
CENTRAL EXCISE
Guide for the New Registrants

PAYMENT OF TAX IS NOT A LIABILITY;
IT IS A RESPONSIBILITY!

எண்ணிய எண்ணியாங்கு எய்துப எண்ணியார்
திண்ணியர் ஆகப் பெறின்.

- குறள் 666

If those who think to achieve have a firm and
focussed mind, they will realize what they thought of
and even as they have thought of.

-Kural 666

The Coimbatore Central Excise Commissionerate is grateful to the Chief Commissioner of Central Excise, Coimbatore Zone for his valuable guidance and effective support in bringing out this guide and in the implementation of the various Taxpayer friendly initiatives of the Commissionerate.



T. PREMKUMAR, IRS
CHIEF COMMISSIONER

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MESSAGE

It gives me immense pleasure to note that the Coimbatore Commissionerate has brought out a booklet containing the vital provisions of the Central Excise law and Procedures for the benefit of new Central Excise registrants on the occasion of the "Central Excise Day -2009". The Commissionerate, ever since its inception in 1983, has always been in the forefront of innovation to serve the Trade and Industry in the best possible manner.

I proudly recollect at this juncture that this Commissionerate had brought out the very useful publication of the booklet on Service Tax which subsequently paved the way for Director General of Service Tax to update and bringing a booklet for wider circulation throughout the country. I am sure that this Guide would serve as the ready reckoner for the assesseees to comply with the statutory requirements in a hassle free manner.

I take this opportunity to congratulate all the Officers and staff of the Coimbatore Commissionerate for successfully carrying out the mission of educating the Tax Payers, which would ultimately result in easier and better tax compliance.

Coimbatore,
24-2-2009.

(T. PREMKUMAR)

Guide for New Registrants of Central Excise

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Supplied Free of cost

DISCLAIMER

- This Guide is published for the purpose of easy understanding of the Central Excise Law and Procedures. For legal purposes, the relevant statutes and the notifications issued thereunder by the Central Government may be referred to.
- The contents of this Guide are as per the statutory provisions which are in force as on the date of publication of the Guide. The same are liable to change as per the policy decisions of the Government.
- Certain information and details incorporated in this Guide are only illustrative in nature and cannot be considered to be exhaustive.

Please forward your views and suggestions to:

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FOREWORD

Central Board of Excise and Customs, the governing body for indirect taxation with its three strong arms viz. Customs, Central Excise and Service Tax is the single largest revenue earner for the National exchequer. The total indirect tax revenue during the last fiscal was Rs. 274662 Crores, which accounts for about 51% of the total tax revenue of which the contribution from Central Excise was Rs. 122939 Crores.

The Central Excises and Salt Act, 1944 (presently known as the Central Excise Act, 1944) was enacted on 24th February, 1944 by amalgamating 16 legislations governing taxation on various commodities. During the past 65 years, the Department had travelled a long way in the service of the nation and industry as well.

From the stage of a controller, the Department had transformed as a facilitator in tune with the policy of liberalization. The launch of Help Centres as per the announcement made by Shri P.Chidambaram, the then Hon'ble Union Finance Minister in the 2005 - 06 Budget is one of the major steps in this direction underscoring the fact that voluntary compliance through education and enlightenment is the hall mark of the new era.

In spite of simplification of Central Excise Laws over a period of time, the new assesseees who join the family of Central Excise Tax payers may initially find it difficult to understand the statutory provisions as the subject matter is not familiar to them. There is a constant need for demystifying the systems and procedure with a view to create a knowledgeable, responsible and voluntary compliant Tax Payers' Regime. The Officers of the Department are conscious of the fact that the Department and Industry need to stand shoulder-to-shoulder in taking the Nation to greater heights.

Against this backdrop, the publication of "Guide for new Registrants of Central Excise" gains significance as this booklet would serve as the torch bearer for the new Central Excise assesseees. I am confident that this booklet would be of immense help to the assesseees to have a fair knowledge about their obligations and responsibilities and enable them to discharge their functions as responsible tax payers.

I take this opportunity to express my sincere thanks and appreciation to the Officers of this Commissionerate who have put in their best efforts in publication of this Guide in a short period of time on the occasion of "The Silver Jubilee Year & Central Excise Day Celebrations 2009". I also sincerely thank the Coimbatore District Small Industries Association (CODISSIA) for their support in bringing out this publication.

Coimbatore,
24-2-2009.



(C. RAJENDIRAN)



K. ILANGO
PRESIDENT

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MESSAGE

Though Central Excise laws have been simplified and rationalized to a great extent, manufacturers need to be updated on the changes on regular basis.

Coimbatore District Small Industries Association (CODISSIA) is glad that the Central Excise Commissionerate, Coimbatore is bringing out a book to educate the new assesseees on the various aspects of Central Excise. I am sure that this will help the trade and industry in not only complying with the law but also making use of the various beneficial provisions in it.

We thank the officers and staff of the Commissionerate and Shri C.Rajendiran, IRS, Commissioner of Central Excise, Coimbatore for his various initiatives in educating the assesseees of which this book is one. CODISSIA is glad to be associated in bringing out this book.

Coimbatore,
24-2-2009.


(**K. ILANGO**)

Important aspects covered in this Guide:

- An Overview of Central Excise Law And Procedures
- An Overview of Cenvat Credit Rules,2004
- DOs and DON'Ts on availment of Cenvat Credit
- Dates to remember
- Provisions relating to Penalty and Interest - At a glance
- Frequently Asked Questions (FAQ) on Central Excise

Glossary of terms used in this Guide:

ACT	Central Excise Act, 1944
AC/DC	Assistant /Deputy Commissioner
CBEC/Board	Central Board of Excise & Customs
CESTAT/Tribunal	Customs, Excise and Service Tax Appellate Tribunal
CETA	The Central Excise Tariff Act, 1985
CCR	Cenvat Credit Rules, 2004
Credit	Cenvat credit
EOU	Export Oriented Unit
GTA	Goods Transport Agency
LUT	Letter of undertaking
Rules / CER	Central Excise Rules, 2002
Rule	Rule of the Central Excise Rules, 2002
Section	Section of the Central Excise Act, 1944
Tariff	Central Excise Tariff
Valuation Rules	Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000

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Important statutes governing the taxation on Central Excise:

- (i) Central Excise Act, 1944
- (ii) Central Excise Tariff Act, 1985
- (iii) Central Excise Rules, 2002
- (iv) Central Excise (Appeals) Rules, 2001
- (v) Cenvat Credit Rules, 2004
- (vi) Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000
- (vii) Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001
- (viii) Authority for Advance Rulings (Customs, Central Excise and Service Tax) Procedure Regulations, 2005
- (ix) Central Excise (Advance Rulings) Rules, 2002
- (x) Central Excise (Compounding of Offences) Rules, 2005
- (xi) Central Excise (Determination of Retail Sale Price of Excisable Goods) Rules, 2008
- (xii) Customs and Central Excise Duties and Service Tax Drawback Rules, 1995
- (xiii) Central Excise (Removal of Difficulties) Rules, 2005
- (xiv) Central Excise (Settlement of Cases) Rules, 2007
- (xv) Consumer Welfare Fund Rules, 1992
- (xvi) Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982
- (xvii) Pan Masala Packing Machines (Capacity Determination And Collection of Duty) Rules, 2008

PART-I: AN OVERVIEW OF THE CENTRAL EXCISE LAW AND PROCEDURES

1. INTRODUCTION

1.1 Authority for the taxation:

Central Excise duties are levied on the goods manufactured in India. Article 246 read with the Entry at Sl.No. 84 of List 1 under the VII Schedule of Constitution of India empowers the Union Government to levy the Central Excise duty.

Central Excise duty is levied on the goods (except alcohol, alcoholic preparations and narcotic substances like opium) manufactured or produced in terms of Section 3 of the Central Excise Act, 1944. The duty is, however, liable to be paid only at the time of removal from the factory in the manner prescribed under Rule 8. However, where Molasses are produced in a Khandasari Sugar factory, the person who procures such molasses shall pay the duty leviable on such molasses as if such molasses have been produced by the procurer. The rates of Central Excise duty are specified in the Schedule to the Central Excise Tariff Act, 1985.

1.2 Manufacture:

Central Excise duty is levied when a new article comes into existence as a result of the manufacturing activity. The expression 'manufacture' has been defined under Section 2(f) of the Act, the essence of which is as follows: 'Manufacture' includes-

- any process incidental or ancillary to the completion of a manufactured product;
- any process, which is specified in relation to any goods in the Section or Chapter Notes of the Schedule to the Central Excise Tariff Act, 1985 as amounting to manufacture; or
- any process, which, in relation to the goods specified in the Third Schedule to the Central Excise Tariff Act, 1985 involving any of the following activities:
 - packing or repacking of such goods in a unit container or
 - labelling or relabelling of containers (including the declaration or alteration of retail sale price on it) or
 - adoption of any other treatment on the goods to render the product marketable to the consumer.

2.REGISTRATION

2.1 Persons requiring registration:

The categories of persons requiring registration under Central Excise in terms of Rule 9 are as follows:

- (i) Every manufacturer of dutiable excisable goods.
- (ii) First and second stage dealers (including manufacturer's depots and importers) desiring to pass on the Cenvat credit to the buyers by issuing Cenvatable invoices.
- (iii) Persons holding warehouses for storing non-duty paid goods.
- (iv) Persons who obtain excisable goods for availing end-use based exemption.
- (v) Exporter-manufacturers under rebate/bond procedure;
- (vi) Export Oriented Units and EPZ units.

2.2 Exemption from registration:

The following categories of persons are exempt from registration as per Notification No. 36/2001 CE (NT) dated 26-6-2001 issued under Rule 9.

- (i) Manufacturers of goods which are chargeable to nil rate of duty or fully exempted by any Notification subject to the condition that they file a Declaration with the Department. However, such Declaration need not be filed if value of clearances made in the preceeding financial year was below the specified exemption limit i.e. Rs. 90 lakhs or, in the case of a new factory or manufacturer, such value of clearances is estimated to remain less than Rs. 90 lakhs in the current financial year.
- (ii) Persons (except the persons who get certain textile items manufactured on job work) who get their goods manufactured by others.
- (iii) Persons manufacturing excisable goods under the Customs warehousing procedures, subject to certain conditions.

