CENVAT Credit Rules, 2004

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1248.

Central Excise (N.T.), dated 10/09/2004 - In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994) and in supersession of the CENVAT Credit Rules, 2002 and the Service Tax Credit Rules, 2002, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title, extent and commencement.

(1)These rules may be called the CENVAT Credit (Fifth Amendment) Rules, 2006.(2)They shall come into force on the 1st day of May, 2006.(Above rule 1 has been amended vide Notification No. 10/2006 - Central Excise (N.T.), dated 25/04/2006)

2. Definitions.

- In these rules, unless the context otherwise requires,-(a)"capital goods" means:-(A)the following goods, namely:-(i)all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, [heading No. 68.05 grinding wheels and the like, and parts thereof falling under] [Substituted by Notification No. G.S.R. 100(E) dated 21.2.2007 (w.e.f. 10.9.2004).] [heading 6804 and wagons of sub-heading 860692] [Substituted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).] of the First Schedule to the Excise Tariff Act;(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; and(vii)storage tank, 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(2)for providing output service;(B)motor vehicle registered in the name of provider of output service for providing taxable service as specified in sub-clauses (f), (n), (o), (zr), (zzp), (zzt) and (zzw) of clause (105) of section 65 of the Finance Act;(b)"Customs Tariff Act" means the Customs Tariff Act, 1975 (51 of 1975);(c)"Excise Act" means the Central Excise Act, 1944 (1 of 1944);(d)"exempted goods" means excisable goods which are exempt from the whole of the duty of excise leviable thereon, and includes goods which are chargeable to "Nil" rate of duty;(e)"exempted services" means taxable services which are exempt from the whole of the service tax leviable thereon, and includes services on which no service tax is leviable under section 66 of the Finance Act;(f)"Excise Tariff Act" means the Central Excise Tariff Act, 1985 (5 of 1986);(g)"Finance Act" means the Finance Act, 1994 (32 of 1994);(h)"final products" means excisable goods manufactured or produced from input, or using input service;(ij)"first stage dealer" means a dealer, who purchases the goods directly from,-(i)the manufacturer under the cover of an invoice issued in terms of the provisions of Central Excise Rules, 2002 or from the depot of the said manufacturer, or from premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice; or(ii)an importer or from the depot of an importer or from the premises of the consignment agent of the importer, under cover of an invoice;(k)"input" means-(i)all goods, except light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production;(ii)all goods, except light diesel oil, high speed diesel oil, motor spirit, commonly known as petrol and motor vehicles, used for providing any output service;Explanation 1. - The light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol, shall not be treated as an input for any purpose whatsoever.Explanation 2. - Input include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer; [but shall not include cement, angles, channels, Centrally Twisted Deform Bar (CTD) or Thermo Mechanically Treated Bar (TMT) and other items used for construction of factory shed, building or laying of foundation or making of structures for support of capital goods.] [Inserted by Notification No. G.S.R. 481 (E) dated 7.7.2009 (w.e.f. 10.9.2004)](l)["input service" means, [Substituted by Notification No. G.S.R. 372(E), dated 13.4.2017 (w.e.f. 10.9.2004).](i)services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India where service tax is paid by the manufacturer or the provider of output service being importer of goods as the person liable for paying service tax for the said taxable services and the said imported goods are his inputs or capital goods; or(ii)any service used by a provider of output service for providing an output service; or(iii)any service used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal.](m)"input service distributor" means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider [or an outsourced

manufacturing unit] [Inserted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).], as the case may be;(n)"job work" means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression "job worker" shall be construed accordingly;(na)["large taxpayer" shall have the meaning assigned to it in the Central Excise Rules, 2002.] [Inserted vide Notification No. 19/2006-Central Excise (N.T.), dated 30/09/2006)(w.e.f. 30th September, 2006)](naa)["manufacturer" or "producer" in relation to articles of [jewelery or other articles of precious metals falling under heading 7113 or 7114 as the case may be] [Renumbered (na) as (naa) by Notification No. G.S.R. 608(E) dated 30.9.2006 (w.e.f. 10.9.2004)] of the First Schedule to the Excise Tariff Act, includes a person who is liable to pay duty of excise leviable on such goods under sub-rule (1) of rule 12AA of the Central Excise Rules, 2002;](o)"notification" means the notification published in the Official Gazette;(p)"output service" means [any taxable service, excluding the taxable service referred to in sub-clause (zzp) of clause (105) of section 65 of the Finance Act, provided by the provider of taxable service,] [Substituted for any taxable service provided by the provider of taxable service by the Notification No. 10/2008 C.E. (N.T.), dated 1st March, 2008)] to a customer, client, subscriber, policy holder or any other person, as the case may be, and the expressions 'provider' and 'provided' shall be construed accordingly;[* * * * * * *] [Explanation has been Omitted vide Notification No. 08/2006 - Central Excise (N.T.), dated 19/04/2006.]

Explanation.- For the removal of doubts it is hereby clarified that if a person liable for paying service tax does not provide any taxable service or does not manufacture final products, the service for which he is liable to pay service tax shall be deemed to be the output service.

(q)"person liable for paying service tax" has the meaning as assigned to it in clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994;(r)"provider of taxable service" include a person liable for paying service tax;(s)"second stage dealer" means a dealer who purchases the goods from a first stage dealer;(t)words and expressions used in these rules and not defined but defined in the Excise Act or the Finance Act shall have the meanings respectively assigned to them in those Acts.

3. CENVAT credit.

(1)A manufacturer or producer of final products or a provider of taxable service shall be allowed to take credit (hereinafter referred to as the CENVAT credit) of -(i)the duty of excise specified in the First Schedule to the Excise Tariff Act, leviable under the Excise Act;(ii)the duty of excise specified in the Second Schedule to the Excise Tariff Act, leviable under the Excise Act;(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);(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);(v)the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001);(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);(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);] [Substituted by Notification No. 27/2007-C.E. (N.T.), dated 12th May 2007 (w.e.f. 12th May 2007)](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);](viia)[the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 2007:[***] [Inserted by Notification No. 13/2007.C.E. (N.T.), dated 1st March 2005 (w.e.f. 1st March 2005]Provided that a provider of taxable service shall not be eligible to take credit of such additional duty;](viii)the additional duty of excise leviable under section 157 of the Finance Act, 2003 (32 of 2003);(ix)the service tax leviable under section 66 of the Finance Act; and(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),(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] [Inserted by Notification No. 27/2007-C.E.(N.T.), dated 12th May, 2007 (w.e.f. 12th May, 2007)](xi)[the additional duty of excise leviable under [section 85 of Finance Act, 2005 (18 of 2005).] [Inserted by Notification No. 13/2005-C.E.(N.T.), dated 1st March, 2005 (w.e.f. 1st March, 2005)]]Paid on -(i)any input or capital goods received in the factory of manufacture of final product or premises of the provider of output service on or after the 10th day of September, 2004; and(ii)any input service received by the manufacturer of final product or by the provider of output services on or after the 10th day of September, 2004,including the said duties, or tax, or cess paid on any input or input service, as the case may be, used in the manufacture of intermediate products, by a job-worker availing the benefit of exemption specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 214/86-Central Excise, dated the 25th March, 1986, published in the Gazette of India vide number G.S.R. 547 (E), dated the 25th March, 1986, and received by the manufacturer for use in, or in relation to, the manufacture of final product, on or after the 10th day of September, 2004.[Provided that the CENVAT credit shall be allowed to be taken of the amount equal to central excise duty paid on the capital goods at the time of de-bonding of the unit terms of the para 8 of the Notification No. 22/2003-Central, published in the Gazette of India, Part II Section 3, Sub-section (i), vide number G.S.R. 265(E), dated, the 31st March, 2003.] [Inserted by Notification No. 35/2008-C.E. (N.T.), dated 24th September, 2008, (w.e.f. 24th September, 2008).]Explanation. - For the removal of doubts it is clarified that the manufacturer of the final products and the provider of output service shall be allowed CENVAT credit of additional duty leviable under section 3 of the Customs Tariff Act on goods falling under heading 9801 of the First Schedule to the Customs Tariff Act.(1a)[A provider of output service shall be allowed to take CENVAT credit of the Krishi Kalyan Cess on taxable services leviable under section 161 of the Finance Act, 2016 (28 of 2016);] [Inserted by Notification No. G.S.R. 555(E), dated 26.5.2016 (w.e.f. 10.9.2004).](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:Provided further that the CENVAT credit of the duty, or service tax, paid on the inputs, or input services, used in the manufacture of final products cleared after availing of the exemption under the following notifications of Government of India in the Ministry of Finance (Department of Revenue),-Provided also that no credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, shall be utilized for payment of service tax on any output service:[Provided also that the CENVAT credit of any duty specified in sub-rule (1), except the National Calamity Contingent duty in item (v) thereof, shall not be utilized for payment of the said National Calamity Contingent duty on goods falling under tariff items 8517 12 10 and 8517 12 90 respectively of the First Schedule of the Central Excise Tariff:] [Inserted by Notification No. G.S.R. 143 (E) dated 1.3.2008 (w.e.f. 10.9.2004)][Provided also that the CENVAT credit of any duty specified in sub-rule (1) shall not be utilized for payment of the Clean Energy Cess leviable under Section 83 of the Finance Act, 2010 (14 of 2010):] [Inserted by Notification No. G.S.R. 565 (E) dated 29.6.2010 (w.e.f. 10.09.2004)]Provided also that the CENVAT credit of any duty mentioned in sub-rule (1), other than credit of additional duty of excise leviable under section 85 of Finance Act, 2005 (18 of 2005), shall not be utilized for payment of said additional duty of excise on final products:(i)No. 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated 8th July, 1999];(ii)No. 33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];(iii)No. 39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565 (E), dated the 31st July, 2001];(iv)No. 56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];(v)No. 57/2002-Central Excise, dated 14th November, 2002 [G.S.R., 765(E), dated the 14th November, 2002];(vi)No. 56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003]; and(vii)No. 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717 (E), dated the 9th September, 2003],shall, respectively, be utilized only for payment of duty on final products, in respect of which exemption under the said respective notifications is availed of.[Provided also that the CENVAT credit of any duty specified in sub-rule (1) shall not be utilized for payment of the Swachh Bharat Cess leviable under sub-section (2) of section 119 of the Finance Act, 2015 (20 of 2015).] [Inserted by Notification No. G.S.R. 142 (E), dated 3.2.2016 (w.e.f. 10.9.2004).](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:Amended vide Notification No. 10/2008 -Central Excise (N.T.), dated 01/03/2008)Provided further that such payment shall not be required to be made when any capital goods are removed outside the premises of the provider of output service for providing the output service and the capital goods are brought back to the premises within 180 days, or such extended period not exceeding 180 days as may be permitted by the jurisdictional Deputy Commissioner of Central Excise, or Assistant Commissioner of Central Excise, as the case may be, of their removal.[Provided also that if the capital goods, on which CENVAT Credit has been taken, are removed after being used, the manufacturer or provider of output service

shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by 2.5 per cent for each quarter of a year or part thereof from the date of taking the CENVAT Credit;] [Inserted by Notification No. G.S.R. 709 (E) dated 13.11.2007 (w.e.f. 10.9.2004).](5A)[(a) If the capital goods, on which CENVAT credit has been taken, are removed after being used, 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:-(i)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%

(ii)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.(b)If the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal to the duty leviable on transaction value.] [Substituted by Notification No. G.S.R. 663 (E) dated 27.9.2013 (w.e.f. 10.9.2004)](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 where any provision to write off fully 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 taxable 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.] [Substituted by Notification No. G.S.R. 481 (E) dated 7.7.2009 (w.e.f. 7.9.2004)][Explanation. - If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rules (5), (5A), and (5B), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken.] [Inserted by Notification No. G.S.R. 150 (E) dated 1.3.2013 (w.e.f. 10/09/2004)](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 [and the CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods] [Inserted by Notification No. GSR 579 (E) dated 7.9.2007 (w.e.f. 1.5.2006)] 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).[Explanation 1. [Inserted by Notification No. GSR 6 (E) dated 8.1.2014 (w.e.f. 1.5.2006)] - The amount payable under sub-rules (5), (5A), (5B) and (5C), 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, where such payment shall be made on or before the 31st day of the month of March.Explanation 2. - If the manufacturer of goods or the provider of output service fails to pay the amount payable under

sub-rules (5), (5A), (5B) and (5C), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken and utilized.](7)Notwithstanding anything contained in sub-rule (1) [sub-rule (1a)] [Inserted by Notification No. G.S.R. 555(E), dated 26.5.2016 (w.e.f. 10.9.2004).] and sub-rule (4),-(a)CENVAT credit in respect of inputs or capital goods produced or manufactured, by a hundred per cent. export-oriented undertaking or by a unit in an Electronic Hardware Technology Park or in a Software Technology Park other than a unit which pays excise duty levied under section 3 of the Excise Act read with serial numbers 3,5, 6 and 7 of notification No. 23/2003-Central Excise, dated the 31st March, 2003, [G.S.R. 266(E), dated the 31st March, 2003] and used in the manufacture of the final products or in providing an output service, in any other place in India, in case the unit pays excise duty under section 3 of the Excise Act read with serial number 2 of the notification No. 23/2003-Central Excise, dated the 31st March, 2003, [G.S.R. 266(E), dated the 31st March, 2003], shall be admissible equivalent to the amount calculated in the following manner, namely:- Fifty per cent. of [X multiplied by {(1+BCD/100) multiplied by (CVD/100)}], where BCD and CVD denote ad valorem rates, in per cent., of basic customs duty and additional duty of customs leviable on the inputs or the capital goods respectively and X denotes the assessable value.Provided that the CENVAT credit in respect of inputs and capital goods cleared on or after 1st March, 2006 from an export oriented undertaking or by a unit in Electronic Hardware Technology Park or in a Software Technology Park, as the case may be, on which such unit pays excise duty under section 3 of the Excise Act read with serial number 2 of the notification no. 23/2003-Central Excise dated 31st March, 2003 [G.S.R. 266(E), dated the 31st March, 2003] shall be equal to X multiplied by {(1+BCD/400) multiplied by (CVD/100)}.[Provided that the CENVAT credit in respect of inputs and capital goods cleared on or after 1st March, 2006 from an export oriented undertaking or by a unit in Electronic Hardware Technology Park or in a Software Technology Park, as the case may be, on which such unit pays excise duty under section 3 of the Excise Act read with serial number 2 of the notification no. 23/2003 - Central Excise dated 31st March, 2003 [G.S.R. 266(E), dated the 31st March, 2003] shall be equal to X multiplied by {(1+BCD/4000) multiplied by (CVD/100)}.] [Inserted by Notification No. G.S.R. 169 (E), dated 2.3.2006 (w.e.f. 10.9.2004)](b)CENVAT credit in respect of -(i)the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);(ii)the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001);(iii)the education cess on excisable goods leviable under section 91 read with section 93 of the Finance (No.2) Act, 2004 (23 of 2004);(iiia)[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);] [Substituted by Notification No. 27/2007-C.E.(N.T.), dated 12th May, 2007 (w.e.f. 12th May, 2007)](iv)the additional duty leviable under section 3 of the Customs Tariff Act, equivalent to the duty of excise specified under items (i), (ii) and (iii) above;(v)the additional duty of excise leviable under section 157 of the Finance Act, 2003 (32 of 2003);(vi)the education cess on taxable services leviable under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004);(via)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);(vii)the additional duty of excise leviable under section 85 of Finance Act, 2005 (18 of 2005),[shall be utilized towards payment of duty of excise or as the case may be, of service tax leviable under the said Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 or the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001), or the education cess on excisable goods leviable

under section 91 read with section 93 of the said Finance (No.2) Act, 2004 (23 of 2004), or 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) or the additional duty of excise leviable under section 157 of the Finance Act, 2003 (32 of 2003), or the education cess on taxable services leviable under section 91 read with section 95 of the said Finance (No.2) Act, 2004 (23 of 2004), or 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), or the additional duty of excise leviable under section 85 of the Finance Act, 2005 (18 of 2005) respectively, on any final products manufactured by the manufacturer or for payment of such duty on inputs themselves, if such inputs are removed as such or after being partially processed or on any output service.] [Substituted by Notification No. 27/2007-C.E.(N.T.), dated 12th May, 2007 (w.e.f. 12th May, 2007)][Provided that the credit of the education cess on excisable goods and the education cess on taxable services can be utilized, either for payment of the education cess on excisable goods or for the payment of the education cess on taxable services:Provided further that the credit of the Secondary and Higher Education Cess on excisable goods and the Secondary and Higher Education Cess on taxable services can be utilized, either for payment of the Secondary and Higher Education Cess on excisable goods or for the payment of the Secondary and Higher Education Cess on taxable services.] [Substituted by Notification No. 27/2007-C.E.(N.T.), dated 12th May, 2007 (w.e.f. 12th May, 2007)][Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on inputs or capital goods received in the factory of manufacture of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise leviable under the First Schedule to the Excise Tariff Act:Provided also that the credit of balance fifty per cent. Education Cess and Secondary and Higher Education Cess paid on capital goods received in the factory of manufacture of final product in the financial year 2014-15 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act:Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on input services received by the manufacturer of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act.] [Substituted by Notification No. G.S.R. 346(E), dated 30.4.2015 (10.9.2004)][Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on inputs or capital goods received in the premises of the provider of output service on or after the 1st day of June, 2015 can be utilized for payment of service tax on any output service:Provided also that the credit of balance fifty per cent. Education Cess and Secondary and Higher Education Cess paid on capital goods received in the premises of the provider of output service in the financial year 2014-15 can be utilized for payment of service tax on any output service:Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on input service in respect of which the invoice, bill, challan or Service Tax Certificate for Transportation of Goods by Rail (referred to in rule 9), as the case may be, is received by the provider of output service on or after the 1st day of June, 2015 can be utilized for payment of service tax on any output service.] [Inserted by Notification No. G.S.R. 818(E), dated 30.4.2015.]Explanation. - For the removal of doubts, it is hereby declared that the credit of the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) paid on or after the 1st day of April, 2000, may be utilized towards payment of duty of excise leviable under the First Schedule or the Second Schedule to the Excise Tariff Act;(c)the CENVAT credit, in respect of additional duty leviable under section 3

of the Customs Tariff Act, paid on marble slabs or tiles falling under [tariff items 2515 12 20 and 2515 12 90 respectively] [Substituted by Notification No. G.S.R. 100(E) dated 21.2.2007 (w.e.f. 10.9.2004).] of the First Schedule to the Excise Tariff Act shall be allowed to the extent of thirty rupees per square meter;(d)[Cenvat credit in respect of Krishi Kalyan Cess on taxable services leviable under section 161 of the Finance Act, 2016 (28 of 2016) shall be utilized only towards payment of Krishi Kalyan Cess on taxable services leviable under section 161 of the Finance Act, 2016 (28 of 2016).] [Inserted by Notification No. G.S.R. 555(E), dated 26.5.2016 (w.e.f. 10.9.2004).]Explanation. - Where the provisions of any other rule or notification provide for grant of whole or part exemption on condition of non-availability of credit of duty paid on any input or capital goods, or of service tax paid on input service, the provisions of such other rule or notification shall prevail over the provisions of these rules.

