

# CENVAT CREDIT RULES, 2004

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**RULE 2(A) : Capital Goods**

"capital goods" means:- definition of "capital goods" is amended by notification no. 28/2012 dated 20.6.2012.

(A) the following goods, namely:-

(i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act; **\*\*\*defined**

(ii) pollution control equipment;

(iii) components, spares and accessories of the goods specified at (i) and (ii);

(iv) moulds and dies, jigs and fixtures;

(v) refractories and refractory materials;

(vi) tubes and pipes and fittings thereof;

(vii) storage tank; and

(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers;

**used-**

(1) in the factory of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or

(1A) outside the factory of the manufacturer of the Final products for generation of electricity for captive use within the factory; or

(2) for providing output service;

**(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the service provider, when used for-**

- (i) providing an output service of renting of such motor vehicle; or
  - (ii) transportation of inputs and capital goods used for providing an output service; or
  - (iii) providing an output service of courier agency”
- (C) motor vehicle designed to carry passengers including their chassis, registered in the name of the provider of service, when used for providing output service of-
- (i) transportation of passengers; or
  - (ii) renting of such motor vehicle; or
  - (iii) imparting motor driving skills
- (D) components, spares and accessories of motor vehicles which are capital goods for the assessee

Up to 31.03.2012, definition of capital goods includes motor vehicle when it is registered in the name of seven specific service provider. [ courier service, tour operator service, rent a cab scheme operator service, cargo handling service ,transport of goods by road, outdoor catering service , pandal and shamiana service ] . From 1.4.2012 , the definition of capital good has been extended to cover all motor vehicles ( other than those covered under the specified tariff heading) for all the category of service provider.

Description of tariff heading discussed in hereinbefore is given as under.

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<u>Tariff Heading</u>	<u>Type of vehicle</u>
8702	Motor vehicle for the transport of ten or more person, including the driver
8703	Motor cars and other Motor vehicle principally designed for the transport of persons (other than those specified in heading 8702) including station wagon and racing cars.
8704	Motor vehicle for transport of goods
8711	Motorcycle (including moped)and cycle fitted with an auxiliary motor, with or without side cars.

**Capital goods definition is enlarged to include motor vehicle other than used for transportation of passengers and goods like cranes, forklift, tractor and all other vehicle primarily used for business or commerce for all kind of service providers.**

What does not cover under the definition of motor vehicle provided under section 2(28) of the Motor Vehicle Act, 1988.

- Vehicle running on fixed rails like railways, tram, trolleys etc.
- Vehicle of special type which is used in factory like cranes and forklifts.
- Vehicles less than four wheel fitted with an engine capacity of not exceeding 25 cubic centimetres .
- Hand cart, bull cart, animal driven, vehicle, hand rickshaw etc. As they are not mechanically propelled.

### **RULE 2(k) : Input**

"input" means-

- (i) all goods used in the factory by the manufacturer of the final product; or
- (ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or
- (iii) all goods used for generation of electricity or steam for captive use; or
- (iv) all goods used for providing any output service;

but excludes-

(A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;

(B) any goods used for -

(a) construction or execution of works contract of a building or a civil structure or a part thereof; or

(b) laying of foundation or making of structures for support of capital goods,

except for the provision of service portion in the execution of a works contract or construction service as listed under clause (b) of section 66E of the Act;

(C) capital goods except when used as parts or components in the manufacture of a final product;

(D) motor vehicles;

(E) any goods, such as food items, goods used in a guesthouse, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and

(F) any goods which have no relationship whatsoever with the manufacture of a final product.

Explanation. – For the purpose of this clause, “free warranty” means a warranty provided by the manufacturer, the value of which is included in the price of the final product and is not charged separately from the customer;

## **RULE 2(I) : Input Services**

"input service" means any service,-

(i) used by a provider of [output service](#) for providing an output service; or

(ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, up to the place of removal,

and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation up to the place of removal; [but excludes](#),-

(A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for -

(a) construction or execution of works contract of a building or a civil structure or a part thereof;  
or

(b) laying of foundation or making of structures for support of capital goods,

except for the provision of one or more of the specified services; or

(B) Services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods; or

(BA) Service of general insurance business, servicing, repair and maintenance , in so far as they relate to a motor vehicle which is not a capital goods, except when used by -

(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person ;or

(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or

(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;