- (iv) persons who carry on wholesale trade or deals in excisable goods (The first stage and second stage dealers and depots of a registered manufacturer are required to obtain registration, only if the Cenvat credit on the excisable goods is intended to be passed on by them to the buyers).
- (v) persons who use excisable goods for any purpose other than for processing or manufacture of any goods availing the benefit of exemption extending concessional rate of duty.
- (vi) Approved/licensed units in Export Processing Zones, Special Economic Zones and 100% Export Oriented units which do not procure excisable goods from the domestic tariff area (DTA) or remove excisable goods to DTA.

2.3 Procedure for Registration:

Before commencement of the production, the manufacturer is required to obtain registration by making an Application in Form A-1 in duplicate along with a self-attested copy of their PAN (Permanent Account Number issued by the Income Tax Department) to the jurisdictional Deputy/Assistant Commissioner of Central Excise. Based on the Application, the PAN based Registration Certificate would be issued.

There is no fee for issue of the registration certificate.

The Registration Number is required to be printed on the top of the Central Excise invoices, duty payment challans, PLA and other forms.

2.4 Validity of Registration:

The Registration Certificate issued to the assessee is permanent and there is no need for renewal of the same. The certificate will remain in force unless the same is suspended or revoked by the appropriate authority in accordance with the provisions of the law or surrendered by the registrant concerned. (Notification no. 35/2001-Central Excise (N.T.) dated 26th June, 2001).

3. LEVY OF CENTRAL EXCISE DUTY

3.1 Central Excise Tariff and rates of duty:

The rates of Central Excise duty are specified in the First Schedule to the Central Excise Tariff Act, 1985. The First Schedule is commonly referred to as the Central Excise Tariff, which contains 96 Chapters grouped under 20 distinct Sections. The rates of Special Excise duty are specified in the 2nd Schedule to the Central Excise Tariff Act, 1985.

3.2 Classification of the goods:

In order to determine the applicable rate of duty in respect of a particular item, the positioning of that item under a particular head or sub-heading of Central Excise Tariff is essential. The positioning of an item in the appropriate heading / sub-heading is classification. The classification of an item is generally decided in accordance with the commercial or trade parlance. However, a deviation from this principle is made when the trade meaning or commercial nomenclature does not fit in the scheme of the statute.

For determination of the rate of duty of a manufactured product, the assessee has to primarily ascertain the relevant Tariff Heading or sub-heading under which the said product is covered. Against each Tariff sub-heading, the rates of Excise duty are specified which are commonly known as Tariff rates. While classifying the excisable goods, the specific heading is to be preferred over a general heading and if there are two specific headings for the product, the one occurring later would prevail.

Duty is payable at the rates prescribed in the Tariff. However, in respect of cases where there is any exemption by virtue of a Notification relating to the goods in question, the actual rate of duty (effective rate of duty) is to be worked out after taking into consideration the relevant exemption Notification, subject to the conditions, if any prescribed therein.

3.3 Valuation of the goods:

Value of the excisable goods has to be determined when the rate of duty is on advalorem basis (expressed as a percentage of value of goods). It is the responsibility of the assessee to determine the correct assessable value of the goods, declare the same on the invoice and pay duty on the basis of such determination of the value.

The various types of value required to be adopted for the purpose of payment of duty are enumerated as below:

Transaction value: Basically, the assessable value of the goods for the purpose of payment of duty is the transaction value as determined under Section 4 (1) (a) of the Act. As per Section 4(1)(a) of the Act, transaction value shall be determined in the following manner :

- (i) in a case where the goods sold by the assessee, for delivery at the time and place of the removal, the assessee and the buyer of the goods are not related and the price is the sole consideration for the sale, then such Price shall be the Transaction value.
- (ii) In any other case, including the case where the goods are not sold, the value shall be determined in such manner as prescribed in the Central Excise Valuation (Determination of Price of Excisable Goods), Rules, 2000.

The value can be different for different transactions.

The adoption of transaction value under Section 4(1) (a) of the Act or the determination of value in accordance with the provisions of Section 4(1) (b) of the Act read with the Valuation Rules as indicated above will not be applicable when a product is notified under Section 4A of the Act or when tariff value is fixed for the goods under Section 3(2) of the Act as illustrated below:

M.R.P. Value: In respect of packaged commodities which are required to be marked with Maximum Retail Price (MRP) of the product in terms of the provisions of the Standards of Weights and Measures Act, 1976, the assessment of the goods as notified by the Government under Section 4A of the Act shall be done on the basis of such MRP value, subject to admissibility of abatement, if any, as may be notified. The goods, which are liable to MRP assessment and the extent of abatement admissible in respect of those goods, are detailed in the Notification 49/2008-C.E. (N.T.) dated 24-12-2008 issued under Section 4A of the Act.

Tariff value: In respect of certain specified goods, the assessment shall be based on the tariff value prescribed for such goods by the Central Government under Section 3(2) of the Act. For details about the specified goods and the prescription of Tariff value, the relevant Notifications issued under Section 3(2) of the Act may be referred to.

4. EXEMPTION FROM PAYMENT OF DUTY

The Central Government is empowered to grant exemption, full or partial, from payment of duty either generally by issue of a Notification or in a specific case of an exceptional nature by means of a special order under Section 5A of the Act. The exemption Notifications are issued in respect of certain specified goods or certain categories of assesseees or for certain specified purposes. In respect of conditional exemptions, it is imperative that the conditions specified in the relevant Notification are to be strictly adhered to.

4.1 Small scale exemption:

The Notification No. 8/2003 CE dated 1-3-2003 as amended provides full exemption from payment of duty to the small scale units upto the aggregate value of clearance of Rs. 150 lakhs in a financial year. The salient features of the exemption scheme are highlighted as below:

- (i) The aggregate value of clearance of all excisable goods cleared for home consumption by a manufacturer from one or more factories, or from a factory by one or more manufacturers, does not exceed Rs.400 lakhs in the preceding financial year.
- (ii) The manufacturer should not avail the Cenvat credit of duty paid on inputs.
- (iii) The manufacturer should not utilize the Cenvat credit of duty paid on capital goods during the period of availment of the said exemption.
- (iv) The exemption is not applicable for specified goods bearing a brand name or trade name whether registered or not, of another person. The brand name restriction is, however, not applicable to the following cases:
 - Goods cleared as Original Equipments (O.E) or parts of any machinery/ equipment/appliances cleared for use as O.E.
 - Goods bearing the brand name or trade name of the Khadi and Village Industries Commission or a State Khadi and Village Industry Board or the National Small Industries Corporation or a State Small Industries Development Corporation or State Small Industries Corporation.
 - Goods manufactured in a factory located in rural area (the area comprised in a village as defined in the land revenue records).
 - Account books, registers, writing pads and file folders.

5. REMOVAL OF GOODS

5.1 Invoice for removal of the goods:

Invoice is the document under which the excisable goods are to be cleared by the manufacturer. No excisable goods shall be cleared except under an invoice. This is also the document which indicates the assessment of duty. There is no prescribed format for the Invoice. However, the invoice should be serially numbered and shall contain the registration number, address of the concerned Central Excise Division, name of the consignee, description, classification, time and date of removal, mode of transport and vehicle registration number, rate of duty, quantity and value of the goods and the duty payable thereon.

The serial number of the invoice can be given at the time of printing or by using franking machine. Hand written serial number is not acceptable. In case of computer generated invoice, the serial number is allowed to be generated and printed by the computer at the time of preparation of invoice, if the computer is capable of generating the number automatically and without the possibility of assignment of the same number more than once.

The invoice shall be prepared in triplicate in the following manner, namely:-

- the original copy is to be marked as ORIGINAL FOR BUYER;
- the duplicate copy is to be marked as DUPLICATE FOR TRANSPORTER;
- the triplicate copy is to be marked as TRIPLICATE FOR ASSESSEE.

The assessee may make more than three copies for his other requirements. But the extra copies shall be prominently marked with the words: "NOT FOR CENVAT PURPOSE."

5.2 Use of more than one set of invoices:

As per Rule 11, only one set of invoice book shall be in use at a time unless otherwise allowed by the Deputy/Assistant Commissioner of Central Excise in the special facts and circumstances of each case. Where the assessee requires two different sets of invoice books for the purpose of removals for home consumption and removals for export, they may do so by intimating the jurisdictional Deputy/Assistant Commissioner of Central Excise.

When an assessee is allowed to keep more than one set of invoice book, he should keep different numerical serial numbers for the different sets. Before making use of the invoice book, the serial numbers of the same shall be intimated to the jurisdictional Superintendent of Central Excise in writing.

5.3 Authentication of Invoices:

The owner or working partner or Managing Director or Company Secretary or any person duly authorized in this regard shall authenticate each foil of the invoice book, before being brought into use. While authenticating the invoice book in the manner specified under Rule 11(5), it should be ensured that each leaf contains the serial number.

5.4 Rounding off of duty in the invoice:

The amount of duty being shown in the invoices issued under Rule 11 should be rounded off to the nearest rupee as provided under Section 37D of the Act and the duty amount so rounded off should be indicated both in figures and words.

5.5 Cancellation of the invoices:

When an assessee desires to cancel the invoice, the following procedures are to be followed:

- Intimation relating to cancellation of the invoice should be sent to the jurisdictional Range Superintendent on the same date. If the intimation could not be filed on the same day due to exceptional circumstances beyond the control of the assessee, the same can be sent on the next working day;
- The original and duplicate copy of the cancelled invoice should also be sent along with the intimation.
- Triplicate copy of the cancelled invoice may be retained by the assessee in the invoice book so that the same can be produced when required by the Audit group, Preventive group or other visiting officers.

5.6 Removal of semi-finished goods or finished goods for certain purposes:

The semi-finished goods or finished goods can be removed for further processing or testing under proper documents in terms of Rule 16B and Rule 16C.

6. PAYMENT OF DUTY

6.1 Manner of payment of duty:

As per Rule 8, payment of duty is to be made on monthly basis by 5th day (6th day in case of e-payment) of the succeeding month. The duty for the month of March is, however, to be paid by 31st March itself. In case of a manufacturer availing exemption based on the value of clearances during a financial year (SSI exemption), the duty for a month is liable to be discharged by 15th day (16th day in case of e-payment) of the succeeding month. The assessee may, at their option, make payment of duty consignment-wise.

Once the assessee has deposited a cheque in bank within the due date and the same is honoured or pays in cash/draft and the bank gives receipt stamp on the GAR-7 Challan, the same shall be treated as credited to the account of the Central Government.

6.2 Electronic Payment:

E-payment is a hassle-free mode of payment besides the conventional method of payment offered by the banks under specific security norms of the Reserve Bank of India. This scheme facilitates anytime, anywhere payment enabling instant generation of cyber receipt once the transaction is complete. It provides the convenience of making online payment of Central Excise duty through Bank's Internet banking service.