4. Conditions for allowing CENVAT credit.

(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:[or in premises of the job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be,] [Inserted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)]Provided that in respect of final products, namely, articles of [jewelery or other articles of precious metals falling under heading 7113 or 7114 as the case may be] [Substituted for the words "jewellery falling under heading 7113" by Notification No. G.S.R. 244(E) dated 24.3.2011 (w.e.f. 10.9.2004)] of the First Schedule to the Excise Tariff Act, the CENVAT credit of duty paid on inputs may be taken immediately on receipt of such inputs in the registered premises of the person who get such final products manufactured on his behalf, on job work basis, subject to the condition that the inputs are used in the manufacture of such final product by the job worker.(2)(a)The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service 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:Provided that the CENVAT credit in respect of capital goods shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year if such capital goods are cleared as such in the same financial year.Provided further that the CENVAT credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1931 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.] [Substituted by Notification No. G.S.R. 122 (E) dated 27.2.2010 (w.e.f. 10.9.2004)][Explanation. - For the removal of doubts, it is hereby clarified that-(i)[an assessee engaged in the manufacture of articles of jewelery or parts of articles of jewelery or both, falling under heading 7113 of the First Schedule of the Excise Tariff Act, 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 fifteen crore;](ii)an assessee, other than (a) above, 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] [Substituted by Notification No. G.S.R. 100(E) dated 21.2.2007 (w.e.f. 10.9.2004).] 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 subsequent years.(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)(i) The CENVAT credit on inputs shall be allowed even if any inputs as such or after being partially processed are sent to a job worker and from there subsequently sent to another job worker and likewise, for further processing, testing, repairing, 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 the provider of output service taking the CENVAT credit that the inputs or the products produced therefrom are received back by the manufacturer or the provider of output service, as the case may be, within one hundred and eighty days of their being sent from the factory or premises of the provider of output service, as the case may be:Provided that credit shall also be allowed even if any inputs are directly sent to a job worker without their being first brought to the premises of the manufacturer or the provider of output service, as the case may be, and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker;(ii)the CENVAT credit on capital goods shall be allowed even if any capital goods as such 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 the provider of output service taking the CENVAT credit that the capital goods are received back by the manufacturer or the provider of output service, as the case may be, within two years of their being so sent:Provided that credit shall be allowed even if any capital goods are directly sent to a job worker without their being first brought to the premises of the manufacturer or the provider of output service, as the case may be, and in such a case, the period of two years shall be counted from the date of receipt of the capital goods by the job worker;(iii)if the inputs or capital goods, as the case may be, are not received back within the time specified under sub-clause (i) or (ii), as the case may be, by the manufacturer or the provider of output service, the manufacturer or the provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods, as the case may be, by debiting the CENVAT credit or otherwise, but the manufacturer or the provider of output service may take the CENVAT credit again when the inputs or capital

goods, as the case may be, are received back in the factory or in the premises of the provider of output service.](b)[The CENVAT credit shall also be allowed to a manufacturer of final products in respect of jigs, fixtures, moulds and dies or tools falling under Chapter 82 of the First Schedule to the Excise Tariff Act, sent by such manufacturer 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:Provided that such credit shall also be allowed where jigs, fixtures, moulds and dies or tools falling under Chapter 82 of the First Schedule to the Excise Tariff Act, are sent by the manufacturer of final products to the premises of another manufacturer or job worker without bringing these to his own premises.] [Substituted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).](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 three financial years] [Substituted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).], 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.(In sub-rule (6), words "Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be," has been substituted vide Notification No. 27/2005-CE(N.T.), dated 16/05/2005)(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 respect of input service where whole or part of the service tax is liable to be paid by the recipient of service, credit of service tax payable by the service recipient shall be allowed after such service tax is paid: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, except an amount equal to the CENVAT credit of the tax that is paid by the manufacturer or the service provider as recipient of 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:] [Substituted by Notification No. G.S.R. 286 (E) dated 31.3.2011 (w.e.f. 10.9.2004)][Provided also that in respect of services provided or agreed to be provided by a person located in nontaxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India where service tax is paid by the manufacturer or the provider of output service being importer of goods as the person liable for paying service tax for the said taxable services, credit of service tax paid by the person liable for paying service tax shall be allowed after such service tax is paid:] [Inserted by Notification No. G.S.R. 372(E), dated 13.4.2017 (w.e.f. 10.9.2004).]Provided also that CENVAT credit in respect of an invoice, bill or, as the case may be, challan referred to in rule 9, issued before the Ist day of April,2011 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 also that unavailed Cenvat Credit in respect of services provided by the Government, local authority or any other person by way of assignment of the right

to use any natural resource on the day immediately preceding the appointed day may be availed of in full on that very day.] [Inserted by Notification No. 577(E), dated 12.6.2017. (w.e.f. 10.09.2004)]Explanation I. - The amount mentioned in this [rule] [Substituted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)], 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 [rule] [Substituted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)], 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".] [Substituted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)][Explanation IV. - "unavailed CENVAT credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of any service from the aggregate amount of CENVAT credit to which the recipient of such service was entitled to in respect of such service.Explanation V. - "appointed day" means the date on which the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017) shall come into force.] [Inserted by Notification No. G.S.R. 577(E), dated 12.6.2017. (w.e.f. 10.09.2004)]

5. Refund of CENVAT credit.

- Where any input or input service is used in the manufacture of final product which is cleared for export under bond or letter of undertaking, as the case may be, or used in the intermediate product cleared for export, or used in providing output service which is exported, the CENVAT credit in respect of the input or input service so used shall be allowed to be utilized by the manufacturer or provider of output service towards payment of,(i)duty of excise on any final product cleared for home consumption or for export on payment of duty; or(ii)service tax on output service, and where for any reason such adjustment is not possible, the manufacturer or the provider of output service shall be allowed refund of such amount subject to such safeguards, conditions and limitations, as may be specified, by the Central Government, by notification:Provided 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 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 Export of Service Rules, 2005 in respect of such tax.Provided further that no credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act shall be utilized for payment of service tax on any output service.Explanation. - For the purposes of this rule, the words 'output service which is exported' means the output service exported in accordance with the Export of Services Rules, 2005.

5A. [Refund of CENVAT credit to units in specified areas. [Inserted by Notification No. 24/2007-C.E.(N.T.), dated 25-4-2007, w.e.f. 25-4-2007]

- 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 utilise 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.] [Substituted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 1.3.2016).]

6. Obligation of manufacturer of dutiable and exempted goods and provider of taxable and exempted services.

- [(1) The CENVAT credit shall not be allowed on such quantity of input as is used in or in relation to the manufacture of exempted goods or for provision of exempted services or input service as is used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services and the credit not allowed shall be calculated and paid by the manufacturer or the provider of output service, in terms of the provisions of sub-rule (2) or sub-rule (3), as the case may be :Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.Explanation 1. - For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory.Explanation 2. - Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made there under.Explanation 3. For the purposes of this rule, exempted services as defined in clause (e) of rule 2 shall include an activity, which is not a service' as defined in section 65B(44) of the Finance Act, 1994.Explanation 4. Value of such an activity as specified above in Explanation 3, shall be the invoice/agreement/contract value and where such value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Finance Act, 1994 and the rules made thereunder.(2)A manufacturer who exclusively manufactures exempted goods for their clearance upto the place of removal or a service provider who exclusively provides exempted services shall pay the whole amount of credit of input and input services and shall, in effect, not be eligible for credit of any inputs and input services.(3)(a)A manufacturer who manufactures two classes of goods, namely :-(i)non-exempted goods removed;(ii)exempted goods removed;or(b)a provider of output service who provides two classes of services, namely:-(i)non-exempted services;(ii)exempted services,shall follow any one of the following options applicable to him, namely :-(i)[pay an amount equal to six per cent. of value of the

