversal @ 7% of exempt services (5=2*7%)	0.70	1.40	2.10	2.80	3.50	4.20	4.90	5.60	6.30
Reversal restricted to total credit (6=3+4)	-	-	-	-	-	4.20	4.20	4.20	4.20
Credit balance available 'after' utilization (7=4-6)	3.50	2.80	2.10	1.40	0.70	Nil	Nil	Nil	Nil

Credit of 4.20 is arrived after considering 30% (of total turnover) as expenses attracting service tax @ 14% (i.e. $30 \times 14\% = 4.20$)



This PPT is only for guidance. Members are advised to obtain legal/ professional advice for determining their tax liability.



**THANK YOU FOR YOUR
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