

**Presentation on New Procedure for**  
**“Availment & Utilization of CENVAT Credit**  
**under Cenvat Credit Rules, 2004”**  
**By**  
**‘Manufacturer manufacturing exempted goods**  
**as well as dutiable goods’**  
**As amended by Finance Act, 2008**

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# OBJECT / SCOPE

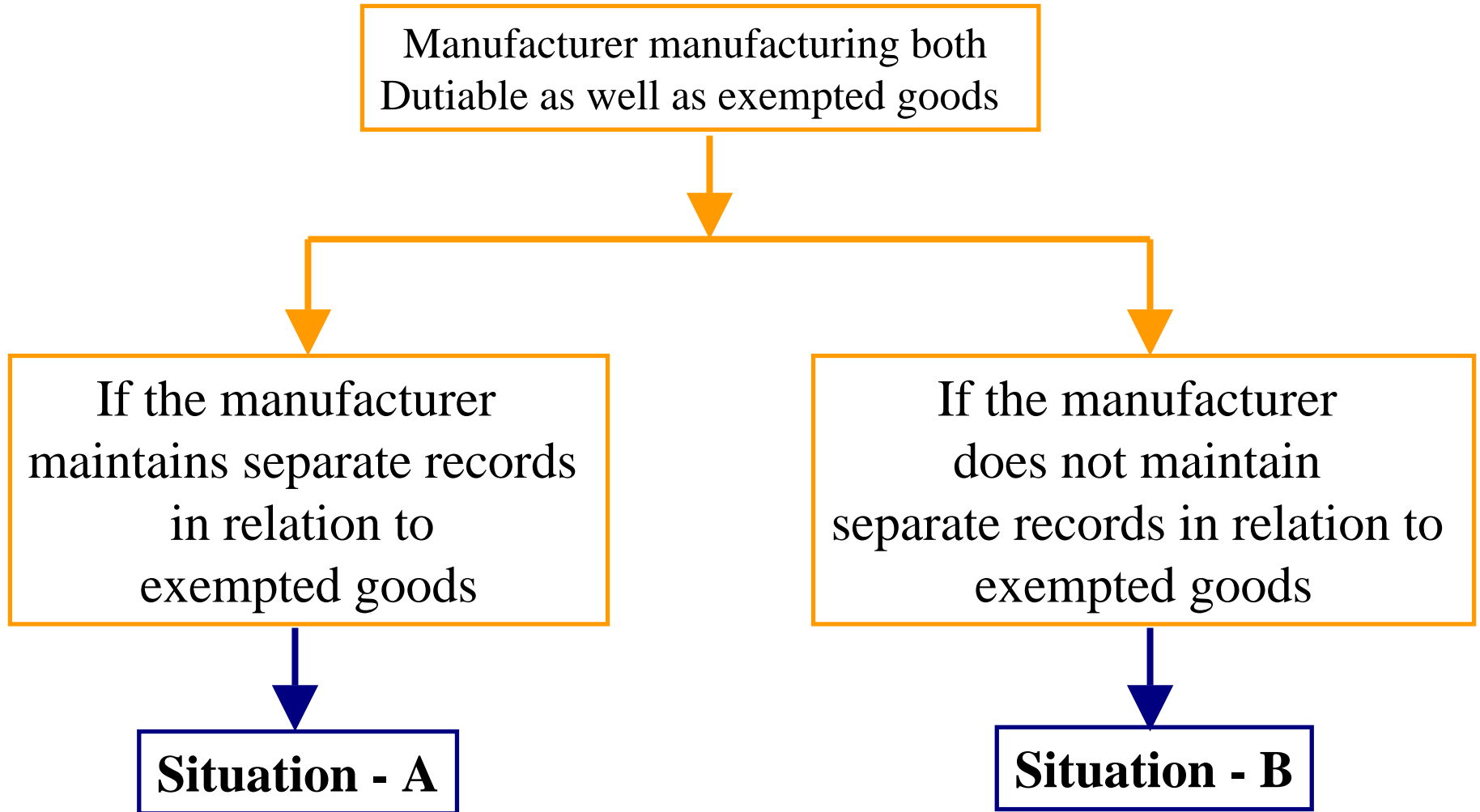
- ❖ To elaborate the procedure for availment of Cenvat Credit on inputs, input services and capital goods.
- ❖ To elaborate the procedure for utilization of Cenvat Credit availed under Cenvat Credit Rules, 2004(CCR).
- ❖ To analysis the amendments made by Finance Act, 2008 in the said procedures.
- ❖ Compare the procedure for utilization of Cenvat Credit availed before and after the amendments made by Finance Act, 2008.