exempted goods and seven per cent. of value of the exempted services subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period; or](ii)pay an amount as determined under sub-rule (3A):Provided that if any duty of excise is paid on the exempted goods, the same shall be reduced from the amount payable under clause (i) :Provided further that if any part of the value of a taxable service has been exempted on the condition that no CENVAT credit of inputs and input services, used for providing such taxable service, shall be taken then the amount specified in clause (i) shall be seven per cent. of the value so exempted :Provided also that in case of transportation of goods or passengers by rail, the amount required to be paid under clause (i) shall be an amount equal to two per cent. of value of the exempted services.Explanation 1. - If the manufacturer of goods or the provider of output service, avails any of the option under this sub-rule, he shall exercise such option for all exempted goods manufactured by him or, as the case may be, all exempted services provided by him, and such option shall not be withdrawn during the remaining part of the financial year.Explanation 2. - No CENVAT credit shall be taken on the duty or tax paid on any goods and services that are not inputs or input services.Explanation 3. - For the purposes of this sub-rule and sub-rule(3A),-(a)"non-exempted goods removed" means the final products excluding exempted goods manufactured and cleared upto the place of removal;(b)"exempted goods removed" means the exempted goods manufactured and cleared upto the place of removal;(c)"non-exempted services" means the output services excluding exempted services.(3A)For determination of amount required to be paid under clause (ii) of sub-rule (3), the manufacturer of goods or the provider of output service shall follow the following procedure and conditions, namely :-(a)the manufacturer of goods or the provider of output service shall intimate in writing to the Superintendent of Central Excise giving the following particulars, namely :-(i)name, address and registration number of the manufacturer of goods or provider of output service;(ii)date from which the option under this clause is exercised or proposed to be exercised;(iii)description of inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services and description of such exempted goods removed and such exempted services provided;(iv)description of inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of non-exempted services and description of such non-exempted goods removed and non-exempted services provided ;(v)CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition;(b)the manufacturer of final products or the provider of output service shall determine the credit required to be paid, out of this total credit of inputs and input services taken during the month, denoted as T, in the following sequential steps and provisionally pay every month, the amounts determined under sub-clauses (i) and (iv), namely:-(i)the amount of CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services shall be called ineligible credit, denoted as A, and shall be paid;(ii)the amount of CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of non-exempted services shall be called eligible credit, denoted as B, and shall not be required to be paid;(iii)credit left after attribution of credit under sub-clauses (i) and (ii) shall be called common credit, denoted as C and calculated as,-C = T (A + B);Explanation. - Where the entire credit has been attributed under sub-clauses (i) and (ii), namely ineligible credit or eligible credit, there shall be left no common

credit for further attribution.(iv)the amount of common credit attributable towards exempted goods removed or for provision of exempted services shall be called ineligible common credit, denoted as D and calculated as follows and shall be paid, -D = (E/F) x C;where E is the sum total of (a)value of exempted services provided; and(b)value of exempted goods removed,during the preceding financial year;where F is the sum total of-(a)value of non-exempted services provided,(b)value of exempted services provided,(c)value of non-exempted goods removed, and(d)value of exempted goods removed,during the preceding financial year:Provided that where no final products were manufactured or no output service was provided in the preceding financial year, the CENVAT credit attributable to ineligible common credit shall be deemed to be fifty per cent. of the common credit;(v)remainder of the common credit shall be called eligible common credit and denoted as G, where,-G = C - D;Explanation. - For the removal of doubts, it is hereby declared that out of the total credit T, which is sum total of A, B, D, and G, the manufacturer or the provider of the output service shall be able to attribute provisionally and retain credit of B and G, namely, eligible credit and eligible common credit and shall provisionally pay the amount of credit of A and D, namely, ineligible credit and ineligible common credit.(vi)where manufacturer or the provider of the output service fails to pay the amount determined under sub-clause (i) or sub-clause (iv), he shall be liable to pay the interest from the due date of payment till the date of payment of such amount, at the rate of fifteen per cent. per annum;(c)the manufacturer or the provider of output service shall determine the amount of CENVAT credit attributable to exempted goods removed and provision of exempted services for the whole of financial year, out of the total credit denoted as T (Annual) taken during the whole of financial year in the following manner, namely :-(i)the CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services on the basis of inputs and input services actually so used during the financial year, shall be called Annual ineligible credit and denoted as A(Annual);(ii)the CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of non-exempted services on the basis of inputs and input services actually so used shall be called Annual eligible credit and denoted as B(Annual);(iii)common credit left for further attribution shall be denoted as C(Annual) and calculated as, -C(Annual) = T(Annual) [A(Annual) + B(Annual)];(iv)common credit attributable towards exempted goods removed or for provision of exempted services shall be called Annual ineligible common credit, denoted by D(Annual) and shall be calculated as, -D(Annual) = (H/I) x C(Annual);where H is sum total of-(a)value of exempted services provided; and(b)value of exempted goods removed;during the financial year ;where I is sum total of -(a)value of non-exempted services provided,(b)value of exempted services provided,(c)value of non-exempted goods removed; and(d)value of exempted goods removed;during the financial year;(d)the manufacturer or the provider of output service shall pay on or before the 30th June of the succeeding financial year, an amount equal to difference between the total of the amount of Annual ineligible credit and Annual ineligible common credit and the aggregate amount of ineligible credit and ineligible common credit for the period of whole year, namely, [{A(Annual) + D(Annual)} {(A+D) aggregated for the whole year)}], where the former of the two amounts is greater than the later;(e)where the amount under clause (d) is not paid by the 30th June of the succeeding financial year, the manufacturer of goods or the provider of output service, shall, in addition to the amount of credit so paid under clause (d), be liable to pay on such amount an interest at the rate of fifteen per cent. per annum, from the 30th June of the succeeding financial year till the date of payment of such

amount;(f)the manufacturer or the provider of output service, shall at the end of the financial year, take credit of amount equal to difference between the total of the amount of the aggregate of ineligible credit and ineligible common credit paid during the whole year and the total of the amount of annual ineligible credit and annual ineligible common credit, namely, [{(A+D) aggregated for the whole year)} {A(Annual) + D(Annual)}], where the former of the two amounts is greater than the later;(g)the manufacturer of the goods or the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of payment or adjustment, as per the provisions of clauses (d), (e) and (f) , the following particulars, namely :-(i)details of credit attributed towards eligible credit, ineligible credit, eligible common credit and ineligible common credit, month-wise, for the whole financial year, determined as per the provisions of clause (b);(ii)CENVAT credit annually attributed to eligible credit, ineligible credit, eligible common credit and ineligible common credit for the whole of financial year, determined as per the provisions of clause (c);(iii)amount determined and paid as per the provisions of clause (d), if any, with the date of payment of the amount;(iv)interest payable and paid, if any, determined as per the provisions of clause (e); and(v)credit determined and taken as per the provisions of clause (f), if any, with the date of taking the credit.]Substituted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).[Substituted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).]

(1) The CENVAT credit shall not be allowed on such quantity of input or input service which is used in the manufacture of[exempted goods or for provision of] [Inserted by Notification No. 10/2008-C.E.(N.T.), dated 1-3-2008, w.e.f. 1-4-2008.]exempted services, except in the circumstances mentioned in sub-rule (2).[Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.] [Inserted by Notification No. 13/2005-C.E. (N.T.), dated 1-3-2005, w.e.f. 1-3-2005.][Explanation 1. For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory.Explanation 2. Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made thereunder.] [Substituted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)](2) Where a manufacturer or provider of output service avails of CENVAT credit in respect of any inputs or input services,[***] [World 'expext inputs intendend to be used as fuel, omitted by Notification No. 27/2005-C.E.(N.T.), dated 16th May, 2005 (w.e.f. 16th May, 2005)]and manufactures such final products or provides such output service which are chargeable to duty or tax as well as exempted goods or services, then, the manufacturer or provider of output service shall maintain separate accounts for receipt, consumption and inventory of input and input service meant for use in the manufacture of dutiable final products or in providing output service and the quantity of input meant for use in the manufacture of exempted goods or services and take CENVAT credit only on that quantity of input or input service which is intended for use in the manufacture of dutiable goods or in providing output service on which service tax is payable.(3) [Notwithstanding anything contained in sub-rules (1) and (2), the manufacturer of goods or the provider of output service, opting not to maintain separate accounts, shall follow either of the

