



CENVAT CREDIT

Credit of inputs, input services and capital goods	Cenvat scheme allows credit of excise duty paid on inputs goods, capital goods and service tax paid on input services [Rule 3(1) of Cenvat Credit Rules]
Utilisation of Cenvat Credit	This credit can be utilised for payment of excise duty on dutiable final products and service tax on taxable output services [Rule 3(4) of Cenvat Credit Rules]
Credit only if manufacture or provision of service	Cenvat credit is available only if there is 'manufacture' or 'provision of taxable output service'.
One to one relation not required	Cenvat Credit Rules do not require one to one relationship [Rule 3(1) read with 3(4) of Cenvat Credit Rules] Entire Cenvat credit is common pool which can be utilised for payment of any eligible duty, service tax or amount.

INPUT (GOODS) ELIGIBLE FOR CENVAT CREDIT

Inputs used in or in relation to manufacture	Inputs which are used in or in relation to manufacture of taxable final product and inputs directly used for provision of taxable output service are eligible for Cenvat credit [Rule 2(k) of Cenvat Credit Rules] Input may be used directly or indirectly in manufacture. Any input integrally connected with manufacturing process is eligible. Process loss is eligible.
Consumables eligible	Consumables are eligible for Cenvat credit.
Accessories, packing material, paint	Accessories, packing material and paints are eligible as inputs.
LDO, HSD and petrol not eligible	LDO, HSD and petrol are not eligible for Cenvat credit [Explanation 1 to Rule 2(k) of Cenvat Credit Rules]
Cement, angles, channels etc. not eligible	Input does not include cement, angles, channels, CTD or TMT used for construction of factory shed, building or foundation or structures to support capital goods [Explanation 2 to Rule 2(k) of Cenvat Credit Rules]
Instant credit	Cenvat credit on input (goods) is instant, i.e. as soon as inputs are received in the factory.



CAPITAL GOODS ELIGIBLE FOR CENVAT CREDIT	
Capital goods eligible for Cenvat credit	Only capital goods as defined in Rule 2(a) of Cenvat Credit Rules are eligible for Cenvat Credit.
Capital goods to be used in factory	Capital goods should be used in the factory of manufacturer.
Equipment or appliances used in office not eligible to manufacturer	Capital goods does not include equipment or appliance used in an office of manufacturer (this restriction does not apply to service provider)
Eligibility of Motor vehicles	Motor Vehicles except certain specified vehicles have been included in the definition of Capital Good used in the factory of the manufacturer of final products -Notification no. 18/2012 C.E. (N.T.)
Sending out capital goods	<p>Capital goods should be used in factory. These can be sent outside for job work but should be brought back within two years (against present limit of 180 days [Rule 4(5)(a) of Cenvat Credit Rules] – w.e.f. 1-03-2015</p> <p>Capital goods can be sent to job worker's place from the supplier manufacturer. The purchaser manufacturer can avail Cenvat credit of those capital goods as soon as goods reach the place of job worker – amendment to rule 4(2)(a) of Cenvat Credit Rules w.e.f. 1-3-2015</p> <p>Moulds, dies, jigs and fixtures can be sent outside without restriction of return within 180 days [Rule 4(5)(b) of Cenvat Credit Rules</p>
Partial use of capital goods for exempted goods allowable	Capital goods used exclusively for manufacture of exempted goods are not eligible for Cenvat credit. Thus, partial use for exempted goods is allowable i.e. full Cenvat credit is available.
Capital goods on hire purchase/lease/loan	Capital goods obtained on hire purchase/lease / loan are eligible [Rule 4(3) of Cenvat Credit Rules]
Duty paying documents	Duty paying documents eligible are same for Cenvat on inputs.
Depreciation should not be availed on Cenvat portion	Depreciation under section 32 of Income Tax Act should not be claimed on the excise portion of the Capital Goods. – Rule 4(4) of Cenvat Credit Rules (Otherwise, the manufacturer will get double deduction for Income Tax - one credit as Cenvat and another credit as depreciation) e.g. if cost of 'capital goods' is Rs 1.16 lakhs, out of which Rs 0.15 lakh is duty paid, assessee can claim depreciation under Income Tax only on Rs one lakh, if he has availed Cenvat credit of Rs 0.16 lakh. The requirement gets satisfied only if the assessee follows accounting procedure specified in guidelines issued by Institute of Chartered Accountants of India
Credit to be availed in two installments	Cenvat credit on capital goods is required to be availed in more than one year, i.e. upto 50% credit can be availed when these are received and balance in any subsequent financial year. The condition for taking balance credit is that the capital goods should be in possession of manufacturer of final products in subsequent years. <i>SSI units can avail entire 100% Cenvat credit</i>