# ASSUMPTIONS

In this Presentation,

- (i) the procedures relating to the manufacturers who manufacture dutiable as well as exempted goods, has been explained.
- (ii) The statute which relates to the above manufacturers has been cited and explained.
- (iii) This presentation is based on the interpretation by the author, which may be changed from other persons.

# Dutiable /taxable as well as exempted



## **Situation - A** - If manufacturer maintains separate records in relation to exempted goods

If a manufacturer

- (a) Manufacture such final products which are chargeable to duty as well as exempted goods, and*
- (b) avails Cenvat Credit in respect of any input or input services or capital goods and*
- (c) maintains separate accounts for receipts, consumption and inventory of input and input services meant for use in the manufacture of exempted goods,*

(i) Cenvat Credit on Input or Input Services :- He shall be allowed to avail and utilize the Cenvat credit only on that quantity of input or input service which is intended for use in the manufacture of dutiable goods. (manner of utilization has been explained on slide no. 15 & 16 )

(i) Cenvat Credit on Capital goods has been explained on slide no. 13 & 14)

*(cont...)*

# **Situation - B - If manufacturer does not maintains separate record in relation to exempted goods.**

*Before amendment in rule 6 of CCR, 2004 by Finance Act, 2008*

- (a) **If the exempted goods are,-**
- (i) Goods falling within Heading No. 22 07 20 00 of First Schedule;
  - (ii) **Low Sulphur Heavy Stock (LSHS)** within Chapter 27 of First Schedule used in the generation of electricity;
  - (iii) **Naphtha (RN)** within Chapter 27 of First Schedule used in the manufacture of fertilizer;
  - (iv) **Naphtha (RN)** and **furnace oil** within Chapter 27 of First Schedule used in the generation of electricity;
  - (v) **Newsprint in rolls or sheets**, falling within Heading No. 48.01 of First Schedule;
  - (vi) Final products falling within Chapters 50 to 63 of the First Schedule;
  - (vii) Goods supplied to **defence personnel or for defence projects or to the Ministry of Defence for Official purposes**, under any of the following notification:
    - N/N 70/92-CX                      --- N/N 62/95-CX
    - N/N 63/95-CX                      --- N/N 64/95-CX
  - (i) **LPG** falling within Tariff Item 2711 12 00, 27 11 13 00 and 27 11 19 00 of the First Schedule;
  - (ii) **Kerosene** falling within Heading 2710 of the First Schedule, for **ultimate sale through public distribution system.**

----- the manufacturer shall pay  
An amount (**note 1**) equivalent to the CENVAT credit **attributable** to input and input service used in or in relation to the manufacture of **such final products (exempted products)** at the time of their clearance from the factory;

**Cont.....**

**Situation - B - If manufacturer does not maintains separate record in relation to exempted goods.**

*Before amendment in rule 6 of CCR, 2004 by Finance Act, 2008*

(b)	If the exempted goods are other than those described in clause (a) above	----- the manufacturer shall pay An amount ( <i>note 1</i> ) equal to <u>10% of the total price</u> (excluding sales tax and other taxes, if any), of the exempted final product charged by the manufacturer for the sale of such goods at the time of clearance from the factory.
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Note 1: The amount referred above shall be paid by the manufacturer by either,  
(i) debiting the CENVAT credit, or (ii) through PLA

Note 2: For removal of doubts, it is hereby declared that the credit shall not be allowed on inputs and input services used exclusively for the manufacture of exempted goods.