following options, as applicable to him, namely:-] [Subsitituted by Notification No. 10/2008-C.E.(n.T.), dated 1st March, 2008](i) the manufacturer of goods shall pay an amount equal to five per cent. of value of the exempted goods and[seven per cent, of value of the] [Subsitituted by Notification No. 16/2009-C.E.(N.T.), dated 7th July, 2009, w.e.f. 7th July 2009]the provider of output service shall pay an amount equal to six per cent. of value of the exempted services; or](ii) [the manufacturer of goods or the provider of output service shall pay an amount equivalent to the CENVAT credit attributable to inputs and input services used in, or in relation to, the manufacture of exempted goods or for provision of exempted services subject to the conditions and procedure specified in sub-rule (3A). [Substituted by Notification No. G.S.R. 143 (E) dated 1.3.2008 (w.e.f. 10.9.2004)]Explanation I.- If the manufacturer of goods or the provider of output service, avails any of the option under this sub-rule, he shall exercise such option for all exempted goods manufactured by him or, as the case may be, all exempted services provided by him, and such option shall not be withdrawn during the remaining part of the financial year.Explanation II.- For removal of doubt, it is hereby clarified that the credit shall not be allowed on inputs and input services used exclusively for the manufacture of exempted goods or provision of exempted service.(3A) For determination and payment of amount payable under clause (ii) of sub-rule (3), the manufacturer of goods or the provider of output service shall follow the following procedure and conditions, namely:-(a) while exercising this option, the manufacturer of goods or the provider of output service shall intimate in writing to the Superintendent of Central Excise giving the following particulars, namely:-(i) name, address and registration No. of the manufacturer of goods or provider of output service;(ii) date from which the option under this clause is exercised or proposed to be exercised;(iii) description of dutiable goods or taxable services;(iv) description of exempted goods or exempted services;(v) CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition;(b) the manufacturer of goods or the provider of output service shall, determine and pay, provisionally, for every month,-(i) the amount equivalent to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, denoted as A;(ii) the amount of CENVAT credit attributable to inputs used for provision of exempted services (provisional) = (B/C) multiplied by D, where B denotes the total value of exempted services provided during the preceding financial year, C denotes the total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during the preceding financial year and D denotes total CENVAT credit taken on inputs during the month minus A;(iii) the amount attributable to input services used in or in relation to manufacture of exempted goods or provision of exempted services (provisional) = (E/F) multiplied by G, where E denotes total value of exempted services provided plus the total value of exempted goods manufactured and removed during the preceding financial year, F denotes total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the preceding financial year, and G denotes total CENVAT credit taken on input services during the month;(c) the manufacturer of goods or the provider of output service, shall determine finally the amount of CENVAT credit attributable to exempted goods and exempted services for the whole financial year in the following manner, namely:-(i) the amount of CENVAT 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, denoted as H;(ii) the amount of CENVAT credit attributable to inputs used for provision of exempted services = (J/K) multiplied by L, where J denotes the total

value of exempted services provided during the financial year, K denotes the total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during the financial year and L denotes total CENVAT credit taken on inputs during the financial year minus H;(iii) the amount attributable to input services used in or in relation to manufacture of exempted goods or provision of exempted services = (M/N) multiplied by P, where L denotes total value of exempted services provided plus the total value of exempted goods manufactured and removed during the financial year, M denotes total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the financial year, and N denotes total CENVAT credit taken on input services during the financial year;(d) the manufacturer of goods or the provider of output service, shall pay an amount equal to the difference between the aggregate amount determined as per condition (c) and the aggregate amount determined and paid as per condition (b), on or before the 30th June of the succeeding financial year, where the amount determined as per condition (c) is more than the amount paid;(e) the manufacturer of goods or the provider of output service, shall, in addition to the amount short-paid, be liable to pay interest at the rate of twenty-four per cent. per annum from the due date, i.e., 30th June till the date of payment, where the amount short-paid is not paid within the said due date;(f) where the amount determined as per condition (c) is less than the amount determined and paid as per condition (b), the said manufacturer of goods or the provider of output service may adjust the excess amount on his own, by taking credit of such amount;(g) the manufacturer of goods or the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of payment or adjustment, as per condition (d) and (f) respectively, the following particulars, namely:-(i) details of CENVAT credit attributable to exempted goods and exempted services, month-wise, for the whole financial year, determined provisionally as per condition (b),(ii) CENVAT credit attributable to exempted goods and exempted services for the whole financial year, determined as per condition (c),(iii) amount short paid determined as per condition (d), along with the date of payment of the amount short-paid,(iv) interest payable and paid, if any, on the amount short-paid, determined as per condition (e), and(v) credit taken on account of excess payment, if any, determined as per condition (f);(h) where the amount equivalent to CENVAT credit attributable to exempted goods or exempted services cannot be determined provisionally, as prescribed in condition (b), due to reasons that no dutiable goods were manufactured and no taxable service was provided in the preceding financial year, then the manufacturer of goods or the provider of output service is not required to determine and pay such amount provisionally for each month, but shall determine the CENVAT credit attributable to exempted goods or exempted services for the whole year as prescribed in condition (c) and pay the amount so calculated on or before 30th June of the succeeding financial year.(i) where the amount determined under condition (h) is not paid within the said due date, i.e., the 30th June, the manufacturer of goods or the provider of output service shall, in addition to the said amount, be liable to pay interest at the rate of twenty four per cent. per annum from the due date till the date of payment.Explanation I.- "Value" for the purpose of sub-rules (3) and (3A) shall have the same meaning assigned to it under section 67 of the Finance Act, 1994 read with rules made thereunder or, as the case may be, the value determined under section 4 or 4A of the Central Excise Act, 1944 read with rules made thereunder.Explanation II.- The amount mentioned in sub-rules (3) and (3A), 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 III.- If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rule (3) or as the case may be sub-rule (3A), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken.]

(3AA)[Where a manufacturer or a provider of output service has failed to exercise the option under sub-rule (3) and follow the procedure provided under sub-rule (3A), the Central Excise Officer competent to adjudicate a case based on amount of CENVAT credit involved, may allow such manufacturer or provider of output service to follow the procedure and pay the amount referred to in clause (ii) of sub-rule (3), calculated for each of the months, mutatis mutandis in terms of clause (c) of sub-rule (3A), with interest calculated at the rate of fifteen per cent. per annum from the due date for payment of amount for each of the month, till the date of payment thereof.(3AB)Assessee who has opted to pay an amount under clause (ii) or clause (iii) of sub-rule (3) in the financial year 2015-16, shall pay the amount along with interest or take credit for the said financial year in terms of clauses (c), (d), (e), (f), (g), (h) or (i) of sub-rule (3A), as they prevail on the day of publication of this notification and for this purpose these provisions shall be deemed to be in existence till the 30th June, 2016.] [Inserted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).](4)[No CENVAT credit shall be allowed on capital goods used exclusively in the manufacture of exempted goods or in providing exempted services for a period of two years from the date of commencement of the commercial production or provision of services, as the case may be, other than the final products or output services which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made or services provided in a financial year:Provided that where capital goods are received after the date of commencement of commercial production or provision of services, as the case may be, the period of two years shall be computed from the date of installation of such capital goods.] [Substituted by Notification No. G.S.R. 244, dated 1.3.2016 (w.e.f. 10.9.2004).](5)Notwithstanding anything contained in sub-rules (1), (2) and (3), credit of the whole of service tax paid on taxable service as specified in sub-clause (g), (p), (q), (r), (v), (w), (za), (zm), (zp), (zy), (zzd), (zzg), (zzh), (zzi), (zzk), (zzq) and (zzr) of clause (105) of section 65 of the Finance Act shall be allowed unless such service is used exclusively in or in relation to the manufacture of exempted goods or providing exempted services.(6)The provisions of sub-rules (1), (2), (3) and (4) shall not be applicable in case the excisable goods removed without payment of duty are either-(i)[cleared to a unit in a special economic zone or to a developer of a special economic zone for their authorized operations; or] [Subsitituted by Notification No. 50/2008-C.E.(N.T.) dated 31st December, 2008 (w.e.f. 31st December, 2008)](ii)cleared to a hundred per cent. export-oriented undertaking; or(iii)cleared to a unit in an Electronic Hardware Technology Park or Software Technology Park; or(iv)supplied to the United Nations or an international organization for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No.108/95-Central Excise, dated the 28th August, 1995, number G. S R. 602 (E), dated the 28th August, 1995; or(iva)[supplied for the use of foreign diplomatic missions or consular missions or career consular offices or diplomatic agents in terms of the provisions of Notification No. 6/2006-Central Excise, dated the 1st March, 2006, number G.S.R. 96(E), dated the 1st March, 2006; or] [Inserted by Notification No. G.S.R. 575 (E) dated 1.7.2010 (w.e.f. 10.09.2004)](v)cleared for export under bond in terms of the provisions of the Central Excise

Rules, 2002; or(vi)gold or silver falling within Chapter 71 of the said First Schedule, arising in the course of manufacture of copper or zinc by smelting [;or] [Inserted by Notification No. 3/2005 C.E. (N.T.), dated 28th December, 2005 (w.e.f. 28th December 2005.](vii)[all goods which are exempt from the duties of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty leviable under sub-section (1) of section 3 of the said Customs Tariff Act when imported into India and, are supplied,- [Substituted by Notification No. G.S.R. 122 (E) dated 27.2.2010 (w.e.f. 10.9.2004)](a)against International Competitive Bidding; or(b)to a power project from which power supply has been tied up through tariff based, competitive bidding; or(c)to a power project awarded to a developer through tariff based competitive bidding,in terms of notification No. 6/2006 - Central Excise, dated the 1st March, 2006.]

7. Manner of distribution of credit by input service distributor.

- The input service distributor may distribute the CENVAT credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following condition, namely:-(a)the credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon; or(b)credit of service tax attributable to service use in a unit exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed.

7A. [Distribution of credit on inputs by the office or any other premises of output service provider. [Inserted by Notification No. 10/2008 - C.E. (N.T.) 1st March, 2008, (w.e.f. 1st April, 2008).]

(1)A provider of output service shall be allowed to take credit on inputs and capital goods received, on the basis of an invoice or a bill or a challan issued by an office or premises of the said provider of output service, which receives invoices, issued in terms of the provisions of the Central Excise Rules, 2002, towards the purchase of inputs and capital goods.(2)The provisions of these rules or any other rules made under the Central Excise Act, 1944, as made applicable to a first stage dealer or a second stage dealer, shall mutatis mutandis apply to such office or premises of the provider of output service.]