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	<i>in first year itself</i> – Rule 4(2) (a) of Cenvat Credit Rules.
Removal of capital goods as such, after use or as scrap	Capital goods on which Cenvat credit was taken can be removed 'as such' on payment of 'amount' equal to Cenvat credit availed [Rule 3(5) of Cenvat Credit Rules] If capital goods are cleared after use as second hand capital goods, 'amount' is payable at reduced rate by reducing credit taken @ 2.5% per quarter OR transaction amount, whichever is higher. If cleared as scrap, duty is payable on the scrap value billed.
INPUT SERVICE	
Input service eligible for Cenvat credit	Cenvat credit is available of service tax paid on input services. Definition of 'input service' is very wide [Rule 2(l) of Cenvat Credit Rules]. Inclusive part of the definition expands the scope much beyond manufacture or provision of taxable service.
Any service in relation to business is input service	Decisions in <i>Coca Cola</i> (Bombay High Court) and <i>ABB</i> (LB of CESTAT) have cleared most of doubts about interpretation of 'input service' and it is clear that any relation with manufacture or provision of taxable service is not required. any service in relation to business of manufacturer or service provider is 'input service'
Credit availment conditions	Please refer to section – "Routine Procedures Under Service Tax)

UTILISATION OF CENVAT CREDIT	
Utilisation for any eligible purpose	Cenvat credit is a pool. The credit in this pool can be utilised for payment of any excise duty on excisable final product and service tax on taxable output service. The credit can also be used for payment of certain 'amounts' [Rule 3(4) of Cenvat Credit Rules]
Credit only of inputs and services received upto end of month	Credit can be utilised only of inputs and input services received upto end of the month [First proviso to Rule 3(4) of Cenvat Credit Rules] (even if excise duty/service tax is payable at a later date)
Inter-changeability of credit of various duties	Credit of Basic excise duty, CVD, Special CVD and service tax can be utilised for payment of <i>any</i> duty on final product or service tax on output services, except duty payable u/s 85 of Finance Act on pan masala and certain tobacco products [<i>provisos</i> to Rule 3(4) of Cenvat Credit Rules]
Restrictions on interchangeability	Cenvat Credit of education cess, NCCD and additional excise duty paid on inputs under section 85 of Finance Act (and corresponding CVD on imported inputs) can be utilised only for payment of corresponding duty on final product i.e. the credit is not inter-changeable.
Credit of special CVD	Credit of special CVD (present rate is @ 4%) u/s 3(5) of Customs Tariff Act can be utilised by manufacturer but not by service providers [third <i>proviso</i> to Rule 3(4) of Cenvat Credit Rules]
Credit of education cess and SAHE cess	Credit of education cess paid on input goods and paid on input services is inter-changeable. Similarly, credit of SAH Education



cess paid on input goods and paid on input services is interchangeable.

DUTY PAYING DOCUMENT FOR AVAILING CENVAT CREDIT

Eligible duty/tax paying document	Cenvat credit can be availed on basis of eligible duty documents as specified in Rule 9(1). Invoice of Manufacturer, Bill of Entry, Supplementary Invoice, Dealer's Invoice and GAR-7 challan when service receiver is liable to pay service tax are major eligible documents.
Transit Invoice	Credit can be availed on basis of transit invoice i.e. on basis of invoice of manufacturer when goods purchased through dealer and name of ultimate buyer is shown as consignee.
Time limit for availing Cenvat credit	Time limit for availing Cenvat Credit is one year w.e.f. 01.03.15, (earlier within 6 months w.e.f. 01.09.14 till 28.02.15) -rule 4(7) of Cenvat Credit Rules)
Credit cannot be denied on account of minor defects	There is ample case law that Cenvat credit cannot be denied for minor defects in duty paying document.
Endorsement of duty paying document	Duty/tax paying document need not be in name of the manufacturer using the input/input services for manufacture/provision of taxable output service. It is sufficient if these are endorsed in his name with certificate that endorser has not availed Cenvat credit.
Burden of proof	Person taking credit must take reasonable steps while availing Credit. Burden of proof of admissibility of Cenvat credit is on him [Rule 9(5) of Cenvat Credit Rules]

DEALER'S INVOICE FOR CENVAT

First stage and second stage dealer can issue Cenvatable Invoice	Cenvat credit can be availed on basis of Invoice issued by dealer registered with Central Excise [Rule 9(1) of Cenvat Credit Rules] First stage and second stage dealer registered with Central Excise can issue Cenvatable Invoice. First stage dealer means dealer purchasing goods from manufacturer or his depot or consignment agent. They have to submit quarterly return to department within 15 days from close of quarter [Rule 9(8) of Cenvat Credit Rules]
Optional refund of 4% special CVD	If the first stage dealer claims refund of special CVD of 4%, the buyer cannot avail Cenvat credit. (This is not compulsory on dealer. It is optional).
Transit Invoice	Transit Invoice is also permissible. In such case, dealer need not be registered, if name of ultimate buyer is shown as consignee in the invoice issued by manufacturer.