6.3 Procedure for Payment:

- ◆ The customer should log on to the Bank's Internet site after entering the user Id and password provided to them by the Bank.
- ◆ They should fill in the on-line Challan.
- ◆ The customer should select the appropriate type of tax from the pop up menu and enter the duty amount.
- ◆ Thereafter, the Challan should be submitted electronically.
- ◆ The customer has to enter his User Id and Password to enter the secured e-banking area.
- ◆ The customer should select the account for debiting the total tax amount and authorize the payment.

6.4 Advantages of e-filing:

- Ease of operation and convenience.
- Facility is available 24x7.
- No queue and waiting.
- Online filling of single Challan.
- Minimum fields of the Challan need to be filled. Most of the fields are populated automatically.
- Selection of tax type is from the drop-down menu.
- Instant Cyber receipt with bank's transaction number is made available.
- The acknowledgement of the Challan gets delivered at the customer's address.
- The assessee can also see the details of tax payment on <https://nsdl.co.in> by entering the CIN contained in the acknowledgement of the Challan.

6.5 Account current and Cenvat account:

The duty can be discharged by debiting the account current (also referred to as Personal Ledger Account [PLA]) and by debit to the CENVAT Credit Account maintained by the assessee under the provisions of the CENVAT Credit Rules, 2004. The amount of duty deposited in the Bank can be credited to the account current (Personal Ledger Account).

6.6 Action in case of default:

As per Rules 8(3) and 8 (3A), when the assessee fails to pay the duty by the due date, he shall be liable to pay the outstanding amount along with interest at the rate of 13% for the period starting with the first day after the due date, till the date of actual payment of the outstanding amount.

If the outstanding amount of duty along with the interest is not paid within 30 days of the due date, the assessee shall pay the duty for each consignment by debit into the PLA without utilizing the Cenvat credit till the date of payment of the outstanding amount including the interest. In the event of any failure, it shall be deemed that such goods have been cleared without payment of duty and the consequences and penalties as provided in the Central Excise Act and Rules would follow.

7. RECORDS

7.1 Maintenance of Accounts:

As a measure of simplification, the private records maintained by the assessee are accepted by the Department for the purpose of Central Excise matters also so as to facilitate them to have a single accounting system. The assessee is required to maintain records on all important aspects such as receipt, purchase, manufacture, storage, sales or delivery of the goods including inputs and capital goods, Daily Stock Account as per Rule 10 of the Central Excise Rules, 2002 and Cenvat Account as per Rule 9 of the Cenvat Credit Rules, 2004.

The records, which are relevant for Central Excise, shall be authenticated by the assessee on the first and last page. These records shall be preserved for a period of five years immediately after the financial year to which such records pertain.

In terms of Rule 22(2), the assessee is required to furnish to the Range Officer, a list in duplicate, of all the records prepared or maintained by him for accounting of transactions with regard to receipt, purchase, manufacture, storage, sales or delivery of the goods including inputs and capital goods. The assessee shall, on demand make the records available to the Range officer duly empowered by the Commissioner or the Audit party deputed by the Commissioner or the Comptroller and Auditor General of India in terms of Rule 22(3)

7.2 Electronic maintenance of records and preparation of Returns & documents:

The assessee may maintain or generate all or any of the records, returns, invoices and other documents prescribed under the statute, using a computer, in electronically readable format. No specific permission from the Central Excise Department is required for this purpose. Such person is also not required to furnish any intimation to the Department in this regard. The records can be kept and preserved on any electronic media, such as hard disk of the computers, floppies, CDs or tapes. The print outs (hard copy) of the records and documents must be taken out at the end of each month and kept in bound folders, separately for each type of record, return, documents etc.

8. RETURNS

8.1 Filing of Returns:

The various types of Returns required to be filed by the Central Excise assessee are indicated below:

Return	Frequency	Intended for	Due date
ER-1	Monthly	Manufacturers(Return under Rule 12 of the CER containing the details of production & removal of goods and other relevant particulars).	10th of the following month
ER-2	Monthly	100% EOU's (Return under Rule 17 (3) of the CER).	10th of the following month
ER-3	Quarterly	Manufacturers availing value based exemption (Return under Rule 12 of the CER containing the details of production & removal of goods and other relevant particulars).	20th of the month following the quarter
ER-4	Annual	Financial statement under Rule 12(2) by manufacturers who have paid more than Rs.1 crore (PLA+Cenvat) for the previous financial year.	20th Nov
ER-5	Annual	Information regarding the principal Cenvatable inputs under Rule 9A(1) by the manufacturers who have paid more than Rs.1 crore (PLA+ Cenvat) for the previous financial year.	30th April
ER-6	Monthly	Central Excise manufacturers who have paid more than Rs.1 crore (PLA+Cenvat) for the previous financial year.	10th of the following month
ER-7	Annual	Central Excise manufacturers.	30th April
-	Quarterly	Dealers of Excisable goods.	15th of the month following the quarter

8.2 Electronic filing of Returns:

E-filing facility is available for the assessee enabling him to file the returns online in a hassle-free manner.

The registered assessee, who are desirous of availing the facility of e-filing of the return, may make an Application in this regard to their jurisdictional AC/DC indicating their e-mail address and postal address for communication to which the user log-in-ID, Password and the location code are to be intimated.

After verification of the particulars, Systems Manager of the Commissionerate Hqrs. office will communicate the initial password to the assessee. The 15 digit R.C. Number will serve as assessee's user-id. The assessee can thereafter access the e-filing website: <http://exciseandservicetax.nic.in> through internet and e-file the return.

8.3 Advantages of E-filing:

The Advantages of E-filing of Returns are as follows:

- Facility is available 24 x 7
- Anytime, anywhere filing
- No need to visit the Central Excise office

8.4 Format of the Returns prescribed:

Return	Annexure of CBEC's Supplementary Instructions/ Notification
ER-1	Annexure 12
ER-2	Annexure 13
ER-3	Annexure 13A
ER-4	Annexure 13AA
ER-5	Annexure 13AB
ER-6	Annexure 13AC
ER-7	Notification No. 39/2008 CE(NT) dated 29.09.2008
Dealers Return	Annexure 13B

9. DEMAND OF DUTY AND ERRONEOUS REFUNDS

9.1 Demand Notice:

If the duty has not been levied or not paid or short levied or short paid or erroneously refunded, the Department is empowered to demand the same under Section 11A (1) of the Act. The notice would be issued detailing the basis of such demand and providing an opportunity to show cause as to why the proposed action in the notice should not be initiated against the noticee.

The noticee would also be given an opportunity to put forth the arguments in person before the adjudicating authority at the time of personal hearing. The arguments in defence of the noticee in writing and oral submissions would be taken into consideration by the adjudicating authority while passing the order under Section 11A (2) of the Act. If the assessee is aggrieved of the order, he can seek remedy in the higher Appellate forum as explained in Chapter 15 of this guide.

9.2 Limitation of time:

The notice is required to be issued within one year of the 'relevant date' as defined under Section 11A (1) of the Act. Relevant date in respect of the assessee is generally the date of filing of the statutory return relating to the period to which the demand pertains. If return has not been filed, the due date on which the return ought to have been filed would be reckoned as the relevant date.

In the case of Provisional assessments, the relevant date counts from the date of adjustment of duty after finalization of the assessment. As regards the demand relating to erroneous refund, the date of payment of refund shall be the relevant date. In other circumstances, the date of payment of duty is the relevant date.

If the non-levy or short levy or non payment or short payment or erroneous refund is by reason of fraud, collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of the Act or the Rules with intent to evade payment of duty, the time limit of one year can extend upto 5 years under the provisions of the proviso to Section 11A (1) of the Act.

10.REFUNDS

10.1 Refund application:

The application for refund in terms of Section 11B of the Act is to be made to the jurisdictional Assistant/Deputy Commissioner in duplicate within one year from the relevant date. The refund claim should be complete in all respects containing the important details such as grounds for filing the refund claim, proof for payment of the duty amount concerned, worksheet for quantification of the refund amount and supported by relevant documents.

The relevant date in respect of the manufacturer-assessee is generally the date of payment of duty. There are various relevant dates prescribed in Section 11B for export rebate, for goods returned for repairs etc. In case where the duty was paid provisionally, the relevant date shall be the date of adjustment of duty after the finalization of the assessment. In the case of goods exempted by a special order under Section 5A (2) of the Act, the time limit of one year will be computed from the date of issue of such order.

No refund/rebate claim will be withheld on the ground that an appeal has been filed against the order giving relief, unless stay order has been obtained to that effect (CBEC Circular No. 398/31/98-CX dated 2-6-1998).

10.2 Refund of pre-deposit:

The time limit of one year is not applicable where the amount was pre-deposited under Section 35F of the Act for availing the right of appeal or where duty had been paid under protest or where refund arises out of quasi-judicial orders passed in adjudication, Appeal or revision or out of Court judgments.

For refund of the pre-deposits under Section 35F of the Act, a simple letter of the person who had made such pre deposit would suffice. Refund of pre-deposit will be given within 3 months from the date of the order passed by the Appellate Tribunal / Court or other Final Authority unless there is a stay granted by a superior Court.

10.3 Unjust enrichment:

Refund will be granted to the claimant only if he has not passed on the incidence of duty to any other person. Otherwise, the refund amount would be sanctioned and credited to the Consumer Welfare Fund. The onus of proof that he has not passed on the incidence of duty to any other person is on the claimant.

The buyer of the goods who has ultimately borne the tax incidence has the right to claim the refund within one year from the date of purchase of the goods by him.

10.4 Exclusion from unjust enrichment:

The following types of refunds have been kept out of the bar of unjust enrichment:

- (a) Rebate on account of export;
- (b) Unspent advance deposits lying in balance in the PLA;
- (c) Refund of Cenvat Credit;
- (d) Duty of Excise paid and borne by the manufacturer, if he had not passed it on to any other person.
- (e) Duty of Excise paid and borne by the buyer, if he had not passed it on to any other person.

10.5 Process of the claim:

The process of disposal of the refund claim is a quasi-judicial function and therefore, the jurisdictional Assistant/Deputy Commissioner (the sanctioning authority) has to issue a show cause notice to the claimant and hear him, if the claim is proposed to be rejected in full or in part.