S.N.	Party	Extract of Input definition w.e.f 1.7.2012
1	Manufacturer of final product	Input service means any service used by used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, up to the place of removal, <b>Specific Inclusion :</b> a) services used in relation to modernization, renovation or repairs of a factory or an office relating to such factory or premises b) Advertisement or sale promotion c) Market research d) storage up to the place of removal e) procurement of input f) accounting , auditing, financing, recruitment, and quality control, coaching and training, computer networking, , credit rating,, share

		registry, , security, <a href="#">business exhibition</a> , <a href="#">legal services</a> , inward transportation of input or capital goods and outward transportation up to the place of removal
2	Provider of output service	<p>Input service means any service used by provider of output service for providing an output service;</p> <p>a) services used in relation to modernization, renovation or repairs of a premises of provider of output service or an office relating to such premises.</p> <p>b) Advertisement or sale promotion</p> <p>c) Market research</p> <p>f) accounting , auditing, financing, recruitment, and quality control, coaching and training, computer networking, , credit rating,, share registry, security, <a href="#">business exhibition</a>, <a href="#">legal services</a>, inward transportation of input or capital goods.</p>
3		<p><b>Specific exclusions;</b></p> <p>(A) <a href="#">service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for -</a></p> <p>(a) <a href="#">construction or execution of works contract of a building or a civil structure or a part thereof; or</a></p> <p>(b) <a href="#">laying of foundation or making of structures for support of capital goods,</a></p> <p><a href="#">except for the provision of one or more of the specified services;</a></p> <p style="text-align: right;"><a href="#">or</a></p> <p>(B) <a href="#">Services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods;</a></p> <p><a href="#">or</a></p> <p>(BA) <a href="#">Service of general insurance business, servicing, repair and maintenance , in so far as they relate to a motor vehicle which is not a capital goods, except when used by -</a></p> <p>(a) <a href="#">a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person ;or</a></p> <p>(b) <a href="#">an insurance company in respect of a motor vehicle insured or reinsured by such person; or</a></p> <p>(C) <a href="#">such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;</a></p>



**RULE 2(p) : Output Services**

As per new Rule 2 (p) read as follows :

Output service means any service provided by provider of service located in taxable territory but shall not include a service ;

1. Specified in Section 66D of the Finance Act; or
2. Where whole of the service is liable to paid by the recipient of service

**RULE 2(e) : Exempted Services**

(e) “exempted service” means

(1) taxable service which is exempt from the whole of the service tax leviable thereon; or

(2) service, on which no service tax is leviable under section 66B of the Finance Act; or

(3) 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;

but shall not include a service which is exported in terms of rule 6A of the Service Tax Rules, 1994.

### RULE 3 : Duties and Taxes eligible for CENVAT Credit

1) A manufacturer or producer of final products or a [provider of output service](#) shall be allowed to take credit (hereinafter referred to as the CENVAT credit) of -

Relevant Clauses of Rule 3(1)	Description of duty or tax in Rule 3(1)	Additional comments
i)	the duty of excise specified in the First Schedule to the Excise Tariff Act, leviable under the Excise Act;	<ul style="list-style-type: none"> <li>• Basic Excise duty</li> <li>• Goods which have suffered levy of duty at 1% ad valorem</li> </ul>
ii)	the duty of excise specified in the Second Schedule to the Excise Tariff Act, leviable under the Excise Act	<ul style="list-style-type: none"> <li>• Special excise duty</li> </ul>
iii)	the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 ( 40 of 1978);	<ul style="list-style-type: none"> <li>• This is additional duty of excise leviable on textile and textile articles.</li> </ul>
iv)	the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 ( 58 of 1957);	<ul style="list-style-type: none"> <li>• Additional duty of excise leviable on goods of special importance.</li> </ul>
v)	the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001);	<ul style="list-style-type: none"> <li>• National calamity contingent duty</li> </ul>
vi)	the Education Cess on excisable goods leviable under section 91 read with section 93 of the Finance (No.2) Act, 2004 (23 of 2004);	<ul style="list-style-type: none"> <li>• Education cess on excisable goods.</li> </ul>
via)	the Secondary and Higher Education Cess on excisable goods leviable under section 136 read with section 138 of the Finance Act, 2007 (22 of 2007);	<ul style="list-style-type: none"> <li>• Secondary and higher education cess on excisable goods.</li> </ul>
Vii)	the additional duty leviable under section 3 of the Customs Tariff Act, equivalent to the duty of excise specified under clauses (i), (ii), (iii), (iv), (v) ,(vi) and (via);	<ul style="list-style-type: none"> <li>• Countervailing duty equal to excise duty( applicable to imported goods.</li> <li>• Cenvat credit shall not be allowed in excess of 85% of additional duty of custom paid under sub section 1 of</li> </ul>

