

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

TRADE NOTICE: 10/2006

DATED: 27.03.2006.

Sub: Communication of Ministry's Notification Nos. 04/2006 – CE (N.T)
dated 14.03.2006, 05/2006 –CE (N.T) dated 14.03.2006 and Notification
No. 06/2006 – CE (N.T) dated 20.03.2006 – Regarding.

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Copy of Ministry's Notification Nos. 04/2006 – CE (N.T) dated 14.03.2006,
05/2006 –CE (N.T) dated 14.03.2006 and Notification No. 06/2006 – CE (N.T) dated
20.03.2006 are communicated herewith.

The contents of the Trade Notice may be brought to the knowledge of all constituent
members of Trade Associations / Chambers of Commerce

(Issued from file C.No.IV/16/2/2006 – C.Ex.Pol.)

(M.G. THAMIZHVALAVAN)
JOINT COMMISSIONER (TECH)

To
As per mailing list II / III

Copy of Ministry's Notification No. 04/2006 – CE (N.T) dated 14.03.2006

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), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:-

1. (1) These rules may be called the CENVAT Credit (First Amendment) Rules, 2006.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the CENVAT credit Rules, 2004, for rule 5, the following rule, shall be substituted, namely:-

“ 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 utilised 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.

Note: *The principal rules were notified vide notification No. 23/2004-Central Excise (N.T.), dated the 10th September, 2004, and published in the Gazette of India Extraordinary vide number G.S.R.600 (E), the 10th September, 2004 and last amended vide notification No.28/2005-Central Excise (N.T.), dated the 7th June, 2005 and published in the Gazette of India Extraordinary vide number G.S.R.371 (E), dated the 7th June, 2005.*

Copy of Ministry's Notification No. 05/2006 –CE (N.T) dated 14.03.2006
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In exercise of the powers conferred by rule 5 of the CENVAT Credit Rules, 2004 (hereinafter referred to as the 'said rules'), and in supercession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.11/2002 - Central Excise (NT), dated 1st March, 2002, published in the Gazette of India Extraordinary, vide number G.S.R. 150(E), dated 1st March, 2002, the Central Government hereby directs that refund of CENVAT credit shall be allowed in respect of :

- (a) input or input service used in the manufacture of final product which is cleared for export under bond or letter of undertaking;
- (b) input or input service used in providing output service which has been exported without payment of service tax, subject to safeguards, conditions and limitations, set out in the Appendix to this notification.

Appendix

1. The final product or the output service is exported in accordance with the procedure laid down in the Central Excise Rules, 2002, or the Export of Services Rules, 2005, as the case may be.

2. The claims for such refund are submitted not more than once for any quarter in a calendar year

Provided that where,-

(a) the average export clearances of final products or the output services in value terms is fifty percent or more of the total clearances of final products or output services, as the case may be, in the preceding quarter; or

(b) the claim is filed by Export Oriented Unit, the claim for such refund may be submitted for each calendar month.

3. The manufacturer or provider of output service, as the case may be, submits an application in Form A annexed to this notification to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, in whose jurisdiction,-

(a) the factory from which the final products are exported is situated, along with the Shipping Bill or Bill of Export, duly certified by the officer of customs to the effect that goods have in fact been exported; or

(b) the registered premises of the service provider from which output services are exported is situated, along with a copy of the invoice and a certificate from the bank certifying realization of export proceeds

4. The refund is allowed only in those circumstances where a manufacturer or provider of output service is not in a position to utilize the input credit or input service credit allowed under rule 3 of the said rules against goods exported during the quarter or month to which the claim relates (hereinafter referred to as 'the given period').

5. The refund of unutilised input service credit will be restricted to the extent of the ratio of export turnover to the total turnover for the given period to which the claim relates i.e.

Maximum refund \leq Total CENVAT credit taken on input services during the given

period \times export turnover \div Total turnover

Illustration: If total credit taken on input services for a quarter = Rs. 100

Export turnover during the quarter = Rs 250

Total Turnover during the quarter = Rs 500

Refund of input service credit under Rule 5 of the CENVAT Credit Rule, during the quarter $\leq 100 \times 250 / 500$ i.e. Rs 50

Explanation: For the purposes of condition no.5,-

1. "Export turnover" shall mean the sum total of the value of final products and output services exported during the given period in respect of which the exporter claims the facility of refund under this rule.

2. "Total turnover" means the sum total of the value of,-
- (a) all output services and exempted services provided, including value of services exported;
 - (b) all excisable and non excisable goods cleared, including the value of goods exported;
 - (c) The value of bought out goods sold, during the given period.

6. The application in Form A, along with the prescribed enclosures and the relevant extracts of the records maintained under the Central Excise Rules, 2002, CENVAT Credit Rules, 2004, or the Service Tax Rules, 1994, in original, are filed with the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, before the expiry of the period specified in section 11B of the Central Excise Act, 1944(1 of 1944).