The claims involving an amount of Rs. 5 lakhs or above would be sanctioned after pre-audit of the same in the Commissionerate Hqrs. The claims involving an amount below Rs. 5 lakhs would be sanctioned by the competent authority and later sent for post-audit.

10.6 Time limit for disposal of the claim:

The refund claim would be disposed off within 3 months from the date of filing of the claim complete in all respects. If the claim is not disposed off within the stipulated period, the claimant would be entitled to interest at the rate of 6% per annum on the refund amount sanctioned.

11. EXPORT PROCEDURES AND BENEFITS

In principle, exports should be relieved of all types of duties and taxes. With a view to facilitate the manufacturers of India to effectively compete in the International market, various export benefit schemes have been prescribed under the Central Excise Law. A few important schemes providing benefit for the Exports and the related procedures are as discussed below:

11.1 Rebate of Excise duty paid on the export goods and the materials used in the manufacture of such goods:

Where any excisable goods are exported on payment of duty, the duty paid on such export goods and the material used in the manufacture of such export goods would be granted as Rebate under Rule 18.

The conditions and procedures for grant of rebate of duty are prescribed in the Notifications issued under Rule 18 read with Chapter 8 of CBEC's Supplementary Instructions.

11.2 Export of goods without payment of duty under Bond:

The excisable goods can be exported without payment of duty under bond from the factory or warehouse or any other premises as may be approved by the Commissioner in terms of Rule 19.

This facility of export under bond is also available for export to Nepal and Bhutan, if payment for the same is made in freely convertible currency. The goods manufactured from the inputs obtained under bond should be exported only under bond and not under the rebate procedure.

The conditions, safeguards and procedures for export under Bond are prescribed in the Notifications issued under Rule 19 read with Chapter 7 of CBEC's Supplementary Instructions.

11.3 Procedures for Export of goods without payment of duty:

The exporter intending to avail the facility to export the goods without payment of duty shall furnish a bond in Form B-1 on a non-judicial stamp paper of appropriate value (as applicable in the State in which the bond is being furnished). The manufacturer exporter may furnish Letter of Undertaking (LUT) in Form UT-1 in lieu of the bond, which is valid for one year.

Where the export is effected by the Merchant-Exporter, bond has to be necessarily furnished and clearances will not be allowed based on the LUT of the manufacturer. It is, however, open for the manufacturer to furnish the bond on behalf of the Merchant-exporter in such cases.

Exporters are required to furnish surety equal to full bond amount or security equal to 25% of the bond amount. Security/surety is not required to be furnished by the Super Star Trading Houses, Star Trading Houses, Trading Houses, Export Houses and Merchant Exporters registered with recognized Export Promotion Councils provided they have not come to adverse notice of the Department in the past 3 years.

The goods shall be exported under A.R.E-1 document prepared in quintuplicate (5 copies) within 6 months from the date on which the same were cleared for export from the factory or within the extended period as may be granted by the jurisdictional Asst. /Deputy Commissioner or Maritime Commissioner.

11.4 Refund of Cenvat credit of duty paid on inputs used in the manufacture of goods exported under bond:

Where the end-product is exported under bond, the Cenvat credit taken on the inputs used in the manufacture of the export goods can be claimed as refund, if the manufacturer is unable to use the credit for payment of duty on similar final products cleared for home consumption or for export on payment of duty or Service tax on output service.

The conditions and procedures for claiming such refund are prescribed in Notification No. 5/2006 CE (NT) dated 14-3-2006 as amended, issued under Rule 5 of the Cenvat Credit Rules, 2004.

11.5 Simplified Export procedure for exempted Units:

Small scale Units, which are availing full exemption from payment of duty under a Notification based on the value of clearances, are exempted from filing the export document in ARE-1 and execution of Bond so long they remain within the threshold limit of full exemption. Simplified export procedure is prescribed in Chapter 7 of CBEC's Supplementary Instructions.

12. EXCISE AUDIT 2000

12.1 The concept of EA 2000:

EA 2000 is a modern, transparent and interactive method of Audit wherein the Auditor proceeds to conduct the audit after becoming fully conversant with the business of the assessee. It is a systematic form of audit as the basic information about the assessee are gathered and analyzed in depth before conducting the audit.

The Audit team would visit the premises of the assessee for conduct of the Audit after sending the intimation to that effect well in advance so as to enable the assessee to keep the records ready for the audit. The requirement of records would also be stated in the said intimation letter.

The assessee would be consulted at every stage of the audit and provided adequate opportunity to explain his point of view on any particular issue so that matters are resolved instantly in full appreciation of the legal position. EA 2000 is thus a participative and taxpayer friendly audit.

12.2 Audit objections:

The instances of short payment of duty or non-compliance of the legal procedures would be recorded as 'Audit Para' in the 'draft audit report' that would be prepared at the end of the verification process. The audit report would contain the issue in brief, quantification of the short payment, the point of view of the assessee, the arguments of the audit for non-acceptance of the reply etc.

The Audit report containing the audit objections would be issued after thorough examination of the issue in all respects. The jurisdictional Range officer will initiate appropriate action to protect the interests of revenue by observing the principles of Natural justice.

12.3 Spot settlement of Audit objections:

The assessees may, at their option, prefer to make payment of the non-levy or short levy as pointed out by the Audit along with the appropriate interest. In such cases, the audit para would be settled by the audit on the spot. This facility of spot settlement would be available, if the non-levy or short levy is not by reason of fraud or mis-statement or suppression of facts or contravention of the provisions of the Act or the Rules framed thereunder with intent to evade payment of duty.

13. SEARCH, SEIZURE, ARREST AND PROSECUTION

The statutory provisions relating to search and seizure are used to enforce the Central Excise law in exceptional circumstances when the direct physical intervention becomes necessary. The search and seizure is effected in accordance with the procedures as laid down in the law.

13.1 Provisions relating to search & seizure:

Rules 22 & 23 empower the authorized officer of the Department to search any premises, conveyance or other place. Rule 24 empowers the officer to effect seizure or detention of the excisable goods. Further, the provisions of the Customs Act, 1962 relating to search and seizure are made applicable to Central Excise matters by virtue of Section 12 of the Act read with Notification No.68/63 dated 4.5.1963.

In terms of the aforesaid provisions, an officer not below the rank of the Inspector of Central Excise, with the written permission of the AC/DC, can search at any time, any premises or conveyance where he has reason to believe that excisable goods are manufactured, stored or carried in contravention of the provisions of the Act or Rules. There is no requirement for search warrant for conducting search of a registered premises or for stopping and searching of any conveyance in transit.

In respect of other cases, search warrants are required to be issued by an Officer not below the rank of AC/DC for authorizing the search. The search would be carried out in the presence of two independent witnesses. The proceedings of the search and seizure would be recorded in the Mahazar (also called as the Panchnama) drawn by the two independent witnesses and the seized materials would be listed out therein. A copy of the Mahazar would be supplied to the person-in-charge of the searched premises or seized goods .

If the Central Excise Officer has reason to believe that any goods, which are liable to Excise duty but no duty has been paid thereon or the said goods were removed with the intent of evading the duty payable thereon, the Central Excise Officer may detain or seize such goods.

13.2 Provisional release:

The power to release seized goods emanates from the power to seize itself. The goods seized may be released provisionally by the officer who is normally competent to adjudicate the case on execution of the Bond (B-8 bond) along with 25% security or surety.

The adjudicating officer will take into consideration the importance of such goods for evidence while releasing the goods provisionally. Sample would also be drawn, if necessary.

The adjudicating officer may, however, require the owner or in-charge of the goods to whom the goods are provisionally released, to produce the goods any time before issue of the adjudication order. If the adjudicating authority is of the view that the goods are liable for confiscation and when the concerned person to whom goods were provisionally released fails to produce the goods at the appointed time, the bond would be enforced for recovery of the dues.

13.3. Summon:

A Gazetted Officer of Central Excise (Superintendent and above) is empowered to summon any person for giving evidence or producing documents necessary for any inquiry conducted by the said officer for the purpose of enforcement of the provisions of the Act (Section 14 of the Act).

The person summoned is entitled to get a copy of the statement given by him in connection with the investigation, if the said statement is proposed to be included as a relied upon document in the proceedings initiated under the provisions of the Act.

13.4 Arrest:

Any Central Excise Officer not below the rank of Inspector with the prior approval of the Commissioner can arrest any person under Section 13 whom he has reason to believe that he is liable to punishment under the Central Excise Act. The arrested person shall be produced before the Jurisdictional Magistrate or the Chief Judicial Magistrate, as the case may be, within 24 hours of the arrest.

13.5 Prosecution:

Besides the Departmental adjudication, prosecution may also be launched under Section 9 of the Act against persons who have committed any of the offences specified under this Section. In respect of offences committed by Companies, prosecution may be launched under Section 9AA of the Act, against any person, Director, Manager, Secretary or other officers of a company or partner/ proprietor of the firm, who is responsible for the conduct of the business of the company/firm and is found guilty of the offences under the Central Excise Act/Rules.

14. CONFISCATION AND PENALTY

14.1 Legal provisions relating to imposition of Penalty and confiscation:

The statutory provisions relating to imposition of Penalty and confiscation are as indicated below:

Section 11AC of the Act:

Mandatory penalty equal to the duty not levied or paid or short paid or erroneously refunded is liable to be imposed, if the same is by reason of fraud or suppression of facts or mis-statement or contravention of the provisions of the Act /Rules with intent to evade payment of duty. However, in the event of payment of the duty and interest within 30 days of the communication of the order issued under Section 11A (2) of the Act, the penalty shall be 25% of the duty subject to the condition that he reduced penalty is also paid within the said period of 30 days.

Rule 25 of the Central Excise Rules, 2002:

Penalty is liable to be imposed on any producer, manufacturer, registered person of a warehouse or a registered dealer not exceeding the duty on the excisable goods in respect of which any of the specified contraventions has been committed, or Rs. 2000/-, whichever is greater. The penalty under Rule 25 is subject to the provisions of Section 11 AC of the Act. The offending goods are also liable to confiscation. The specified contraventions are as listed below:

- (a) Removal of excisable goods in contravention of any of the legal provisions of the Rules or the Notifications issued thereunder; or
- (b) Non-accountal of any excisable goods produced or manufactured or stored; or
- (c) Manufacture, production or storage of any excisable goods without having applied for the registration certificate required under Section 6 of the Act read with the Rule 9 of the CER; or
- (d) Contravention of any of the legal provisions of the Rules or the Notifications issued thereunder with intent to evade payment of duty.