		section 3 of the custom tariff act, on ships, boats and other floating structure under tariff 89080000 of the first schedule to the Custom Tariff Act.
viiia)	the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act,	<ul style="list-style-type: none"> <li>• Special excise duty of custom</li> <li>• The provider of taxable service shall not be eligible to take credit of such additional duty</li> </ul>
viii)	the additional duty of excise leviable under section 157 of the Finance Act, 2003 (32 of 2003);	<ul style="list-style-type: none"> <li>• Additional excise duty leviable on tea and tea waste.</li> </ul>
ix)	the service tax leviable under section 66 of the Finance Act;	<ul style="list-style-type: none"> <li>• Service tax imposed on taxable services.</li> </ul>
ix a)	the service tax leviable under section 66A of the Finance Act; and	<ul style="list-style-type: none"> <li>• Service tax paid on import of services under the reverse charge mechanism</li> </ul>
ix b)	the service tax leviable under section 66B of the Finance Act;	<ul style="list-style-type: none"> <li>• Service tax paid in the new regime under the amended provision.</li> </ul>
x)	the Education Cess on taxable services leviable under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004),	<ul style="list-style-type: none"> <li>• Education cess on taxable services.</li> </ul>
xa)	the Secondary and Higher Education Cess on taxable services leviable under section 136 read with section 140 of the Finance Act, 2007 (22 of 2007); and	<ul style="list-style-type: none"> <li>• Secondary and high Education cess on taxable services</li> </ul>
xi)	the additional duty of excise leviable under section 85 of Finance Act, 2005 (18 of 2005).	<ul style="list-style-type: none"> <li>• Additional excise duty on pan masala and tobacco products.</li> </ul>

(2) Notwithstanding anything contained in sub-rule (1), the manufacturer or producer of final products shall be allowed to take CENVAT credit of the duty paid on inputs lying in stock or in process or inputs contained in the final products lying in stock on the date on which any goods manufactured by the said manufacturer or producer cease to be exempted goods or any goods become excisable.

(3) Notwithstanding anything contained in sub-rule (1), in relation to a service which ceases to be an exempted service, the provider of the output service shall be allowed to take CENVAT credit of the duty paid on the inputs received on and after the 10th day of September, 2004 and lying in stock on the date on which any service ceases to be an exempted service and used for providing such service.

(4) The CENVAT credit may be utilized for payment of –

(a) any duty of excise on any final product; or

(b) an amount equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or

(c) an amount equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or

(d) an amount under sub rule (2) of rule 16 of Central Excise Rules, 2002; or

(e) service tax on any output service:

Provided that while paying duty of excise or service tax, as the case may be, the CENVAT credit shall be utilized only to the extent such credit is available on the last day of the month or quarter, as the case may be, for payment of duty or tax relating to that month or the quarter, as the case may be:

[Explanation. - CENVAT credit cannot be used for payment of service tax in respect of services where the person liable to pay tax is the service recipient](#)

(5) When inputs or capital goods, on which CENVAT credit has been taken, are removed as such from the factory, or premises of the provider of output service, the manufacturer of the final products or provider of output service, as the case may be, shall pay an amount equal to the credit availed in respect of such inputs or capital goods and such removal shall be made under the cover of an invoice referred to in rule 9:

Provided that such payment shall not be required to be made where any inputs or capital goods are removed outside the premises of the provider of output service for providing the output service:

[Omitted]

[Omitted]

“Provided further that such payment shall not be required to be made where any inputs are removed outside the factory for providing free warranty for final products:

(5A) If the capital goods, on which CENVAT credit has been taken, are removed after being used, whether as capital goods or as scrap or waste, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CENVAT Credit, namely:-

(a) for computers and computer peripherals

for each quarter in the first year @ 10%

for each quarter in the second year @ 8%

for each quarter in the third year @ 5%

for each quarter in the fourth and fifth year @ 1%

(b) for capital goods, other than computers and computer peripherals @ 2.5% for each quarter:

Provided that if the amount so calculated is less than the amount equal to the duty leviable on transaction value, the amount to be paid shall be equal to the duty leviable on transaction value.