7. The refund of excise duty or service tax is allowed by the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be.

ANNEXURE

FORM 'A'

(See paragraph 3 of the Appendix)

Application for refund of CENVAT credit under rule 5 of the CENVAT Credit Rules, 2004
(Refund relating to the given period i.e. quarter or month _____)

To

The Deputy Commissioner / Assistant Commissioner of Central Excise,

Sir,

I/We have exported, the final products or output services of under-mentioned description, value, quantity to _____ during the given period. I/We am/are not in a position to utilize the CENVAT credit of duty/service tax taken,-

(a) on inputs or input services used in the manufacture of final products cleared for export under bond or letter of undertaking;

(b) on input or input services used in providing output services exported without payment of service tax, and such credit being allowed under rule 3 of the CENVAT Credit Rules, 2004, for payment of duty in respect of final products cleared for home consumption or for export on payment of duty or for payment of service tax on output services during the given period. I/We request that refund of such credit for the given period may be granted. The following particulars/enclosures are being provided/enclosed by me/us for this purpose.

(A) PARTICULARS OF FINAL PRODUCTS OR OUTPUT SERVICES EXPORTED DURING THE GIVEN PERIOD:-

(i) Description:-

(a) Final Products _____

(b) Output Services _____

(ii) Quantity (in units) in case of final products _____

(iii) Value:-

(a) Final products _____

(b) Output Services _____

(B) PARTICULARS OF INPUTS OR INPUT SERVICES USED IN THE MANUFACTURE OF FINAL PRODUCTS OR USED IN PROVIDING OUTPUT SERVICES DURING THE GIVEN PERIOD:-

(i) Description:-

(a) Inputs _____

(b) Input Services _____

(ii) Quantity (in units) in case of inputs _____

(iii) Amount of credit taken on:-

(a) Inputs _____

(b) Input Services _____

(C) TOTAL TURNOVER DURING THE GIVEN PERIOD:-

(i) The value of all output services and exempted services provided, including value of services exported:-

(ii) The value of all excisable and non excisable goods cleared, including the value of goods exported:-

(iii) The value of bought out goods sold:-

(D) ENCLOSURES:-

- (i) Copy of the relevant Shipping Bills or Bills of Export duly certified by the officer of customs to the effect that the goods have in fact been exported (in case of final products).
- (ii) Copy of invoices.
- (iii) Certificate from the bank certifying realization of export proceeds (in case of export of output services).
- (iv) Relevant extracts of the records maintained under the Central Excise Rules, 2002, the CENVAT Credit Rules, 2004, or the Service Tax Rules, 1994, as the case may be, evidencing taking of CENVAT credit, utilization of such credit in payment of excise duty or service tax and the balance unutilized credit during the given period.

(E) AMOUNT OF REFUND CLAIMED:-

Rs (in figures and in words) _____

I/ we opt for/ do not opt for the facility of the refund amount being credited directly in my /our bank account details as furnished below

- 1) Account Number
- 2) Name of the Bank
- 3) Branch (with address)

I / We certify that the aforesaid particulars are correct and I / we am / are the rightful claimant(s) to the refund of excise duty or service tax, as the case may be, due thereon which may be allowed in my/ our favour.

I/We declare that no separate claim for rebate of duties or service tax in respect of excisable materials used in the manufacture of the goods or output service covered by this application has been or will be made under the Customs and the Central Excise Duties Drawback Rules, 1971 or under claim for rebate under the Central Excise Rules, 2002 or the Export of Services Rules, 2005.

I/We declare that we have not filed /will not file any other claim for refund under rule 5 for the same quarter or month to which this claim relates.

Signature and full address of the claimant (s)

Refund Order No. _____

Date _____

The claim of Shri /Messrs. _____ has been scrutinized with the relevant Shipping Bills or Bills of Export/ invoices/ certificate from Bank certifying realization of export proceeds and refund of Rs _____ (Rs. _____) is sanctioned.

Date _____

Deputy Commissioner / Assistant Commissioner of Central Excise _____

Forwarded to-

1. The Chief Accounts Officer, Central Excise, for information and necessary action.
2. The Commissioner of Central Excise _____

Date _____

Deputy / Assistant Commissioner of Central Excise _____

Passed for payment of Rs _____ (Rs. _____). The amount is adjustable under Head "0038-Union Excise Duties-Deduct Refunds/ 0044- Service tax-Deduct Refunds".

Date _____

Chief Accounts Officer

Cheque No. _____ dated _____ issued in favour of Shri/Messrs _____ for Rs _____ (Rs. _____).

Date _____

Chief Accounts Officer

Received Cheque No. _____ dated _____ for Rs. _____ (Rs. _____).

Dated _____

Signature of claimant.

Copy of Ministry's Notification No. 06/2006 –CE (N.T) dated 20.03.2006
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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), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:-

1. (1) These rules may be called the CENVAT Credit (Second Amendment) Rules, 2006.
- (2) They shall come into force on the date of publication in the official Gazette.

2. In the Cenvat Credit Rules, 2004 (hereinafter referred to as the said Rules), in rule 3, sub-rule 7, after clause (a), the following proviso shall be inserted, namely:-

“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 $(CVD/100)$.”

F.No. 334/3 /2006-TRU

Note: *The principal rules were notified vide notification No. 23/2004-Central Excise (N.T.), dated the 10th September, 2004, and published in the Gazette of India Extraordinary vide number G.S.R.600 (E), the 10th September, 2004 and last amended vide notification No. 28/2005-Central Excise (N.T.), dated the 7th June, 2005 and published vide number G.S.R.371(E), dated the 7th June, 2005.*