Rule 26 of the Central Excise Rules, 2002:

The person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under the Act or the said Rules, shall be liable to a penalty not exceeding the duty on such goods or Rs. 2000/- , whichever is greater.

Rule 27 of the Central Excise Rules, 2002:

A general penalty is liable to be imposed which may extend to Rs. 5000/- for contravention of the Rules and confiscation of the goods in respect of which the offence is committed. This penalty is attracted when no specific penalty is provided for under the Act or in the Rules.

Rule 15 (1) of the Cenvat Credit Rules, 2004:

The person who takes Cenvat credit in respect of inputs or capital goods, wrongly or without taking reasonable steps to ensure that appropriate duty on the said inputs or capital goods has been paid as indicated in the document accompanying the inputs or capital goods specified in Rule 9 of the Cenvat credit Rules, 2004 or contravenes any of the provisions of the Cenvat Credit Rules in respect of any inputs or capital goods shall be liable to a penalty not exceeding the duty on the said excisable goods or Rs.2000/- whichever is greater. The said excisable goods are also liable for confiscation.

Rule 15 (2) of the Cenvat Credit Rules, 2004:

If the aforesaid offence is on account of fraud or suppression of facts or mis-statement or contravention of the provisions of the Act /Rules with intent to evade payment of duty, the manufacturer shall be liable to penalty equal to the duty involved in terms of the provisions of Section 11 AC of the Act.

Rule 15 A of the Cenvat Credit Rules, 2004:

A general penalty is liable to be imposed which may extend to Rs. 5000/- for contravention of the Rules. This penalty is attracted when no specific penalty is provided for under the Cenvat Credit Rules, 2004.

15. APPEAL AND REVISION APPLICATION

The assessee as well as the Department is entitled to appellate remedies against the orders passed under the Central Excise Act and Rules framed thereunder. As per the provisions of Section 35 read with Sections 35B, 35G, 35H and 35L of the Act, any person aggrieved by the order passed by the Central Excise Officer, can file an Appeal as indicated below:

Order passed by	Appellate Authority
All officers upto Additional Commissioner	Commissioner (Appeals)
Commissioner or Commissioner (Appeals)	CESTAT except in cases where the order relates to: <ul style="list-style-type: none"> • case of loss of goods, where the loss occurs in transit from a factory to a warehouse or to another factory, or from one warehouse to another, or during the course of processing of the goods in a warehouse or in storage, whether in a factory or in a warehouse; • Rebate of duty of Excise on export goods or on excisable materials used in the manufacture of goods which are exported; • Goods exported outside India (except Nepal or Bhutan) without payment of duty; • Credit of any duty allowed to be utilized towards payment of Excise duty on final products under the provisions of this Act or the Rules made thereunder and such order is passed by the Commissioner (Appeals) on or after the date appointed under Section 109 of the Finance (No.2) Act, 1998.
Commissioner or Commissioner (Appeals)	Revision Application to Central Govt. (on matters relating to baggage, drawback, export without payment of duty, goods short landed, loss of goods in transit). No further Appeal.
CESTAT	Supreme Court (Classification and Valuation cases)
CESTAT	High Court (Other than classification and valuation matters)
High Court	Supreme Court

16. MISCELLANEOUS MATTERS

16.1 Visit of the Central Excise Officers:

The visit to units would be made by the Officers of the rank of Inspectors and Superintendents with the prior permission of the Assistant/Deputy Commissioner in writing.

The Central Excise assesseees are required to maintain Visitors' register in the format specified below. The Officers of the Central Excise Department of the rank of Inspectors and Superintendents on their visit to the premises of a registered assessee would enter the details of their visit in the register maintained for that purpose.

The Central Excise officer who visits the registered premises of the Assessee for discharging the statutory functions would prove his/her identity by showing the identity card issued by the Department, if the Assessee is desirous of verifying the bonafides of the visitor.

Proforma for Record of Visits of Central Excise Officers to Factories

Central Excise Commissionerate: Coimbatore

Division:

Range:

Name and address of the factory:

Excisable goods manufactured:

S.No	Date of Visit	Name of the Officer	Designation	Time of arrival at the factory
(1)	(2)	(3)	(4)	(5)

Purpose of Visit	Time of departure from the factory	Signature of the officer with date	Signature of factory representative with date	Remarks
(6)	(7)	(8)	(9)	(10)

Authority: Boards Circular No.3/90 CX.6 (F. No. 208/148/89 CX.6) dated 24-1-1990, Cir. No. 19/92 CX.6 (F. No. 213/28/92 CX.6) dated 18-12-1992 and F. No. 201/ 07/2006 CX6 dated 31-3-2006.

PART- II: AN OVERVIEW OF CENVAT CREDIT RULES, 2004

1. IMPORTANT PROVISIONS RELATING TO CENVAT CREDIT

1. The concept of Cenvat credit:

Excise duty is paid on the manufactured goods. The final product of a manufacturer is used by another person as input or capital goods or consumable for production/manufacture of his goods. When such duty paid goods are used by another manufacturer, the duty suffered on the said goods is required to be offset, as otherwise, it would result in payment of duty on the duty already paid.

In order to overcome the cascading effect as a result of duty on duty, Cenvat credit scheme has been introduced as per which the value addition of the goods alone is subjected to duty at every stage of manufacture.

The conditions and procedures for availment of Cenvat credit are prescribed under the Cenvat Credit Rules, 2004 (hereinafter referred to as CCR).

Under this scheme, a manufacturer can take credit of Excise duty paid on the inputs or capital goods or Service Tax paid on the input services and utilize the same for payment of duty on the final products manufactured by him. Similarly, the service provider may also avail the Cenvat credit for payment of Service Tax on the output services provided by him.

Cenvat credit is admissible on the (i) inputs, (ii) capital goods and (iii) input services.

2.1 Inputs (defined under Rule 2 (k) of the CCR):

The following goods are entitled to credit under the category of inputs:

- (i) All goods except H.S.D, L.D.O. and petrol used within the factory of production in or in relation to manufacture of final products directly or indirectly and whether contained in the final product or not, and includes Lubricating oils, greases, cutting oils and 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 the manufacture of final products or for any other purpose within the factory of production.

‘Inputs’ include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer.

- (ii) All goods, except LDO, HSD or Petrol and Motor vehicles used for providing any output service.

2.2 Capital goods (defined under Rule 2 (a) of the CCR):

The following goods are defined as Capital goods:

- (i) All goods falling under Chapters 82, 84, 85, 90 and Headings 68.05, grinding wheels and the like and parts thereof falling under Heading 6804 of the First Schedule to CETA;
- (ii) Pollution control equipment;
- (iii) Components, spares and accessories of (i) and (ii) above;
- (iv) Moulds and dies, jigs and fixtures;
- (v) Refractories and refractory materials;
- (vi) Tubes, 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 equipments or appliances used in an office; or (2) for providing output service
- (viii) Motor vehicle registered in the name of the service provider of for providing taxable service as specified in sub-clauses (f), (n), (o), (zr), (zrp), (zrt) and (zrw) of clause (105) of Section 65 of the Finance Act, 1994 (The specified services are relating to Courier agency, Tour operator, Rent-a-cab operator, Cargo handling Service, Goods transport Agency, Outdoor Caterer, Pandal or Shamiyana Contractor).

2.3 Input service (defined under Rule 2 (l) of the CCR):

Input Service is any Service -

- (i) used by a provider of taxable service for providing an output service, or
- (ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products up to the place of removal and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security, inward transportation of inputs or capital goods and outward transportation upto the place of removal;

3. Specified duties on which Cenvat credit can be taken:

The specified duties on which Cenvat credit can be taken as per Rule 3 of the CCR are as follows:

- (i) Excise duty, specified in the First Schedule;
- (ii) Special Excise duty specified in the Second Schedule;
- (iii) Additional Excise duty (on textile and textile articles);
- (iv) Additional Excise duty (on Goods of Special Importance);
- (v) National Calamity Contingent duty (NCCD);
- (vi) Education cess (2%) and Secondary and Higher Education Cess (1%) on Excise duty;
- (vii) Additional Customs duty (Section 3 of the Customs Tariff Act, 1975), commonly known as countervailing duty(CVD) and equivalent to Excise duty specified at (i), (ii), (iii), (iv), (v) and (vi) above;
- (viii) Additional duty leviable under sub-section (5) of Section 3 of the Customs Tariff Act (Service provider cannot take credit of this additional duty)
- (ix) Additional duty of Excise leviable under Section 157 of the Finance Act, 2003;
- (x) Service Tax leviable under Section 66 of the Finance Act, 1994; and
- (xi) Education cess and Secondary and Higher Education Cess (1%) on Excise duty/ Service Tax paid on -
 - a) 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 10-9-2004; and
 - b) any input service received by the manufacturer of final product or by the provider of output services on or after 10-9-2004, including the said duties paid on any inputs or capital goods used in the manufacture of any intermediate products by the job worker of the assessee availing exemption under Notification No. 214/86-C.E. dated 1.3.86 and CVD paid on project imports (under Chapter Heading No. 9801 of the Customs Tariff).

4. Transitional provision (Rule 11 of the CCR):

The manufacturer who opts for exemption based on the value or quantity of clearances in a financial year shall pay an amount equal to the credit for the inputs lying in stock or used in the finished goods lying in stock on that date. Balance amount in credit account shall lapse and will not be allowed to be used for payment of duty.

A unit availing SSI exemption is eligible to switch over to Cenvat scheme after crossing the SSI limit or any time before that. While doing so, Cenvat credit can be taken on the stocks of raw material, stock in process and contained in the finished goods.

5. Utilization of the credit (Rule 3(4) of the CCR):

- The Cenvat credit can be utilized for the following purposes:
- For payment of Excise duty on any final products (including waste and scrap); or
- For payment of duty on inputs or capital goods removed as such or inputs removed after being partially processed, under invoice; or
- For payment of Service Tax on any output service.

6. Removal of Credit availed inputs/capital goods (Rule 3(5) of the CCR):

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.

However, such payment is not required where the inputs or capital goods are removed outside the premises of the provider of output service for providing the output service.

If the Cenvat credit availed Capital goods are removed after being used, an amount equal to the Cenvat credit taken on the said capital goods reduced by 2.5% for each quarter of a year or part thereof from the date of taking Cenvat credit is to be paid. If the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal to the duty leviable on the transaction value.

If the value of any credit availed input or capital goods, before being put to use, is written off fully or where any provision to write off fully has been made in the books of account, then the manufacturer shall pay an amount equivalent to the Cenvat credit taken in respect of the said input or capital goods. However, re-credit of the same would be allowed, if such inputs or capital goods are subsequently used in the manufacture of final products.