8. Storage of input outside the factory of the manufacturer.

- The Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of a manufacturer of the final products may, in exceptional circumstances having regard to the nature of the goods and shortage of storage space at the premises of such manufacturer, by an order, permit such manufacturer to store the input in respect of which CENVAT credit has been taken, outside such factory, subject to such limitations and conditions as he may specify:Provided that where such input is not used in the manner specified in these rules for any reason whatsoever, the manufacturer of the final products shall pay an amount equal to the credit availed in respect of such input.

9. Documents and accounts.

(1)The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely :-(a)an invoice issued by-(i)a manufacturer for clearance of -(i)inputs or capital goods from his factory or depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer;(ii)inputs or capital goods as such;(ii)an importer;(iii)an importer from his depot or from the premises of the consignment agent of the said importer if the said depot or the premises, as the case may be, is registered in terms of the provisions of Central Excise Rules, 2002;(iv)a first stage dealer or a second stage dealer, as the case may be, in terms of the provisions of Central Excise Rules, 2002; or(b)a supplementary invoice, issued by a manufacturer or importer of inputs or capital goods in terms of the provisions of Central Excise Rules, 2002 from his factory or depot or from the premises of the consignment agent of the said manufacturer or importer or from any other premises from where the goods are sold by, or on behalf of, the said manufacturer or importer, in case additional amount of excise duties or additional duty leviable under section 3 of the Customs Tariff Act, has been paid, except where the additional amount of duty became recoverable from the manufacturer or importer of inputs or capital goods on account of any non-levy or short-levy by reason of fraud, collusion or any willful misstatement or suppression of facts or contravention of any provisions of the Excise Act, or of the Customs Act, 1962 (52 of 1962) or the rules made there under with intent to evade payment of duty.Explanation. - For removal of doubts, it is clarified that supplementary invoice shall also include challan or any other similar document evidencing payment of additional amount of additional duty leviable under section 3 of the Customs Tariff Act; or(c)a bill of entry; or(d)a certificate issued by an appraiser of customs in respect of goods imported through a Foreign Post Office [or, as the case may be, and Authorized Courier, registered with the Principal Commissioner of Customs or the Commissioner of Customs in-charge of the customs airport] [Inserted by Notification No. G.S.R. 1028(E), dated 31.12.2015 (w.e.f. 10.9.2004).]; or(e)a challan evidencing payment of service tax by the person liable to pay service tax under sub-clauses (iii), [(iv), [(v) and (vii)]] [Substituted, for 'and (iv)' by Notification No. 28/2005 C.E. (N.T.), dated 7th June, 2005, (w.e.f. 16th June, 2005] of clause (d) of sub-rule (1) of rule (2) of the Service Tax Rules, 1994; or(ea)[a challan evidencing payment of service tax by the manufacturer or the provider of output service being importer of goods as the person liable for paying service tax for the services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India; or] [Inserted by Notification No. G.S.R. 372(E), dated 13.4.2017 (w.e.f. 10.9.2004).](f)an invoice, a bill or challan issued by a provider of input service on or after the 10th day of, September, 2004; or(g)an invoice, bill or challan issued by an input service distributor under rule 4A of the Service Tax Rules, 1994.[Provided that the credit of additional duty of customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) shall not be allowed if the invoice or the supplementary invoice, as the case may be, bears an indication to the effect that no credit of the said additional duty shall be admissible;] [Inserted by Notification No. 35/2007- C.E.(N.T.), dated 14th September, 2007 (w.e.f. 14th September, 2007)](2)[No CENVAT credit under sub-rule(1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994, as the case may be, are contained in the said

document:Provided that if the said document does not contain all the particulars but contains the details of duty or service tax payable, description of the goods or taxable service, assessable value, Central Excise or Service tax Registration number of the person issuing the invoice, as the case may be, name and address of the factory or warehouse or premises of first or second stage dealers or provider of taxable service, and the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, is satisfied that the goods or services covered by the said document have been received and accounted for in the books of the account of the receiver, he may allow the CENVAT credit;] [Substituted, by Notification No. 10/2007 - C.E.(N.T.), dated 1st March, 2007 (w.e.f. 1st March, 2007)][* * *] [Omitted "The manufacturer or producer of excisable goods or provider of output service taking CENVAT credit on input or capital goods or input service, or the input service distributor distributing CENVAT credit on input service shall take all reasonable steps to ensure that the input or capital goods or input service in respect of which he has taken the CENVAT credit are goods or services on which the appropriate duty of excise or service tax as indicated in the documents accompanying the goods or relating to input service, has been paid" by Notification No. G.S.R. 150 (E), dated 1.3.2007 (w.e.f. 10.9.2004).]Explanation. - The manufacturer or producer of excisable goods or provider of output service taking CENVAT credit on input or capital goods or input service or the input service distributor distributing CENVAT credit on input service on the basis of, invoice, bill or, as the case may be, challan received by him for distribution of input service credit shall be deemed to have taken reasonable steps if he satisfies himself about the identity and address of the manufacturer or supplier or provider of input service, as the case may be, issuing the documents specified in sub-rule (1), evidencing the payment of excise duty or the additional duty of customs or service tax, as the case may be, either-(a)from his personal knowledge; or(b)on the basis of a certificate given by a person with whose handwriting or signature he is familiar; or(c)on the basis of a certificate issued to the manufacturer or the supplier or, as the case may be, the provider of input service by the Superintendent of Central Excise within whose jurisdiction such manufacturer has his factory or such supplier or provider of output service has his place of business or where the provider of input service has paid the service tax,and where the identity and address of the manufacturer or the supplier or the provider of input service is satisfied on the basis of a certificate, the manufacturer or producer or provider of output service taking the CENVAT credit or input service distributor distributing CENVAT credit shall retain such certificate for production before the Central Excise Officer on demand.(4)The CENVAT credit in respect of input or capital goods purchased from a first stage dealer or second stage dealer shall be allowed only if such first stage dealer or second stage dealer, as the case may be, has maintained records indicating the fact that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods and only an amount of such duty on pro rata basis has been indicated in the invoice issued by him.[Provided that provisions of this sub-rule shall apply mutatis mutandis to an importer who issues an invoice on which CENVAT credit can be taken.] [Inserted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)](5)The manufacturer of final products or the provider of output service shall maintain proper records for the receipt, disposal, consumption and inventory of the input and capital goods in which the relevant information regarding the value, duty paid, CENVAT credit taken and utilized, the person from whom the input or capital goods have been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.(6)The manufacturer of final products or the provider of output

service shall maintain proper records for the receipt and consumption of the input services in which the relevant information regarding the value, tax paid, CENVAT credit taken and utilized, the person from whom the input service has been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.(7)The manufacturer of final products shall submit within ten days from the close of each month to the Superintendent of Central Excise, a monthly return in the form specified, by notification, by the Board:Provided that where a manufacturer is availing exemption under a notification based on the value or quantity of clearances in a financial year, he shall file a quarterly return in the form specified, by notification, by the Board within twenty days after the close of the quarter to which the return relates.(8)A first stage dealer or a second stage dealer [or a registered importer] [Inserted by Notification No. GSR 135 (E) dated 28.2.2014], as the case may be, shall submit within fifteen days from the close of each quarter of a year to the Superintendent of Central Excise, a return in the form specified, by notification, by the Board.[Provided that the first stage dealer or second stage dealer, as the case may be, shall submit the said return electronically.] [Substituted by Notification No. G.S.R. 416 (E) dated 18.5.2010 (w.e.f. 10.9.2004)](9)The provider of output service availing CENVAT credit, shall submit a half yearly return in form specified, by notification, by the Board to the Superintendent of Central Excise, by the end of the month following the particular quarter or half year.(10)[The input service distributor, shall furnish a half yearly return in such form as may be specified, by notification, by the Board, giving the details of credit received and distributed during the said half year to the jurisdictional Superintendent of Central Excise, not later than the last day of the month following the half year period.] [Substituted, by Notification No. 28/2005 C.E. (N.T.), dated 7th June, 2005 (w.e.f. 16th June, 2005)](11)[The provider of output service, availing CENVAT credit referred to in sub-rule (9) or the input service distributor referred to in sub-rule (10), as the case may be, may submit a revised return to correct a mistake or omission within a period of sixty days from the date of submission of the return under sub-rule (9) or sub-rule (10), as the case may be.] [Inserted by Notification No. 10/2007 - C.E.(N.T.), dated 1st March, 2007 (w.e.f. 1st March, 2007)]

9A. [Information relating to principal inputs. [Inserted by Notification No. 38/2004 - C.E.(N.T.), dated 25th November, 2004)]

(1)A manufacturer of final products shall furnish to the Superintendent of Central Excise, annually by 30th April of each Financial Year, a declaration in the Form specified, by a notification, by the Board, in respect of each of the excisable goods manufactured or to be manufactured by him, the principal inputs and the quantity of such principal inputs required for use in the manufacture of unit quantity of such final products:Provided that for the year 2004-05, such information shall be furnished latest by 31st December, 2004.[Provided further that where a manufacturer of final products has paid total duty of rupees ten lakh or more including the amount of duty paid by utilization of CENVAT credit in the preceding financial year, he shall file such declaration electronically.](2)If a manufacturer of final products intends to make any alteration in the information so furnished under sub-rule (1), he shall furnish information to the Superintendent of Central Excise together with the reasons for such alteration before the proposed change or within 15 days of such change in the Form specified by the Board under sub-rule (1).(3)A manufacturer of final products shall submit, within ten days from the close of each month, to the Superintendent of

Central Excise, a monthly return in the Form specified, by a notification, by the Board, in respect of information regarding the receipt and consumption of each principal inputs with reference to the quantity of final products manufactured by him.[Provided that where a manufacturer of final products has paid total duty of rupees ten lakh or more including the amount of duty paid by utilization of CENVAT credit in the preceding financial year, he shall file the said monthly return electronically.] [Substituted by Notification No. G.S.R. 416 (E) dated 18.5.2010 (w.e.f. 10.9.2004)](4)The Central Government may, by notification and subject to such conditions or limitations, as may be specified in such notification, specify manufacturers or class of manufacturers who may not be required to furnish declaration mentioned in sub-rule (1) or monthly return mentioned in sub-rule (3).Explanation. - For the purposes of this rule, "principal inputs", means any input which is used in the manufacture of final products where the cost of such input constitutes not less than 10% of the total cost of raw-materials for the manufacture of unit quantity of a given final products.]

