

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
NO.1, WILLIAMS ROAD, CANTONMENT, TRICHY-1.

GENERAL CIRCULAR NO: 02/2008 - CE

DATED : 15 .05.2008.

Sub: C.Ex. – Communication of Board's Circular No. 868/6/2008-CX
dated 09.05.2008 issued in F.No. 267/43/2008 – Cx.8 – Amendments
in the CENVAT Credit Rules, 2004 w.e.f. 01.04.08 - Regarding.

* * * * *

Copy of Board's Circular No. 868/6/2008-CX dated 09.05.2008 issued in F.No. 267/43/2008 – Cx.8 regarding the amendments in the CENVAT Credit Rules, 2004 w.e.f. 01.04.08 is communicated herewith for information, guidance and necessary action.

(Issued from file C.No.IV/16/4/2008 – C.Ex.Pol.)

Sd/-
(VASA SESHAGIRI RAO)
ADDITIONAL COMMISSIONER

To
As per mailing list III

Copy of the Board's Circular No. 868/6/2008-CX dated 09.05.2008 in F.No. 267/43/2008 – Cx.8

Subject: Amendments in the CENVAT Credit Rules, 2004 w.e.f. 01.04.08- regarding.

In the budget 2008-09, certain amendments have been carried out in the CENVAT Credit Rules, 2004. Rule 6 of CENVAT Credit Rules, 2004 pertains to an assessee who manufactures dutiable and exempted goods and provision of taxable and exempted services. As a general principle, CENVAT credit is not allowed on input or input service used for the manufacture of exempted goods or provision of exempted services [refer Rule 6(1)]. Exception to Rule 6(1) is contained in rules 6(3), 6(5) and 6(6). Rule 6(2) : Provides facility to an assessee to maintain separate Cenvat credit account for dutiable and exempted goods or services (hereinafter referred to as outputs) and take credit only on inputs and input services meant for use in dutiable outputs.

Rule 6(3): Pertains to an assessee opting not to maintain separate Cenvat credit accounts for dutiable and exempted outputs. Such assessee has to opt for one of the following two options:

(i) Pay an amount equal to 10% of the value of the exempted goods or 8% of the value of the exempted services. Exempted service includes non-taxable service also.

OR

(ii) Pay an amount equivalent to the CENVAT credit attributable to inputs and input services used in or in relation to manufacture of exempted goods or for provision of exempted services. Rule 6(3A) prescribes the conditions and procedure to determine the amount of CENVAT credit attributable to exempted outputs.

Schemes under rule 6(3) are optional and each individual scheme is comprehensive and self-contained. An assessee can exercise the option in relation to all his activities as an assessee and the option is not available only in relation to a part of his activity and the option once exercised cannot be withdrawn during the said financial year.

2. Requests have been received from various trade and industry associations seeking clarifications on certain doubts relating to these amendments. Similar references have also been received from filed formations. For the sake of uniformity in practice and removal of doubts, following clarifications are issued in respect of queries received in this regard:

	Question	Answer
1.	Whether an assessee availing option (i) or option (ii) under rule 6(3) is allowed to take CENVAT Credit of duty paid on inputs and input services which are used for both dutiable and exempted goods or services.	<p>Yes, credit on such inputs and input services is allowed. However, an assessee following option (i) or (ii) under rule 6(3) shall not be allowed to take CENVAT credit of duty paid on those inputs and input services which are used exclusively for the manufacture of exempted goods or provision of exempted services [refer Explanation II of rule 6(3)].</p> <p>For the purpose of the calculation of amount under formula given under rule 6(3A), the total CENVAT credit taken on inputs and input services does not include excise duty paid on inputs or service tax paid on input services which are used exclusively for the manufacture of exempted goods or provision of exempted services.</p>
2.	Whether an assessee availing option (i) in respect of certain exempted goods/services can also avail option (ii) in respect of other exempted goods or services simultaneously?	An assessee opting for either of the option is required to avail the said option for all the exempted goods manufactured by him and all the exempted services provided by him and the option once exercised during a financial year (F.Y.) cannot be withdrawn during the remaining part of the FY. Therefore, the same assessee cannot avail both option (i) and option (ii) simultaneously during a financial year. [Explanation I to Rule 6(3)].
3.	Assessee opting for option (i) is required to pay an amount equivalent to 10% of value of exempted goods or 8% of value of exempted services. What is the scope of term "value" for the said purpose	Value of the exempted goods is the transaction value as determined in terms of section 4 of the Central Excise Act, 1944 or value determined under section 4A. However, in case of goods chargeable to specific rate of duty, the value, shall be the transaction value to be determined under section 4. Value of the exempted service is the gross amount charged for providing the exempted service [without abatement].
4.	What is the accounting code to be followed by the assessee who is required to pay 8% or other amount for the exempted service under Rule 6(3).	For the present, the assessee can pay the said amount under the accounting code applicable for service tax i.e. 0044.

5.	Whether input services distributor can also opt for option (i) or option (ii)?	As ISD does not provide any service, and is like a trader, the question of availing either of the options would not arise.
6.	Whether export of service without payment of service tax under Export of Service Rules shall be treated as exempted service for the purpose of rule 6(3)?	No, export of services without payment of service tax are not to be treated exempted services.
7.	What is the manner for calculation of CENVAT Credit amount attributable to inputs used in or in relation to the manufacture of exempted goods.	It is required to be done on the basis of actual consumption of inputs used and the quantification may be made based upon the stores/production records maintained by the manufacturer. Further, a certificate from Cost Accountant/Chartered Accountant giving details of quantity of inputs used in the manufacture of exempted goods, value thereof and CENVAT credit taken on these input may be submitted at the end of the year.
8.	Whether credit in respect of input services covered by rule 6(5) would be required to be taken into account for determination of amount payable as per formula provide in rule 6(3A).	No, the credit attributable to services mentioned in sub-rule (5), shall not be taken into account for determination of amount under rule 6(3A).

3. The field formations may be suitably informed.

4. Hindi version will follow.

Yours faithfully,

(Rahul Nangare)

Under Secretary to the Govt. of India

*****3/3*****