In case of remission of duty under Rule 21 on any final products, Cenvat credit taken on the inputs used in the manufacture of such final products is to be reversed.

The credit availed inputs or capital goods can be cleared as such for export under bond.

7. *Restriction on availment / utilization of Credit (Rule 3(7)) of the CCR):*

The restrictions relating to availment of Cenvat credit are as shown below:

- (a) Credit of duty paid on inputs or capital goods produced by SEZ, FTZ, 100% EOU, EHTP, and STPI units and used in DTA is restricted as per the formula given in Rule 3 (7) of the CCR.
- (b) AED (T&TA), NCCD component of these duties, Education cess, Secondary and Higher Education Cess and AED (Tea & Tea waste) shall be utilized only for payment of the respective duties.
- (c) Utilization of Credit of AED (GSI) towards payment of BED will be applicable, only if the AED (GSI) was paid on or after 1-4-2000.
- (d) For the purpose of payment of Central Excise duty or Service Tax for the month or quarter, the credit utilization should be limited to the extent of balance of credit available as on the last day of the month or the quarter, as the case may be.
- (e) The provisions of any Rules or Notifications providing for grant of partial or full exemption on condition of non-availability of Cenvat credit shall prevail over the provisions of the Cenvat Credit Rules, 2004.

8. *Conditions for allowing Cenvat Credit (Rule 4 of the CCR):*

Rule 4 of CCR provides for different conditions for allowing Cenvat credit in different situations for inputs and capital goods. The conditions for allowing Cenvat credit are shown below:

Credit of duty paid on the inputs is available immediately on receipt of the inputs in the factory of the manufacturer/premises of the output service provider. Cenvat Credit in respect of input service would be allowed on or after the date payment is made for the value of input service and the Service Tax as indicated in the invoice/bill/Challan.

- ▶ Credit is allowed even if capital goods are acquired on lease, hire purchase or loan agreement from a financing company.
- ▶ Credit is not allowed, if depreciation is claimed on the amount of duty paid under Section 32 of the Income Tax Act.
- ▶ Cenvat credit is allowed in respect of jigs , fixtures, moulds and dies sent by a manufacturer of final products to a job worker for the production of goods on his behalf and according to his specifications.
- ▶ The Credit of duty paid on the capital goods (including capital goods comprised in project imports) would be allowed subject to the following conditions:
 - (a) Upto 50% of the credit would be allowed in the same financial year of receipt of the goods. However, full credit will be allowed in the same year, if the capital goods are cleared as such in the same year.
 - (b) Balance credit would be allowed in any subsequent financial year provided the Capital goods are still in possession and use of the manufacturer / provider of output service (This condition is not applicable to components, spares and accessories, moulds and dies, refractories and refractory materials and goods falling under Heading 68.02 and sub-heading 6801.10).
- ▶ Credit is not allowed on such quantity of inputs or input services and capital goods used in the manufacture of exempted goods or for provision of exempted services except in the circumstances mentioned in Rule 6(2) of the CCR.
- ▶ Credit is not allowed on capital goods which are used exclusively in the manufacture of exempted goods or in providing exempted services except in the case of availment of value based exemption.

9. Obligation of the manufacturer of dutiable and exempted goods and provider of taxable and exempted services (Rule 6 of the CCR):

If Cenvat credit is availed on the inputs or input services, which are used in the manufacture of both dutiable and exempted goods or rendering of both dutiable and exempted services, separate accounts of receipt, consumption and inventory of such inputs or input services are to be maintained. In such cases, Cenvat credit is to be taken only on that quantity of the inputs and input services used in the manufacture of dutiable goods/provision of services.

If the manufacturer/ service provider does not maintain separate accounts, the following two options are available:

- (a) In case of manufacturer, he has to pay an amount equal to 10% of the value of the exempted goods. The service provider has to pay an amount equal to 8% of the value of the exempted services; or
- (b) The manufacturer/service provider shall pay an amount equivalent to the Cenvat credit attributable to the inputs and input services subject to the conditions and procedures prescribed in Rule 6 (3A) of the CCR.

The conditions relating to maintenance of separate accounts or payment of 10% of the value prescribed under Rules 6 (1), 6 (2) and 6 (3) of the CCR shall not apply for exempted goods cleared to the following categories:

- (i) SEZ Unit;
- (ii) 100% EOU;
- (iii) EHTP, STPI unit;
- (iv) United Nations or an International Organization for their official use or supplied to projects listed under Notification No.108/95-C.E;
- (v) for export under bond under Rule 19 of the CER;
- (vi) gold or silver arising in the course of manufacture of copper or zinc by smelting; or
- (vii) all goods which are exempt from the basic duties of Customs and the Additional duty (CVD) when imported into India and supplied against International competitive bidding in terms of Notification No. 6/2006-C.E dated 1.3.2006.

10. Movement of inputs/capital goods (Rule 5(5)(a) of the CCR):

Credit is allowed, even if any of the inputs or capital goods as such (or input after being partially processed) are sent to job worker for certain specified purposes. The goods are, however, to be received back in the factory within 180 days; otherwise, an amount equivalent to the Cenvat credit on such inputs or capital goods is to be reversed. However, such credit can be taken again when they are received back in the factory subsequently.

The specified purposes are as follows:

- Further processing;
- Testing;
- Repair;
- Reconditioning or for the manufacture of intermediate goods necessary for the manufacture of final products; or
- Any other purpose.

Cenvat credit is allowed for jigs, fixtures, moulds and dies sent to job worker for production of goods on behalf of the Principal manufacturer according to his specifications.

11. Storage of inputs outside the factory of the manufacturer (Rule 8 of the CCR):

The storage of inputs outside the factory of the manufacturer is permissible under exceptional circumstances by the jurisdictional Asst. /Deputy Commissioner, subject to adherence of the conditions stipulated.

12. Removal of final products from the job worker's premises (Rule 4(6) of the CCR):

The finished goods would be allowed to be cleared from the premises of the job worker by the Asst. / Deputy Commissioner having jurisdiction over the principal manufacturer subject to observance of the conditions and procedures. This order is valid for the particular financial year.

13. Refund of Cenvat Credit (Rule 5 of the CCR):

The credit of duty paid on the inputs or input services used in the manufacture of the goods which are cleared for export under bond or Letter of Undertaking, or used in the intermediate goods cleared for export or used in providing output service which is exported, can be utilized for payment of duty on the goods cleared for home consumption or for export on payment of duty or for payment of Service Tax on the output service. If such adjustment is not possible, refund of such credit amount in cash is allowed, subject to the conditions specified in the Notification issued under Rule 5 of the CCR.

14. Documents and Accounts (Rule 9 of the CCR):

Cenvat Credit can be taken based on the following documents:

- (a) An invoice issued by –
 - (i) a manufacturer for clearance of -
 - I. inputs or capital goods from his factory or from his 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 Registered depot or from Registered premises of the consignment agent of the said importer registered as dealer in terms of the provisions of CER;
 - (iv) a first stage dealer or a second stage dealer, in terms of the provisions of Central Excise Rules, 2002;
- (b) a supplementary invoice, issued by a manufacturer or importer in terms of the provisions of CER, in case additional amount of Excise duties or Additional duty of Customs has been paid;
- (c) A bill of entry;
- (d) A certificate issued by an Appraiser of Customs in respect of goods imported through a Foreign Post Office;
- (e) a Challan evidencing payment of Service Tax;
- (f) Invoice/bill/Challan issued by a provider of input service;
- (g) Invoice/bill/challan issued by an input service distributor on or after 10-9-2004.

15. Maintenance of Records (Rule 9 of the CCR):

The manufacturer/Output service provider/Input service distributor shall maintain proper records for receipt, consumption and inventory of inputs and capital goods recording value, duty paid, and the person from whom inputs or capital goods purchased. The manufacturer shall submit a monthly return (Quarterly Return by SSI Units) in terms of Rule 9 (7) of the CCR.

16. Burden of proof for admissibility of Cenvat credit (Rule 9(5) of the CCR):

The burden of proof for admissibility of Cenvat credit lies on the manufacturer/service provider availing the Cenvat credit. Therefore, all reasonable steps should be taken to ensure the genuineness of the document based on which credit is taken and payment of duties/tax as specified in the said documents.

17. Transfer of credit (Rule 10 of the CCR):

When the manufacturer shifts his factory to another site or transfers the factory on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the factory to a joint venture with specific provisions for transfer of liabilities of such factory, he can transfer Cenvat credit lying unutilized to such transferred, sold, merged, leased or amalgamated business.

The transfer of Cenvat credit will be allowed when the stock of inputs as such, in process and the capital goods are transferred and they are accounted for to the satisfaction of the Asst / Deputy Commissioner.

18. Recovery of credit wrongly taken (Rule 14 of the CCR):

If Cenvat credit is taken/utilized wrongly or erroneously refunded, the same is liable to be recovered along with interest under Rule 14 of the CCR from the manufacturer/provider of output service and the provisions of Sections 11A and 11AB of the Central Excise Act, 1944 or Sections 73 and 75 of the Finance Act, 1994, will apply *mutatis mutandis*.

19. Confiscation and penalty (Rule 15(1) and 15 (2) of the CCR):

If any person takes Cenvat Credit for inputs or capital goods wrongly or contravenes any provisions of the CCR in respect of any inputs or capital goods, then, all such goods shall be liable to confiscation and such person shall also be liable for penalty not exceeding the duty on such goods for which contravention has been committed or Rs. 2,000/- whichever is greater.

If Cenvat Credit is taken/utilized wrongly by fraud, wilful misstatement, collusion or suppression of facts, or contravention of any provisions of the Act / Rules, with intent to evade payment of duty, the manufacturer shall also be liable to penalty under Section 11AC of the Central Excise Act.

If any person takes Cenvat credit for input services, wrongly or contravenes any of the provisions of these rules, such person shall be liable to a penalty not exceeding Rs. 2,000/-

If Cenvat credit in respect of input services has been taken or utilized wrongly by reason of fraud, collusion, wilful mis-statement, suppression of facts or contravention of any of the provisions of the Finance Act, 1994 or the rules made thereunder with intent to evade payment of Service Tax, then the provider of output service shall be liable to pay penalty in terms of the provisions of Section 78 of the Finance Act, 1994.