**Cenvat credit of CVD and special CVD on imported goods**

Cenvat credit can be availed in respect of imported goods purchased through dealer, by either issuing dealer's invoice or by endorsement of Bill of Entry.

REMOVAL OF INPUTS FOR SALE OR JOB WORK**Removal of inputs as such**

Inputs on which Cenvat credit was taken can be removed 'as such' on payment of 'amount' equal to Cenvat credit availed [Rule 3(5) of Cenvat Credit Rules]

Sending inputs for job work

Inputs on which Cenvat credit was availed can be sent outside for job work. These should come back within 180 days [Rule 4(5)(a) of Cenvat Credit Rules]

W.E.F. 01.03.15, Cenvat Credit can be availed, if the input goods are sent directly to the job worker, under the direction of the manufacturer, without bringing the goods to the factory, the invoice should mention the name of the manufacturer as the buyer & the job worker as consignee – Rule 11(2) of C.C.R. The processed goods should be returned within 180 days, as before.

Direct dispatch from place of job worker

Direct dispatch of final product from place of job worker can be done with permission of AC/DC for one financial year [Rule 4(6) of Cenvat Credit Rules]. The same permission is valid for 3 years as per Budget 2016.

REMOVAL OF WASTE**Waste is final product**

Waste is final product for excise purposes and duty is payable as if final product is being cleared. This applies only if waste is 'produced' or 'manufactured' and is excisable goods.

Waste not mentioned in Tariff

If a particular waste is not mentioned in Central Excise tariff, neither any amount nor duty is payable at the time of clearance.

RECORDS AND RETURNS UNDER CENVAT**Records of Cenvat credit**

Manufacturer/service provider is required to maintain records of inputs and capital goods, records of credit received and utilised. [Rule 9(5) of Cenvat Credit Rules]

The records can be digitally maintained, where each page is authenticated by digital signature – w.e.f. 01.03.15 – Rule 10 of Central Excise Rules 2002

Return of Cenvat credit availed and utilised

Returns of details of Cenvat credit availed, Principal Inputs and utilization of Principal Inputs in forms ER-1 to ER-7 is to be



	submitted [Rule 9A of Cenvat Credit Rules]
Revised return	Revised return of Cenvat credit can be submitted within 60 days [Rule 9(11) of Cenvat Credit Rules]
Returns by dealers, input service distributor	Dealer/service provider/input service distributor is also required to submit returns [Rule 9(6) and 9(10) of Cenvat Credit Rules]

OTHER PROVISIONS RELATING TO CENVAT	
SSI to reverse Cenvat at end of year	SSI unit can opt out of Cenvat at end of the year. He has to reverse Cenvat credit on inputs in stock as on 31st March [Rule 11(2) of Cenvat Credit Rules]
SSI can take Cenvat of duty on inputs in stock	When he starts payment of duty during financial year after exemption is over, he can avail Cenvat credit of duty paid on inputs in stock
Simultaneous exemption	Simultaneous exemption and availment of Cenvat is permissible by SSI only in specified cases.
Cenvat credit to exporter	Exporter of final product or taxable services can avail Cenvat credit on inputs and input services. He can claim refund of Cenvat credit if he cannot utilise the Cenvat credit for payment of duty on sale made within India on payment of duty [Rule 5 of Cenvat Credit Rules]
Refund of credit of input services	Merchant exporter can claim refund of specified input services used while exporting final product.
Transfer, amalgamation of undertaking	If undertaking is transferred, merged or shifted, Cenvat credit can be transferred [Rule 10 of Cenvat Credit Rules].
Penalty for improper Cenvat credit	Penalty can be imposed for wrongfully taking or utilising Cenvat credit [Rules 15 and 15A of Cenvat Credit Rules]
Accounting for Cenvat and stock valuation	Accounting for Cenvat should be as per guidance note issued by ICAI. Inventory valuation should be as per AS-2 which requires exclusion of Cenvat credit. However, for income tax purposes, Cenvat credit has to be added in valuation in view of section 145A of Income Tax Act.