

Interest on CENVAT credit wrongly taken even without being utilized

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ISSUED BY CEBC

Subject: Interest payable on CENVAT Credit which has been taken wrongly shall be calculated from its availment whether it has been utilized or not.

Detail

In the case of **Ind-Swift Labs. V/s UOI [2009(240)ELT328(P&H)]**, Hon'ble P&H High Court has held that under provisions of Rule 14 of CENVAT Credit Rules, 2004, interest cannot be claimed from the date of wrong availment of credit. It is required to be paid from the date it is wrongly utilized.

Now, Hon'ble Supreme Court, in the departmental appeal in the above case, vide its judgement dated 21.02.2011 has set aside the aforesaid order of P&H High Court and held that

"If the aforesaid provision is read as a whole we find no reason to read the word "OR" in between the expressions 'taken or utilized wrongly or has been erroneously refunded' as the word "AND". On the happening of any of the three circumstances such credit becomes recoverable along with interest."

Hence, the interest on CENVAT Credit shall be calculated and payable from the date of (i) wrongly taken, (ii) wrongly utilized and (iii) erroneously refunded, whichever is earlier.

For detail please refer the above mentioned circular on www.cbec.gov.in