## **Situation – B - Manufacturer does not maintains separate record in relation to exempted goods.**

### **After amendment in rule 6 of CCR, 2004 by Finance Act, 2008**

The manufacturer of goods opting not to maintain separate accounts, shall follow either of the following options, as applicable to him, namely:-

- (i) The manufacturer shall pay an **amount (note 1)** equal to 10% of the value of exempted goods,*
- or*
- (ii) The manufacturer of goods shall pay (reverse) an **amount (note1)** equivalent to the CENVAT credit attributable to input or input services used in, or in relation to, the manufacture of exempted goods subject to the conditions and procedure specified in sub-rule 3(A).*

Note 1: The amount referred above shall be paid by the manufacturer by either,

- (i) debiting the CENVAT credit, **or**
- (ii) through PLA

Note 2: the manufacturer of goods avails any of the above options, then he shall exercise such options for all the exempted goods and such option shall not be withdrawn during the remaining part of the financial year.



# Option (ii) to the manufacturer does not maintain separate record in relation to exempted goods.

## Meaning of Alphabets used in the upcoming table: -

- A Credit attributable to inputs used in the exempted goods on the basis of quantity used.
- B Total value of exempted goods manufactured and removed during preceding FY.
- C Total value of dutiable and exempted goods manufactured and removed during preceding FY.
- D Total Cenvat Credit taken on input services during the month
- H Total Credit attributable to inputs used in or in relation to manufacture of exempted goods, on the basis of total quantity of inputs used in or in relation to manufacture of said exempted goods on yearly basis.
- M Total value of exempted goods manufactured and removed during FY.
- N Total value of dutiable and exempted goods manufactured and removed during FY.
- P Total Cenvat Credit taken on input services during the year.
- X Payment of Cenvat credit attributable on monthly basis.
- Y Payment of Cenvat Credit attributable on yearly basis

## Option (ii) to the manufacturer does not maintains separate record in relation to exempted goods.

Computation of CENVAT Credit attributable to exempted goods under options (ii):-

Particulars	On a monthly basis 'X'	On an annual basis 'Y'
Credit attributable to input used in the manufacture of exempted goods	A	H
Credit attributable to input services used in the manufacture of exempted goods	B/C x D	M/N x P
Difference (at the end of the FY)	X-Y	
If X is more than Y	The manufacturer of goods may adjust the excess amount on his own, by taking credit of such amount.	
If X is less than Y	(i) Assessee shall pay the differential amount by 30 <sup>th</sup> June of the succeeding year. (ii) If delay, then interest @ 24% shall be leviable for the period from 30 <sup>th</sup> June to date of payment.	

## **Option (ii) to the manufacturer does not maintain separate record in relation to exempted goods.**

- (a) While exercising (ii) option, the manufacturer of goods shall intimate in writing to the Superintendent of Central Excise giving,-
- Name, address,
  - Date from which this option is exercised,
  - Description of dutiable as well as exempted goods,
  - Cenvat credit of inputs and input services lying in balance as on the date of exercising the option.
- (b) The manufacturer shall intimate to the Superintendent of Central Excise within a period of 15 days from the date of payment or any adjustment giving the following details, namely,
- (i) Cenvat Credit attributable to exempted goods, monthwise & for the whole of financial year
  - (ii) Amount of short paid alongwith date of payment of short paid
  - (iii) Interest payable and paid, if any, on the amount short paid, and
  - (iv) Credit taken on account of excess payment

# **Input Services (16 services), whole of the service tax paid shall be allowed as credit irrespective of exempted goods**

Notwithstanding anything contained in Rule 6, Credit of whole of service tax paid on the following taxable services,

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>▪ Architect's service</li><li>▪ Banking &amp; Financial Services</li><li>▪ Construction Services</li><li>▪ Consulting Engineer's service</li><li>▪ Erection, Commissioning &amp; Installation services</li><li>▪ Foreign Exchange Broker's Service</li><li>▪ Insurance Auxiliary Services concerning life insurance business</li><li>▪ Intellectual Property related services</li></ul> | <ul style="list-style-type: none"><li>▪ Interior Decorator's service</li><li>▪ Maintenance &amp; Repair Services</li><li>▪ Management Consultant's service</li><li>▪ Real Estate Agent's Service</li><li>▪ Scientific or technical Consultancy</li><li>▪ Security Agency's service</li><li>▪ Technical Inspection &amp; Certification Services</li><li>▪ Technical testing and analysis services</li></ul> |
|---|--|

Shall be allowed unless such services are used exclusively in or in relation to the manufacture of the exempted goods.