10. Transfer of CENVAT credit.

(1)If a manufacturer of the final products shifts his factory to another site or the factory is transferred on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the factory to a joint venture with the specific provision for transfer of liabilities of such factory, then, the manufacturer shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated factory.(2)If a provider of output service shifts or transfers his business on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the business to a joint venture with the specific provision for transfer of liabilities of such business, then, the provider of output service shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated business.(3)The transfer of the CENVAT credit under sub-rules (1) and (2) shall be allowed only if the stock of inputs as such or in process, or the capital goods is also transferred along with the factory or business premises to the new site or ownership and the inputs, or capital goods, on which credit has been availed of are duly accounted for to the satisfaction of the Deputy Commissioner of Central Excise or, as the case may be, the Assistant Commissioner of Central Excise.(4)[Subject to the provisions contained in sub-rule (3), the transfer of the CENVAT Credit shall be allowed within a period of three months from the date of receipt of application by the Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be:Provided that the period specified in this sub-rule may, on sufficient cause being shown and reasons to be recorded in writing, be extended by the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, for a further period not exceeding six months.] [Inserted by Notification No. G.S.R. 98(E), dated 2.2.2017 (w.e.f. 10.9.2004).]

11. Transitional provision.

(1)Any amount of credit earned by a manufacturer under the CENVAT Credit Rules, 2002, as they existed prior to the 10th day of September, 2004 or by a provider of output service under the Service Tax Credit Rules, 2002, as they existed prior to the 10th day of September, 2004, and remaining unutilized on that day shall be allowed as CENVAT credit to such manufacturer or provider of

output service under these rules, and be allowed to be utilized in accordance with these rules.(2)A manufacturer who opts for exemption from the whole of the duty of excise leviable on goods manufactured by him under a notification based on the value or quantity of clearances in a financial year, and who has been taking CENVAT credit on inputs or input services before such option is exercised, shall be required to pay an amount equivalent to the CENVAT credit, if any, allowed to him in respect of inputs lying in stock or in process or contained in final products lying in stock on the date when such option is exercised and after deducting the said amount from the balance, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any excisable goods, whether cleared for home consumption or for export.(3)[A manufacturer or producer of a final product shall be required to pay an amount equivalent to the CENVAT credit, if any, taken by him in respect of inputs received for use in the manufacture of the said final product and is lying in stock or in process or is contained in the final product lying in stock, if,-(i)he opts for exemption from whole of the duty of excise leviable on the said final product manufactured or produced by him under a notification issued under section 5A of the Act; or(ii)the said final product has been exempted absolutely under section 5A of the Act, and after deducting the said amount from the balance of CENVAT credit, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any other final product whether cleared for home consumption or for export, or for payment of service tax on any output service, whether provided in India or exported.(4)A provider of output service shall be required to pay an amount equivalent to the CENVAT credit, if any, taken by him in respect of inputs received for providing the said service and is lying in stock or is contained in the taxable service pending to be provided, when he opts for exemption from payment of whole of the service tax leviable on such taxable service under a notification issued under section 93 of the Finance Act, 1994(32 of 1994) and after deducting the said amount from the balance of CENVAT credit, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any excisable goods, whether cleared for home consumption or for export or for payment of service tax on any other output service, whether provided in India or exported.] [Inserted by Notification No. 10/2007 - C.E.(N.T.), dated 1st March, 2007 (w.e.f. 1st March, 2007)]

12. Special dispensation in respect of inputs manufactured in factories located in specified areas of North East region, Kutch district of Gujarat, State of Jammu and Kashmir and State of Sikkim.

- Notwithstanding anything contained in these rules, where a manufacturer has cleared any inputs or capital goods, in terms of notifications of the Government of India in the Ministry of Finance (Department of Revenue) No. 32/99- Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated the 8th July, 1999] or No. 33/99- Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated the 8th July, 1999] or No. 39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565(E), dated the 31st July, 2001] or notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) No.56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated 14th November, 2002]or No.57/2002-Central Excise, dated the 14th November, 2002 [GSR 765(E), dated the 14th November, 2002] or notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 56/2003-Central Excise, dated the

25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003] or 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R.717 (E), dated the 9th September, 2003, or No.20/2007-Central Excise, dated the 25th April, 2007 [GSR 307 (E), dated the 25th April, 2007] [Inserted by Notification No. 32/2007 - C.E.(N.T-), dated 3rd August, 2007 (w.e.f. 3rd August, 2007)] the CENVAT credit on such inputs or capital goods shall be admissible as if no portion of the duty paid on such inputs or capital goods was exempted under any of the said notifications. [Amended vide Notification Nos. 32/2007 - CE(NT), dated 03-08-2007]

12A. [Procedure and facilities for large taxpayer. [Inserted by Notification No. 19/2006 - C.E. (N.T.), dated 30th September, 2006 (w.e.f. 30th September, 2006)]

- Notwithstanding anything contained in these rules, the following procedure shall apply to a large taxpayer, -(1)A large taxpayer may remove inputs, except motor spirit, commonly known as petrol, high speed diesel and light diesel oil or capital goods, as such, on which CENVAT credit has been taken, without payment of an amount specified in sub-rule (5) of rule 3 of these rules, under the cover of a transfer challan or invoice, from any of his registered premises (hereinafter referred to as the sender premises) to his other registered premises, other than a premises of a first or second stage dealer (hereinafter referred to as the recipient premises), for further use in the manufacture or production of final products in recipient premises subject to condition that the final products are manufactured or produced using the said inputs and cleared on payment of appropriate duties of excise leviable thereon within a period of six months, from the date of receipt of the inputs in the recipient premises; or the final products are manufactured or produced using the said inputs and exported out of India, under bond or letter of undertaking within a period of six months, from the date of receipt of the input goods in the recipient premises,and that any other conditions prescribed by the Commissioner of Central Excise, Large Taxpayer Unit in this regard are satisfied:Explanation 1. - The transfer challan or invoice shall be serially numbered and shall contain the registration number, name, address of the large taxpayer, description, classification, time and date of removal, mode of transport and vehicle registration number, quantity of the goods and registration number and name of the consignee:Provided that if the final products manufactured or produced using the said inputs are not cleared on payment of appropriate duties of excise leviable thereon or are not exported out of India within the said period of six months from the date of receipt of the input goods in the recipient premises, or such inputs are cleared as such from the recipient premises, an amount equal to the credit taken in respect of such inputs by the sender premises shall be paid by the recipient premises with interest in the manner and rate specified under rule 14 of these rules:Provided further that if such capital goods are used exclusively in the manufacture of exempted goods, or such capital goods are cleared as such from the recipient premises, an amount equal to the credit taken in respect of such capital goods by the sender premises shall be paid by the recipient premises with interest in the manner and rate specified under rule 14 of these rules:Explanation 2. - If a large taxpayer fails to pay any amount due in terms of the first and second proviso, it shall be recovered along with interest in the manner as provided under rule 14 of these rules:Provided also that nothing contained in this sub-rule shall be applicable if the recipient premises is availing following notifications of Government of India in the Ministry of Finance (Department of Revenue), -(i)No. 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E),