(5B) If the value of any

(i) input, or

(ii) capital goods before being put to use,

on which CENVAT credit has been taken is written off fully or partially where any provision to write off fully or partially has been made in the books of account, then the manufacturer or service provider, as the case may be, shall pay an amount equivalent to the CENVAT credit taken in respect of the said input or capital goods:

Provided that if the said input or capital goods is subsequently used in the manufacture of final products or the provision of [output services](#), the manufacturer or output service

provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules.

(5C) Where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods shall be reversed.

(6) The amount paid under sub-rule (5) and sub-rule (5A) shall be eligible as CENVAT credit as if it was a duty paid by the person who removed such goods under sub-rule (5) and sub-rule (5A).

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**RULE 4 : Condition for Allowing CENVAT Credit****A] in relation to input**

- (1) The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service:

w.e.f. 17.3.2012, the CENVAT credit in respect of inputs may be taken by the provider of output service when the inputs are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the inputs.

**B] in relation to capital goods**

**2[a] 50% of credit of excise duty available in the year of purchase and balance in subsequent financial year.**

The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service or outside the factory of the manufacturer of the Final products for generation of electricity for captive use within the factory, at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent of the duty paid on such capital goods in the same financial year:

However full credit will be allowed in the same financial year if such capital goods are cleared as such in the same financial year.

If the assessee could not avail the credit in the first financial year then whole of the credit can be availed in the subsequent year.

w.e.f. 17.3.2012, the CENVAT credit in respect of capital good may be taken by the provider of output service when the capital goods are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the capital goods.

Provided further that the CENVAT credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, [Omitted] in respect of capital goods shall be allowed immediately on receipt of the capital goods in the factory of a manufacturer.

Provided also that where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year, the CENVAT credit in respect of capital goods received by such assessee shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year.

Provided also that the CENVAT credit in respect of capital goods may be taken by the provider of output service when the capital goods are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the capital goods.

Explanation.- For the removal of doubts, it is hereby clarified that an assessee shall be “eligible” if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year computed in the manner specified in the said notification did not exceed rupees four hundred lakhs.

- b) The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, or in the premises of the provider of output service, if the capital goods, other than components, spares and accessories, refractories and refractory materials, moulds and dies and goods falling under heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act, are in the possession of the manufacturer of final products, or provider of output service in such subsequent years.

**Illustration.-** A manufacturer received machinery on the 16th day of April, 2002 in his factory. CENVAT of two lakh rupees is paid on this machinery. The manufacturer can take credit upto a maximum of one lakh rupees in the financial year 2002-2003, and the balance in FY 2003-04.

- (3)** The CENVAT credit in respect of the capital goods shall be allowed to a manufacturer, provider of output service even if the capital goods are acquired by him on lease, hire purchase or loan agreement, from a financing company.



- (4) The CENVAT credit in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer or provider of output service claims as depreciation under section 32 of the Income-tax Act, 1961( 43 of 1961).
- (5) (a) The CENVAT credit shall be allowed even if any inputs or capital goods as such or after being partially processed are sent to a job worker for further processing, testing, repair, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or provider of output service taking the CENVAT credit that the goods are received back in the factory within one hundred and eighty days of their being sent to a job worker and if the inputs or the capital goods are not received back within one hundred eighty days, the manufacturer or provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise, but the manufacturer or provider of output service can take the CENVAT credit again when the inputs or capital goods are received back in his factory or in the premises of the provider of output service
- (b) The CENVAT credit shall also be allowed in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to,-
- (i) another manufacturer for the production of goods; or
- (ii) a job worker for the production of goods on his behalf, according to his specifications.
- (6) The Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow final products to be cleared from the premises of the job-worker.

(7)The CENVAT credit in respect of input service shall be allowed, on or after the day on which the invoice, bill or, as the case may be, challan referred to in rule 9 is received:

Provided that in case of an input service where the service tax is paid on reverse charge by the recipient of the service, the CENVAT credit in respect of such input service shall be allowed on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9:

Provided further that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9, is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules:

Provided also that if any payment or part thereof, made towards an input service is refunded or a credit note is received by the manufacturer or the service provider who has taken credit on such input service, he shall pay an amount equal to the CENVAT credit availed in respect of the amount so refunded or credited:.

