



CAPITAL GOOD – CENVAT ON REMOVAL – AFTER BEING PUT TO USE

(Ref: Notification No. 18/2012 – Central Excise (N.T.) Dated 17.03.12)

1 Prior to 17/03/12, as per third proviso to Rule 3(5) of CENVAT Credit Rules, 2004 if the capital goods, in respect of which CENVAT Credit has been taken, are removed, after being used, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method at the specified rate for each quarter of a year or part thereof from the date of taking the CENVAT Credit.

2 Further, prior to 17/03/12, Rule 3(5A) of CENVAT Credit Rules, 2004 provides that if capital goods are cleared as waste and scrap, the manufacturer was required to pay an amount equal to duty leviable on Transaction Value.

3 Thus, there was a difference in amount required to be paid on removal of capital goods when the same is removed as other than waste and scrap and the same is removed as waste and scrap. Now, such difference has been removed. Now, third proviso to Rule 3(5) has been omitted and Rule 3(5A) has been substituted to provide if the capital goods on which CENVAT credit has been taken are removed after being used whether as capital goods or scrap or waste, assessee shall be required to pay:

(i) An amount equivalent to CENVAT credit taken reduced by percentage specified for retaining the CENVAT credit amount, OR

(ii) An amount equivalent to duty leviable on Transaction value,

whichever is higher.

For the purpose of clause (i) hereinabove, the rate for retaining the CENVAT credit are as under:

a) for computers and computer peripherals:

- for each quarter in the first year @10%
- for each quarter in the second year @8%
- for each quarter in the third year @ 5%
- for each quarter in the fourth and fifth year @1%

b) for capital goods, other than computers and computer peripherals

- @ 2.5% for each quarter.

If capital goods are cleared after use, an 'amount' payable by reducing the original Cenvat credit @ 2.5% per quarter i.e. 10% per year.(Higher reduction in case of computers)

" If excise duty calculated on basis of transaction value of the old capital goods is higher, then 'amount' equal to that duty payable.

" For example, capital goods were purchased on which Cenvat Credit availed was ` 1,00,000. These were cleared after use for five years. Then 'amount' to be paid (i.e. Cenvat credit to be reversed) is ` 50,000 (10% per year). However, capital goods were sold for ` 5,00,000 on which excise duty payable at current rate of 12.36% is 61,800. In that case, 'amount' payable will be ` 61,800.

IF THE MANUFACTURER HAS NOT TAKEN CENVAT CREDIT AT THE TIME OF PURCHASE, THEN THE QUESTION OF PAYMENT OF ANY AMOUNT SHOULD NOT ARISE.



CHANGES IN RELATION TO CAPITAL GOODS CLEARED AS SCRAP – W.E.F. 27.09.13

(Ref: Notification No. 12/2013 – Central Excise (N.T.) Dated 27.09.13)

The Cenvat Credit Rules 2004, relating to cenvat & payment of duty on Capital Goods cleared after use have been amended vide Notification No. 12/2013 – C.E. (N.T.) dated 27.09.13 as enclosed herewith.

CBEC has further amended the Cenvat Credit Rules, 2004 wherein new rules called Cenvat Credit (Second Amendment) Rules, 2013 have been introduced.

The Rule 3(5A) has been amended vide this notification whereby the new rule specifies different provision for clearance of used capital goods and the capital goods cleared as waste and scrap.

With respect to used capital goods, the amount that is required to be paid is cenvat credit reduced by percentage points calculated on Straight Line Method for each quarter of a year or part thereof from the date of taking cenvat credit or the duty leviable on the transaction value, whichever is higher, remains unchanged.

However, it has been specified that for capital goods cleared as waste or scrap, the manufacturer is liable to pay duty leviable on the transaction value. Earlier, the provision was same for both used capital goods and capital goods cleared as waste and scrap.

The amendment is summarised as follows -

Cleared As Capital Goods

If the capital goods on which CENVAT credit has been taken are removed after being used whether as capital goods, assessee was and is required to pay:

(i) An amount equivalent to CENVAT credit taken reduced by percentage specified for retaining the CENVAT credit amount, OR

(ii) An amount equivalent to duty leviable on Transaction value,

whichever is higher.

Cleared As Scrap & Waste

If the Capital Goods are cleared as Scrap & Waste, the manufacturer was earlier required to pay duty as per above rule, NOW shall pay **an amount equal to duty leviable on transaction value.**

The above amendments shall come into force from the date of publication of the notification in the official gazette.



Notification No. 18/2012 – Central Excise (N.T.)
(Only Relevant Portions Re-Produced Below)

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB SECTION (i)]

Government of India
Ministry of Finance
Department of Revenue

New Delhi, the 17th March, 2012

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely :-

1. (1) These rules may be called the CENVAT Credit (Third Amendment) Rules, 2012.

(2) Save as otherwise provided in these rules, they shall come into force on the 1st day of April, 2012.

3. In rule 3 of the said rules,-

(a) in sub-rule (5), the third proviso shall be omitted with effect from the 17th day of March, 2012.

(b) for sub-rule (5A), the following sub-rule shall be substituted with effect from the 17th day of March, 2012, namely :-

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

(a) for computers and computer peripherals : for

each quarter in the first year @ 10%
for each quarter in the second year @ 8%
for each quarter in the third year @ 5%
for each quarter in the fourth and fifth year @ 1%

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

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

(Samar Nanda)
Under Secretary to the Government of India

Note. - The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 10th September, 2004, vide notification number 23/2004-Central Excise (N.T.), dated the 10th September, 2004, vide number G.S.R. 600(E), dated the 10th September, 2004] and was last amended vide notification number 3/2012- Central Excise (N.T.), dated the 12th March, 2012, vide number G.S.R. 138(E), dated the 12th March, 2012.



Notification No. 12/2013 – Central Excise (N.T.)
(Only Relevant Portions Re-Produced Below)

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 12/2013(NT)

New Delhi, the 27th September, 2013

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely : -

1. (1) These rules may be called the CENVAT Credit (Third Amendment) Rules, 2013.
(2) They shall come into force on the date of their publication in official Gazette .
2. In rule 3 of the CENVAT credit rules ,2004, for sub-rules (5A), the following sub-rule shall be substituted-
"(5A) (a) if the capital goods, on which CENVAT credit has been taken, are removed after being used, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CEVAT Credit, namely:-
(i) for computers and computer peripherals :
for each quarter in the first year @ 10%
for each quarter in the second year @ 8%
for each quarter in the third year @ 5%
for each quarter in the fourth and fifth year @ 1%
(ii) for capital goods, other than computers and computer peripherals @ 2.5% for each quarter:

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

(b) If the capital goods are waste and scrap the manufacturer shall pay an amount equal to the duty leviable on transaction value."

F.NO. 267/42/2012-CX8

(Vikash Kumar)
Director to the Government of India