# **Cenvat Credit on Capital goods in case of manufacturing of dutiable as well as exempted goods**

Cenvat Credit availed on Capital Goods:- No Cenvat Credit shall be allowed on capital goods which are exclusively used in the manufacture of exempted goods.

For Example-

Mr. X (a manufacture of Product A which is dutiable and Product B which is exempted from duty) has acquired three machineries namely,  
Machine P – used exclusively in the manufacture of Product A  
Machine Q- used in the manufacture of Product A and Product B  
Machine R- used exclusively in the manufacture of product B

In this case,

He will be allowed Cenvat credit on Machine P and Q

However, will not be allowed Cenvat Credit on Machine R

*(cont.....)*

# Cenvat Credit on Capital goods in case of manufacturing of dutiable as well as exempted goods

However, Cenvat Credit on Capital goods shall be allowed if used exclusively in the manufacture of the final product which are exempt from whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearance made in a financial year.

## Note-

Notification No. 8/2003 provides the exemption to the manufacturer for the first Rs. 150 Lakhs of value of clearance of final product  
Provided (among other conditions),

The aggregate value of clearance of all excisable goods for home consumption by a manufacturer from one or more factories or from a factory or more manufacturers, **does not exceed Rs. 400 Lakhs in the preceding financial year.** (refer notification No. 8/2003 as amended by FA, 2008)

# Manner of utilization of CCR for payment of duty on final products

S.No.	Cenvat Credit Element	Utilization for Payment of:
1.	BED (Basic Excise Duty)	Any Duty of Excise Except HC
2.	SED (Special Excise Duty)	Any Duty of Excise Except HC
3.	ADD (GSI) - Additional duty under Goods of Special Importance)	Any Duty of Excise Except HC
4.	Additional Duty (Textiles & Textiles Act)	ADD (T&TA) Only
5.	NCCD (National Calamity Contingent Duty ) levied By Finance Act, 2001	NCCD Only
6.	Education Cess on Excisable goods	Ed. Cess on (Excisable goods or Taxable Services)
7.	CVD by Custom Tariff Act, comprising:-	
	- BED	Any Duty of Excise Except HC
	- SED	Any Duty of Excise Except HC
	- ADD (GSI)	Any Duty of Excise Except HC
	- ADD (T&TA)	ADD (T&TA) Only
	- NCCD	NCCD Only
	- Education Cess on Excisable Goods	Ed. Cess on (Excisable goods or Taxable Services)

*Cont.....*

# Manner of utilization of CCR for payment of duty on final products

<u>S.No.</u>	<u>Cenvat Credit Element</u>	<u>Utilization for Payment of:</u>
8.	ADD duty of Customs (Leviable u/s 3(5) of Custom Tariff Act	Any Duty of Excise Except HC
9.	ADD Excise Duty by Finance Act, 2003	ADD Excise Duty by FA, 2003 only
10.	ADD Excise Duty / Health Cess (HC) by Finance Act, 2005	Health Cess only (By FA, 2005)
11.	Service Tax on Input Services	Any Duty of Excise Except HC
12.	Education Cess on Taxable Services	Ed. Cess on (Excisable goods or Taxable Services)



# Conclusion (As amendments by Finance Act, 2008)

Manufacturing both Dutiable as well as exempted goods

Maintains separate records

1. Avail Credit on inputs used in manufacturing of dutiable goods.
2. Avail credit on Input services (except 16 services) used in manufacturing of dutiable goods.
3. Avail Credit on all Capital goods except those used exclusively in manufacture of exempted goods.

Doesn't maintain separate records

1. Avail Credit on all inputs, input services (except 16 services) and all capital goods except those used exclusively in exempted goods, and
2. Pay an amount equal to **10% of value** of exempted goods.

1. Avail Credit on all inputs, input services (except 16 services) and all capital goods except those used exclusively in exempted goods, and
2. Pay or reverse an amount equal to credit attributable to input or input services used in exempted goods.

**Thank You**