Explanation I.- The amount mentioned in this sub-rule, unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, when such payment shall be made on or before the 31st day of the month of March.

Explanation II. - If the manufacturer of goods or the provider of output service fails to pay the amount payable under this sub-rule, it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken.

Explanation III.- In case of a manufacturer who avails the exemption under a notification based on the value of clearances in a financial year and a service provider who is an individual or proprietary firm or partnership firm, the expressions, “following month” and “month of March” occurring in sub-rule (7) shall be read respectively as “following quarter” and “quarter ending with the month of March”.

## RULE 5 : Refund of Input Credit

- 1) A manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output service which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette:

$$\text{Refund amount} = \frac{(\text{Export turnover of goods} + \text{Export turnover of services}) \times \text{Net CENVAT credit}}{\text{Total turnover}}$$

Where,-

- (A) “Refund amount” means the maximum refund that is admissible;
- (B) “Net CENVAT credit” means total CENVAT credit availed on inputs and input services by the manufacturer or the output service provider reduced by the amount reversed in terms of sub-rule (5C) of rule 3, during the relevant period;

Rule 3(5C) pertain to the reversal of credit taken on the input in case of remission of duty on rule 21 of the central excise rules . Accordingly this reduction is not applicable to service provider.

- (C) “Export turnover of goods” means the value of final products and intermediate products cleared during the relevant period and exported without payment of Central Excise duty under bond or letter of undertaking;
- (D) “Export turnover of services” means the value of the export service calculated in the following manner, namely:-

Export turnover of services = payments received during the relevant period for export services + export services whose provision has been completed for which payment had been received in advance in any period prior to the relevant period – advances received for export services for which the provision of service has not been completed during the relevant period;

- (E) “Total turnover” means sum total of the value of –
- (a) all excisable goods cleared during the relevant period including exempted goods, dutiable goods and excisable goods exported;
- (b) export turnover of services determined in terms of clause (D) of sub-rule (1) above and the value of all other services, during the relevant period; and

(c) all inputs removed as such under sub-rule (5) of rule 3 against an invoice, during the period for which the claim is filed.

(2) This rule shall apply to exports made on or after the 1st April, 2012:

Provided that the refund may be claimed under this rule, as existing, prior to the commencement of the CENVAT Credit (Third Amendment) Rules, 2012, within a period of one year from such commencement:

Provided further that no refund of credit shall be allowed if the manufacturer or provider of output service avails of drawback allowed under the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995, or claims rebate of duty under the Central Excise Rules, 2002, in respect of such duty; or claims rebate of service tax under the [Service Tax Rules, 1994](#) in respect of such tax.

Explanation 1- For the purposes of this rule,-

- (1) “export service” means a service which is provided as per [rule 6A of the Service Tax Rules, 1994](#);
- (2) “relevant period” means the period for which the claim is filed.

Explanation 2 - For the purposes of this rule, the value of services, shall be determined in the same manner as the value for the purposes of sub-rule (3) and (3A) of rule 6 is determined.”

#### **5A- Refund of CENVAT credit to units in specified areas.**

Notwithstanding anything contrary contained in these rules, where a manufacturer has cleared final products in terms of notification of the Government of India in the Ministry of Finance (Department of Revenue) No.20/2007-Central Excise, dated the 25th April, 2007 and is unable to utilize the CENVAT credit of duty taken on inputs required for manufacture of final products specified in the said notification, other than final products which are exempt or subject to nil rate of duty, for payment of duties of excise on said final products, then the Central Government may allow the refund of such credit subject to such procedure, conditions and limitations, as may be specified by notification.

Explanation: For the purposes of this rule, “duty” means the duties specified in sub-rule (1) of rule 3 of these rules.

**5B. Refund of CENVAT credit to service providers providing services taxed on reverse charge basis.**

A provider of service providing services notified under sub-section (2) of section 68 of the Finance Act and being unable to utilise the CENVAT credit availed on inputs and input services for payment of service tax on such output services, shall be allowed refund of such unutilised CENVAT credit subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette.

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