20. Important points relating to Cenvat Credit:

- (a) The Cenvat Credit Rules 2004, is intended for the manufacturers governed by the Central Excise Act, 1944 as well as the service providers governed by the Finance Act, 1994. The statutory provisions are mostly similar for both the categories; The main focus in this Guide is with reference to the statutory provisions relating to the Central Excise law intended for the manufacturers.
- (b) Cenvat credit can be availed only when all the particulars as prescribed under the CER or Service Tax Rules, 1994 are contained in the said documents.
- (c) The jurisdictional Asst. / Deputy Commissioner is empowered to condone technical lapses or procedural infringements on the part of the assessee for availment of Cenvat credit so long as the duty paid nature of the input/capital goods/ input service are beyond doubt.
- (d) All reasonable steps should be taken to ensure that duty/tax as indicated in the documents has been paid on the inputs or capital goods or input service on which credit is taken.
- (e) Credit is not admissible, when the additional amount of duty became recoverable on account of non-levy or short-levy by reason of fraud, collusion or wilful mis-statement or suppression of facts or contravention of the statutory provisions with intent to evade payment of duty.

2.DOs AND DON'Ts ON CENVAT CREDIT

DOs

- ▶ Check whether the Cenvat document is original and addressed to your factory;
- ▶ Check the particulars furnished in the Cenvat documents;
- ▶ Check whether the inputs/capital goods are actually received within the factory premises;
- ▶ Check whether the inputs/capital goods are specified under Rule 2(k) and 2(a) respectively of the Cenvat Credit Rules, 2004;
- ▶ Check whether the inputs/capital goods or input services are used in or in relation to the manufacture of dutiable final products or for providing taxable service;
- ▶ Reverse the credit taken on the inputs/capital goods, which are sold or removed as such from the factory,.
- ▶ Reverse the credit availed on the inputs used in the exempted goods;
- ▶ Pay an amount equal to 10% of the value of the goods cleared at NIL rate of duty where Credit availed inputs are used both in dutiable and exempted goods;
- ▶ Ensure that Capital goods or inputs sent for job work are received back within 180 days.

DON'Ts

- ▶ Don't take credit based on the ineligible documents such as extra copy, photo copy, credit note etc and documents which do not contain the required particulars;
- ▶ Don't take credit more than once based on the same invoice;
- ▶ Don't avail both Cenvat credit and depreciation under Income Tax Act on Capital Goods simultaneously – Double benefit not allowed.
- ▶ Don't take CENVAT credit on the capital goods which are not covered under the definition of capital goods.
- ▶ Don't avail 100% CENVAT credit on the capital goods in the same financial year instead of 50%
- ▶ Don't avail Cenvat credit of Service Tax paid on the services which are not used for the manufacture of the final product.
- ▶ Don't avail Cenvat credit of Service Tax paid on the outward freight beyond the place of removal.

PART-III: DATES TO REMEMBER

(i) *Payment of Central Excise Duty under Rule 8 of the CER:*

Due Date	Obligation	Category of Assessee
5 th of every month except March	Payment of Excise Duty as well as the amount payable in terms of the CCR (for the clearances effected during the previous month).	All assesseees (other than SSI units).
For March-By 31 st of March		
15 th of every month except March	Payment of Excise Duty as well as the amount payable in terms of the CCR (for the clearances effected during the previous month).	Assesseees availing exemption based on the value of clearance (SSI units).
31 st of March (For March)		

- Single Copy of GAR-7 Challan is to be used for payment of duty.
- For E-payment, the due dates are 6th and 16th, instead of 5th and 15th respectively.

(ii) *Filing of Returns:*

Due Date	Obligation	Category of Assessee
10 th of the month	ER -1 Return (monthly return in duplicate) furnishing the particulars of production & removal of goods and particulars of Cenvat credit for the previous month - Rule 12 of the CER & Rule 9(7) of the CCR.	All assesseees (Other than SSI units and the assesseees manufacturing processed yarn and unprocessed fabrics falling under Chapter 50 to 55, 58 or 60 of the Tariff).
20 th of the month following the particular quarter	ER-3 Return (Quarterly Return) furnishing the particulars of production and removal of goods and particulars of Cenvat credit for the previous quarter - Rule 12 of the CER & Rule 9(7) of the CCR.	SSIs, assesseees availing area-based exemption and assesseees manufacturing processed yarn and unprocessed fabrics falling under chapter 50 to 55, 58 or 60 of the Tariff).

10 th of the month	Monthly Return in Form ER-2 in respect of excisable goods manufactured and receipt of inputs/ capital goods (for the previous month)required to be filed under Rule 17(3) of the CER	100% EOU (for removals made in DTA)
20 th November of every year	Annual Financial Information Statement in Form ER-4 (for the previous financial year) - Rule 12(2)(a) of CER	All assesseees who have paid more than Rs. One Crore (PLA+ Cenvat) for the previous financial year (ordinance factories are exempt from filing this return)
30 th April of every year	Annual Information on Principal inputs in Form ER-5 (for the previous financial year) - Rule 9A of CCR read with Notifn. 39/2004 CE(NT) dated 25-11-2004	All assesseees who have paid more than Rs.One Crore (PLA+ Cenvat) for the previous financial year; and those manufacturing goods falling under specified headings
10 th of the month	Monthly Return in Form ER-6 for the receipt and consumption of principal inputs during the previous month required to be filed under Rule 9A of the CCR read with Notifn. 39/2004 CE(NT) dated 25-11-2004	All assesseees who have paid more than Rs. One Crore (PLA+ Cenvat) for the previous financial year; and those manufacturing goods falling under the specified headings.
30 th April of every year	Annual Installed Capacity Statement indicating the annual production capacity for the previous financial year in Form ER-7 required to be filed under Rule 12 (2A) of the CER.	All Registered assesseees

IV. INTEREST AND PENAL PROVISIONS

(i). Under the Central Excise Act, 1944:

Section of the Act	Contravention	Quantum of Interest/ Penalty/ Other
Sec. 9	<p>(i) Contravention of Sec. 8 - Restriction on possession of excisable goods or variety of such goods as notified;</p> <p>(ii) transport of prohibited excisable goods;</p> <p>(iii) Failure to obtain registration by specified persons;</p> <p>(iv) Evasion of duty payment;</p> <p>(v) Removal of excisable goods in violation of Central Excise Act or Rules made thereunder;</p> <p>(vi) Possession, transport, deposit, keeping, concealment, sales and purchase of goods liable to confiscation;</p> <p>(vii) Contravention of provisions relating to Cenvat credit;</p> <p>(viii) Failure to give required information or supply of false information;</p> <p>(ix) attempt to commit, or abet the commission of any of the offences mentioned above;</p>	<p><u>(a) If duty involved exceeds Rs.1 lakh:</u> upto 7 years & Fine</p> <p>Imprisonment for a minimum period of 6 months. Imprisonment for lesser period is permissible, if the Court records special and adequate reasons for such reduction.</p> <p><u>(b) If duty involved is less than Rs.1 lakh:</u> Imprisonment upto 3 years or fine or both.</p> <p><u>Second/subsequent conviction under this Section :</u></p> <p>Imprisonment upto 7 years with fine.</p> <p>Imprisonment for a minimum period of 6 months. Imprisonment for lesser period is permissible, if Court records special and adequate reasons.</p>

Sec. 9AA	Offences by Companies	The person in charge and responsible for the conduct of the business of the company shall also be liable for the offence. Applicable provisions as in the case of individuals
Sec. 11 A	Non-payment/Short payment/ Non-levy/ Short levy/erroneous refund	penalty equivalent to 25%, if duty is paid with interest
Sec. 11AA	Non payment of duty determined by an Order issued under Section 11A(2).	Interest @ 15% for the period from the date of such order till the date of payment of such duty Notification No. 18/2002 CE(NT) dated 13-5-2002
Sec. 11AB	Delayed payment of duty short paid/levied, not paid/levied	Interest @ 13% from the date of the month succeeding the month in which the duty ought to have been paid or from the date of erroneous refund. when duty becomes due on issue of Order under Section 37B, no interest is payable, if duty is paid in full foregoing the right to appeal, within 45 days from the date of issue of Order.
Section 11AC	Non-payment of duty or erroneously refund due to fraud, collusion, wilful misstatement or suppression of facts with intent to evade duty payment.	Penalty equal to duty. Penalty may be reduced to 25%, if duty, interest and reduced penalty are paid within 30 days from communication of adjudication order.

Section 11BB	Delay in sanction of refund beyond 3 months time from date of receipt of refund claim	Interest @ 6% is payable by the Department
Section 11DD	Interest on amounts collected in excess of duty	Interest @ 15% (Notification No. 68/2003 CE(NT) dated 12-9-2003)
Section 11DDA	Protection of revenue interest (Provisional attachment)	Provisional attachment valid for six months. Attachment period extendable by Chief Commissioner upto 2 years.
Section 22	Vexatious search or seizure by Central Excise officers without reasonable grounds.	Fine upto Rs.2000/- Imprisonment upto 2 years or fine or both on any person for giving false information causing arrest or search.
Section 23	Failure /refusal to perform duties of his office by any Central Excise officer	Imprisonment upto 3 months or fine upto 3 months pay or both.
Section 37E	Proceedings or prosecutions under Central Excise Act in public interest.	Publication of names and particulars of persons. No publication relating to penalty till appeal is filed/ disposed.

(ii) Under the Central Excise Rules, 2002:

Rule 8	Failure to pay duty by due date	Interest @ 13% from first day after due date till payment of dues.
	Default for more than 30 days	Consignment wise payment of duty without utilization of the Cenvat credit till payment of dues with interest.
Rule 25	Removal of goods in contravention of Central Excise Rules/ Notifications issued thereunder; Non- accountal of excisable goods; Manufacture without applying for Registration Certificate; Contravention of any provision under Central Excise Rules/ Notifications issued thereunder such rules.	Confiscation of goods and Penalty upto duty amount or Rs.2000 whichever is greater.
Rule 26	Possession, transport, deposit, keeping, concealing, selling or purchasing of goods liable for confiscation.	Penalty upto duty amount or Rs.2000/- whichever is greater.
Rule 26	Issue of Excise invoice without delivery of goods or abetment in making such invoice or issue of such document by which ineligible benefit like Cenvat credit is likely to be taken or has been taken.	Penalty upto such ineligible benefit or Rs.5000/- whichever is greater.