dated 8th July, 1999];(ii)No. 33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];(iii)No. 39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565 (E), dated the 31st July, 2001];(iv)No. 56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];(v)No. 57/2002-Central Excise, dated 14th November, 2002 [G.S.R.. 765(E), dated the 14th November, 2002];(vi)No. 56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003]; and(vii)No. 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717 (E), dated the 9th September, 2003];(viii)[No.20/2007-Central Excise, dated the 25th April, 2007 [GSR 307 (E), dated the 25th April, 2007];Provided also that nothing contained in this sub-rule shall be applicable to a export oriented unit or a unit located in a Electronic Hardware Technology Park or Software Technology Park.(2)The first recipient premises may take CENVAT credit of the amount paid under first proviso to sub-rule(1) as if it was a duty paid by the sender premises who removed such goods on the basis of a document showing payment of such duties.(3)CENVAT credit of the specified duties taken by a sender premises shall not be denied or varied in respect of any inputs or capital goods, removed as such under sub-rule (1) on the ground that the said inputs or the capital goods have been removed without payment of an amount specified in sub-rule (5) of rule 3 of these rules; oron the ground that the said inputs or capital goods have been used in the manufacture of any intermediate goods removed without payment of duty under sub-rule (1) of rule 12BB of Central Excise Rules, 2002.Explanation :- For the purpose of this sub-rule, 'intermediate goods' shall have the same meaning assigned to it in sub-rule (1) of rule 12BB of the Central Excise Rules, 2002.(4)A large taxpayer may transfer, CENVAT credit available with one of his registered manufacturing premises or premises providing taxable service to his other such registered premises by,-(i)making an entry for such transfer in the record maintained under rule 9;issuing a transfer challan containing registration number, name and address of the registered premises transferring the credit as well as receiving such credit, the amount of credit transferred and the particulars of such entry as mentioned in clause (i),and such recipient premises can take CENVAT credit on the basis of such transfer challan as mentioned in clause (ii):Provided that such transfer or utilization of CENVAT credit shall be subject to the limitations prescribed under clause (b) of sub-rule (7) of rule 3.Provided further that nothing contained in this sub-rule shall be applicable if the registered manufacturing premises is availing following notifications of Government of India in the Ministry of Finance (Department of Revenue), -(i)No. 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated 8th July, 1999];(ii)No. 33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];(iii)No. 39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565 (E), dated the 31st July, 2001];(iv)No. 56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];(v)No. 57/2002-Central Excise, dated 14th November, 2002 [G.S.R.. 765(E), dated the 14th November, 2002];(vi)No. 56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003]; and(vii)No. 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717 (E), dated the 9th September, 2003];(viii)[No.20/2007-Central Excise, dated the 25th April, 2007 [GSR 307 (E), dated the 25th April, 2007] [Inserted vide Notification No. 32/2007 CE (NT), dated 03-08-2007](5)A large taxpayer shall submit a monthly return, as prescribed under these rules, for each of the registered premises.(6)Any notice issued but not adjudged by any of the Central Excise officer administering the Act or rules made thereunder immediately before the date of grant of acceptance by the Chief Commissioner of Central Excise, Large Taxpayer Unit, shall be deemed to have been issued by

Central Excise officers of the said Unit(7)Provisions of these rules, in so far as they are not inconsistent with the provisions of this rule shall mutatis mutandis apply in case of a large taxpayer.]

12AA. Power to impose restrictions in certain types of cases.- Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board.

[12AAA: Power to impose restrictions in certain types of cases - Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer [registered importer or] [Substituted by Notification No. GSR 138 (E) dated 12.3.2012 (w.e.f. 10.09.2004)] first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specifY the nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a [an importer or] [Inserted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)] dealer and type of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board.]

13. Power of Central Government to notify goods for deemed CENVAT credit.

- Notwithstanding anything contained in rule 3, the Central Government may, by notification, declare the input or input service on which the duties of excise, or additional duty of customs or service tax paid, shall be deemed to have been paid at such rate or equivalent to such amount as may be specified in that notification and allow CENVAT credit of such duty or tax deemed to have been paid in such manner and subject to such conditions as may be specified in that notification even if, in the case of input, the declared input, or in the case of input service, the declared input service, as the case may be, is not used directly by the manufacturer of final products, or as the case may be, by the provider of taxable service, declared in that notification, but contained in the said final products, or as the case may be, used in providing the taxable service.[14. Recovery of CENVAT credit wrongly taken or erroneously refunded. - (1)(i) Where the CENVAT credit has been taken wrongly but not utilized, the same shall be recovered from the manufacturer or the provider of output service, as the case may be, and the provisions of section 11A of the Excise Act of sections 73 and 75 of the Finance Act, 1994, as the case may be, shall apply mutatis mutandis for effecting such recoveries.(ii)Where the CENVAT credit has been taken and utilized wrongly or has been erroneously refunded, the same shall be recovered along with interest from the manufacturer or the provider of output service, as the case may be, and the provisions of sections 11A and 11AA of the Excise Act or sections 73 and 75 of the Finance Act, 1994, as the case may be, shall apply mutatis mutandis for effecting such

recoveries.(2)For the purposes of sub-rule (1), all credits taken during a month shall be deemed to have been taken on the last day of the month and the utilization thereof shall be deemed to have occurred in the following manner, namely: -(i)the opening balance of the month has been utilized first;(ii)credit admissible in terms of these rules taken during the month has been utilized next;(iii)credit inadmissible in terms of these rules taken during the month has been utilized thereafter.][15. Confiscation and penalty. - (1) If any person, takes or utilizes CENVAT credit in respect of input or capital goods or input services, wrongly or in contravention of any of the provisions of these rules, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty [in terms of clause (a) or clause (b) of sub-section (1) of section 11 AC of the Excise Act or sub-section (1) of section 11AC of the Excise Act or sub-section (1) of section 76 of the Finance Act (32 of 1994), as the case may be] [Substituted by Notification No. G.S.R. 122 (E) dated 27.2.2010 (w.e.f. 10.9.2004)].(2)In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilized wrongly by reason of fraud, collusion or any willful mis-statement or suppression of facts, or contravention of any of the provisions of the Excise Act, or of the rules made thereunder with intent to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of section [clause (c), clause (d) or clause (e) of sub-section (1) of section 11AC of the Excise Act.] [Substituted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)](3)In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilized wrongly by reason of fraud, collusion or any willful mis-statement or suppression of facts, or contravention of any of the provisions of these rules or of the Finance Act or of the rules made thereunder with intent to evade payment of service tax, then,the provider of output service shall also be liable to pay [penalty in terms of the provisions of sub-section (1) of section 78] [Substituted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)] of the Finance Act.(4)Any order under sub-rule (I), sub-rule (2) or sub-rule (3) shall be issued by the CentralExcise Officer following the principles of natural justice.] [Inserted by Notification No. G.S.R. 151(E) dated 1.3.2015 (w.e.f. 10.9.2004)]Substituted by Notification No. G.S.R. 122 (E) dated 27.2.2010 (w.e.f. 10.9.2004)

15. Confiscation and penalty.(1) If any person, takes CENVAT credit in respect of input or capital goods, wrongly or[in contravention of] [Substituted, for 'without taking reasonable steps to ensure that appropriate duty on the said input or capital goods has been paid as indicated in the document accompanying the input or capital goods specificed in Rule 9, or contravences' by Notification No. 10/2007 - C.E. (N.T.), dated 1st March, 2007, (w.e.f. 1st March, 2007)]any of the provisions of these rules in respect of any input or capital goods, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention has been committed, or[two] [Substituted, for 'ten' by Notification No. 10/2007 - C.E.(N.T.), dated 1st March, 2007, (w.e.f. 11th May, 2007)]thousand rupees, whichever is greater.(2) In a case, where the CENVAT credit in respect of input or capital goods has been taken or utilized wrongly on account of fraud, willful mis-statement, collusion or suppression of facts, or contravention of any of the provisions of the Excise Act or the rules made thereunder with intention to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of section 11AC of the Excise Act.(3) If any person, takes CENVAT credit in respect of input services, wrongly or in contravention of any of the provisions of these rules in respect of any input service, then, such person, shall be liable to a penalty which may extend to an amount not

exceeding[two] [Substitute dtituted for 'ten' by Notification No. 10/2007 - C.E.(N.T.), dated 1-3-2007, w.e.f. 11-5-2007]thousand rupees.(4) In a case, where the CENVAT credit in respect of input services has been taken or utilized wrongly by reason of fraud, collusion, willful mis-statement, suppression of facts, or contravention of any of the provisions of the Finance Act or of the rules made thereunder with intention to evade payment of service tax, then, the provider of output service shall also be liable to pay penalty in terms of the provisions of section 78 of the Finance Act.(5) Any order under sub-rule (1), sub-rule (2), sub-rule (3) or sub-rule (4) shall be issued by the Central Excise Officer following the principles of natural justice.

15A. [General penalty. [Inserted by Notification No. 10/2008-C.E. (N.T.), dated 1-3-2008, w.e.f. 1-3-2008]

- Whoever contravenes the provisions of these rules for which no penalty has been provided in the rules, he shall be liable to a penalty which may extend to five thousand rupees.]

16. Supplementary provision.

- [1] [Rule 16 renumbered as sub-rule (1) by Notification No. 24/2004-C.E. (N.T.), dated 17-9-2004.] Any notification, circular, instruction, standing order, trade notice or other order issued under the CENVAT Credit Rules, 2002 or the Service Tax Credit Rules, 2002, by the Central Government, the Central Board of Excise and Customs, the Chief Commissioner of Central Excise or the Commissioner of Central Excise, and in force at the commencement of these rules, shall, to the extent it is relevant and consistent with these rules, be deemed to be valid and issued under the corresponding provisions of these rules.(2)[References in any rule, notification, circular, instruction, standing order, trade notice or other order to the CENVAT Credit Rules, 2002 and any provision thereof or, as the case may be, the Service Tax Credit Rules, 2002 and any provision thereof shall, on the commencement of these rules, be construed as references to the CENVAT Credit Rules, 2004 and any corresponding provision thereof.] [Inserted, ibid]