Rule 27	Breach of rules for which no penalty is separately provided.	Penalty upto Rs.5000/- and confiscation of goods.
<i>(iii) Under the Cenvat credit Rules, 2004:</i>		
Rule 14	Availment of Cenvat credit wrongly or erroneous refund.	Interest payable along with such credit amount and provisions of Section 11 A and Section 11AB applicable.
Rule 15	Wrong availment of Cenvat credit or contravention of CCR in case of inputs and capital goods.	Penalty of Rs.2000 or upto duty amount, whichever is greater and confiscation of goods.
		Penalty under Section 11AC is also payable, if credit availed is due to fraud, collusion, suppression etc with intent to evade duty payment.
Rule 15	Wrong availment of Cenvat credit or contravention of CCR in case of inputs	Penalty upto Rs.2000/- Penalty as per Section 78 of Finance Act, 1994 also payable, service if credit availed is due to fraud, with intent to evade tax payment.
Rule 15A	Contravention of CCR for which there is no specific Penalty	Penalty upto Rs. 5000/-

PART- V: FREQUENTLY ASKED QUESTIONS - FAQ ON CENTRAL EXCISE

1. What is Excise Duty? Is it collected by the State Government or the Central Government? How is it different from Sales Tax?

Excise duty is a tax on manufacture or production of goods. Excise duty on alcohol, alcoholic preparations, and narcotic substances is collected by the State Government and is called “State Excise” duty. The Excise duty on rest of the goods is called “Central Excise” duty and is collected in terms of Section 3 of the Central Excise Act, 1944. Sales Tax is different from the Excise duty as former is a tax on the act of sale while the latter is a tax on the act of manufacture or production of goods.

2. Whether a manufacturer or producer of goods is required to obtain a license from the Central Excise department for payment of Central Excise duty?

No license is required and a simple registration with the Central Excise department would suffice.

3. What categories of persons are required to obtain registration with the Central Excise department?

Subject to specified conditions, generally the following categories of persons are required to get themselves registered with the Central Excise department: (i) Every manufacturer of dutiable excisable goods; (ii) First and second stage dealers or importers desiring to issue Cenvatable invoices; (iii) Persons holding bonded warehouses for storing non-duty paid goods; (iv) persons who obtain excisable goods for availing end-use based exemption.

4. Is there any category of persons who are exempt from obtaining registration?

Yes. Subject to specified conditions, the following categories of persons need not obtain Central Excise registration. (i) Manufacturers of goods which are chargeable to nil rate of duty or are fully exempt; (ii) SSI manufacturers having annual turnover of below Rs.90 lakhs. Once their turnover exceeds Rs.90 lakhs, they should give the prescribed declaration to the Jurisdictional AC/DC; (iii) Job-workers of ready-made garments, if the principal manufacturer undertakes to discharge the duty liability; (iv) Approved/ licensed units in Export Processing Zones, Special Economic Zones and 100% Export Oriented Units.

5. What is the procedure for obtaining registration?

Apply to the nearest Central Excise Division Office in Form A.1 along with a self attested copy of the PAN issued by the Income Tax Department. After verification, Registration certificate in Form RC is normally issued immediately, as far as possible.

6. What are the items on which Central Excise duty is leviable?

All goods listed in the Central Excise Tariff Act, 1985 attract Central Excise duty unless specified to the contrary in the Act itself or under any Notification issued under the Central Excise Act, 1944 by the appropriate statutory authority.

7. Who is liable to pay Central Excise duty?

The manufacturer who actually undertakes manufacturing activity is liable to pay Central Excise duty. A person does not become a manufacturer simply by supplying raw materials to the manufacturer or getting his goods manufactured according to his own specifications, brand name or trade name, etc. However, for the textile sector, the option is with the supplier of raw materials or with the job worker to pay duty.

8. What is the rate of duty on various category of goods?

The rate of duty on each item is specified in the Central Excise Tariff Act, 1985. In some cases, the statutory rates of duty have been lowered or reduced to Nil by the Central Government in terms of Section 5A of the Central Excise Act, 1944. Anyone interested in knowing the effective rates of duty in respect of any goods must refer to the Tariff or seek guidance from the nearest Central Excise Officer, if necessary.

9. Is there any exemption from payment of duty for Small Scale Industries?

The Small Scale Units, which manufacture the goods specified in the relevant exemption Notifications and fulfill the conditions specified in such exemption Notifications, are exempt from payment of duty till their aggregate value of clearances do not exceed Rs.1.5 Crores in a financial year. The Small-Scale units whose clearances in the previous financial year exceeded the limit of Rs.4 Crores (including the value of exempted goods but excluding the value of export clearances), are not entitled to such exemption. For further details, please consult the nearest Central Excise Range Office.

10. What is the period for filing returns by the assessee?

An SSI unit is required to file returns on quarterly basis within 20 days from the date of completion of the quarter, but non-SSI units are required to file returns on monthly basis within 10 days from the date of completion of the month.

11. What action department takes for non-filing of returns?

A penal action is envisaged on failure to file the returns in time. Penalty may extend upto Rs.5000/-

12. How and when Central Excise duty is to be paid?

An SSI unit has to pay duty on monthly basis by 15th of the succeeding month (16th in case of e-payment). Other units are required to pay duty on monthly basis within 5 days (6 days in case of e-payment) of completion of the month in question. The assessee is required to deposit the amount of duty payable in the nominated bank along with the prescribed GAR-7 Challan and on this amount being credited in the government account, he can take credit in the PLA register. Such credited amount can then be utilized for discharging the duty on goods cleared from his factory. However, for the month of March, the duty has to be paid by 31st March, both for SSI and Non SSI units. Further, in case of default in payment of duty, the interest is leviable @ 13% starting from the date on which the duty was required to be paid till the date of payment (subject to the interest not exceeding the duty amount).

13. What is the facility for mitigating the cascading effect of duty? What is CENVAT?

In order to mitigate the cascading effect as a result of duty on duty, CENVAT Credit scheme is introduced under the CENVAT Credit Rules, 2004 facilitating the manufacturers/ Service providers to avail the credit of duties/Tax paid on the inputs/Capital goods/ Input services, subject to certain conditions. To avail the facility, the assessee has to obtain the documents specified in the CCR from the consignor and take credit of such duty amount in the account maintained for this purpose. The Credit can be utilized for the payment of the duty on the goods cleared from his factory. Please consult the nearest Central Excise Range Office for further information.

14. What formality of Customs is to be fulfilled at the time of export from the factory or what is the procedure for export of goods?

The assessee is required to inform the Superintendent/Inspector in the Range Office 24 hours in advance about the proposed consignment of export. The Central Excise officer remains present while stuffing the goods in the container. After completion of the stuffing, the container is sealed with

the Central Excise seal in the presence of the said officer. Necessary documents such as ARE-1, invoice, packing list are also signed by the said officer. Self-sealing facility is also available under which the assessee himself stuffs the container and effects clearance. For more details, please contact the nearest Central Excise Range Office.

15. Whether Central Excise registration is separately required by 100% EOU?

No. The licence granted by the jurisdictional Customs Officer under Section 58 of the Customs Act, 1962 is sufficient. However, in case of clearance of goods to Domestic tariff area (D.T.A.), Registration is required under the Act.

16. What benefit does a 100% Export Oriented Unit get from the Central Excise?

Subject to prescribed conditions, no Excise/Customs duty is payable on the capital goods, raw materials, spares, consumables, etc imported/indigenously procured by the 100% EOU.

17. What is the procedure to be followed for setting up a 100% EOU?

On obtaining LOP from the Development Commissioner, a manufacturer is required to approach the Commissioner of Central Excise for declaration of the place as a warehousing station under Section 9 of the Customs Act. Thereafter, the manufacturer is required to obtain private bonded warehouse licence under Section 58 of the Customs Act and permission to manufacture goods under Section 65 of the Customs Act from the jurisdictional Deputy/Assistant Commissioner.

18. What is CT-3 certificate and who issues it?

CT-3 certificate is required to be obtained from the Range Superintendent of Central Excise on the basis of which a 100% EOU can procure duty free indigenous goods.

19. What is the periodical return to be filed by a 100% EOU and when?

The 100% EOU is required to file monthly return in the prescribed form.

20. Is it permissible for 100% EOU to sell the goods in local market?

Yes. Under certain circumstances, 100% EOUs are permitted by the Development Commissioner to sell the goods in the local market on payment of appropriate duty.

(Based on the material downloaded from CBEC website: www.cbec.gov.in)

MILESTONES OF THE DEPARTMENT

In tune with the liberalization policy of the Government, the Department undertakes various innovative initiatives periodically to serve the Nation as well as the Trade and General Public. The significant milestones of the Department in the journey towards Trade facilitation are as follows:

- 1969: The “Physical Control System” was replaced by “Self Removal Procedure” signalling the change of attitude of the Department towards the assessees.
- 1986: MODVAT scheme (presently known as CENVAT Scheme) was introduced to facilitate the manufacturers to set off the duty paid on the inputs and capital goods against the duty payable on the final products.
- 1994: Service Tax, the new concept of levying tax on the services was introduced for the first time with an initial coverage of 3 services. The coverage has now expanded to 106 services.
- 1994: The gate pass system for clearance of Excisable goods based on the authentication of the Officers of the Department was replaced with Invoice system facilitating the assessees to remove the goods based on their own Invoice with the authentication of the Authorized representative of the assessees.
- 1996: The “Self Assessment Procedure” was introduced in the year 1996 which vested total freedom and trust in the assessees.
- 2003: The restrictions for movement of excisable goods on the Budget day were removed.
- 2004: Cenvat Credit Rules, 2004 was introduced to facilitate both manufacturers and service providers for availment of Cenvat credit of duty/tax paid on the inputs, input services and Capital goods.

Trade friendly measures of the Commissionerate

The Coimbatore central Excise Commissionerate ever since its creation in 1983 is undertaking various Trade friendly measures with a view to facilitate the Trade and Industry to comply with the statutory provisions voluntarily for building a stronger Nation. The steps taken in this direction are as follows:

- The assesseees are educated and encouraged to opt for e-filing of the Returns and for e-payment of the duties/Tax. This Commissionerate enjoys the proud distinction of being the first to facilitate e-filing of the Return;
- Public Grievance Committee Meetings and Regional Advisory meetings are convened periodically to redress the grievances of the assesseees and to provide solution for their problems relating to taxation;
- For the benefit of the Central Excise and Service Tax assesseees, the Pilot Project of ACES (Automation of Central Excise and Service Tax) is proposed to be launched to enable online transactions in a hassle free manner.
- For the benefit of the Exporters and Importers, ICES 1.5 Project is proposed to be launched to enable the Exporters and Importers to file the Bills and most of the transactions online including receipt of Drawback payments;

The journey continues.....