
CENVAT CREDIT

CENVAT Credit refers to the concept of allowing credit of Central Excise duty and/or Service tax paid on:

- Inputs
- Capital Goods and
- Input services

Which are used for:

- Manufacture of final products and/or
- Providing output services.

CENVAT Credit is not same as MODVAT Credit, in fact it can be said to be refined version of MODVAT Credit, as this is a Cross Sectional Credit system.

In this write up let us take a brief overview of some of the aspects of CENVAT Credit namely:

- Eligibility
- Availment and
- Utilization

ELIGIBILITY TO AVAIL AND UTILZE CENVAT CREDIT

CENVAT credit can be claimed in cases where the output is liable for payment of duty and there *should be a nexus* between the inputs and the taxable output to claim CENVAT credit.

So, for a person to claim CENVAT Credit, he has to be either:

1. A manufacturer of *excisable* goods or
2. A *taxable* service provider.

Following persons though are not eligible to claim CENVAT credit:

1. Traders
2. Input Service Distributors
3. First/Second Stage Dealers

4. Manufacturers and Service Providers claiming Small Scale exemption
5. Job workers claiming exemption as the duty is paid by Principal Manufacturer

Input Service Distributors and First/Second Stage Dealers are not eligible for CENVAT Credit because they act as mere intermediaries to pass the CENVAT credit from one person to another.

Further since the provisions of Service tax do not apply to the State of Jammu & Kashmir, the rules for availment & utilization of CENVAT credit are not applicable for the services provided within the State of Jammu & Kashmir.

AVAILMENT OF CENVAT CREDIT

The following table summarizes CENVAT Credit *availment* process in nut shell:

CENVAT Credit on	Nature of taxes & duties that can be availed		When can it be availed	Documentary evidence required to support the claim
	Manufacturer	Service Provider		
Inputs	<ul style="list-style-type: none"> - Central Excise Duty or CVD in case of Imports - Additional Duty of Customs in lieu of VAT - Edu cess 	<ul style="list-style-type: none"> - Central Excise Duty or CVD in case of Imports - Edu cess 	On receipt of goods in factory or Premises as the case may be	Excisable Invoice or Bill of Entry, as the case may be
Input Services	<ul style="list-style-type: none"> - Service Tax - Edu. Cess 	<ul style="list-style-type: none"> - Service Tax - Edu. Cess 	On receipt of Invoice	<ul style="list-style-type: none"> - Invoice of Service Provider or - TR-6 Challan in case of Reverse charge

CENVAT Credit on	Nature of taxes & duties that can be availed		When can it be availed	Documentary evidence required to support the claim
	Manufacturer	Service Provider		
				mechanism
Capital Goods	<ul style="list-style-type: none"> - Central Excise Duty or CVD in case of Imports - Additional Duty of Customs in lieu of VAT - Edu cess 	<ul style="list-style-type: none"> - Central Excise Duty or CVD in case of Imports - Edu cess 	<ul style="list-style-type: none"> - 50% on receipt of goods in factory or Premises as the case may be. - Balance 50% in the next financial year. - <i>W.e.f. 01.04.2010, full credit of Capital goods can be claimed in the first year by an SSI unit opting out of SSI exemption</i> 	Excisable Invoice or Bill of Entry, as the case may be

Now, after understanding a brief process of availment of CENVAT Credit, let us now take a bird's eye view at:

- How the terms “input”, “ Capital goods” and “Input services” are defined in CENVAT Credit rules, 2004

INPUTS

With effect from 01.04.2011 the term input has been defined to include, inter-alia, all goods used in factory by the manufacturer of the final product and all goods used in providing output services by the service provider.

Goods that do not constitute inputs for availment of CENVAT Credit are specifically excluded and these shall include:

- Petroleum items
- Motor vehicles

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- Any goods such as food items, or used in guest houses, residential colony, club, recreational facility or a clinical establishment which are primarily meant for the personal use or consumption of the employees
 - Capital goods except when used as parts or components in manufacture of final product
 - Goods used for construction of building/civil structure/foundation for capital goods
 - Goods which have no relation whatsoever with the manufacture of final product.
 - In case of manufacturer, CENVAT credit cannot be availed in case where the inputs are directly sent to a third party/place without bringing the same in the factory of production. The same condition though does not apply to CENVAT Credit on input services.

CAPITAL GOODS

The following goods if used by the Manufacturer in its *factory* for manufacture of final products and/or used by the Service provider for providing output services are eligible for availment of CENVAT Credit:

- Tools & equipments of Base Metals
- Machinery & Mechanical equipments
- Electrical machinery & equipments
- Technical equipments
- Abrasive Powders
- Grinding Wheels and its components, spares and accessories
- Pollution Control Equipment and its components, spares and accessories
- Moulds dies, jigs & fixtures
- Refractories and refractory materials
- Tubes, pipes and fittings thereof
- Storage tank
- Capital goods used outside the factory for generation of electricity for captive consumption within the factory.
- Motor vehicles including dumpers and tippers when used in:
 - o Providing output services like renting of such vehicles, transportation of passengers or imparting motor driving skills
 - o Transportation of inputs and capital goods used for output services
 - o Providing output services of courier agency

Points to remember:

- Capital goods including any appliance or equipment that is, used in office premises are not eligible for CENVAT Credit

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- Ownership in Capital goods is not a mandatory requirement to claim CENVAT Credit. CENVAT Credit is allowed even if the goods are acquired on lease, hire purchase or on loan agreement from a financing Company
 - Depreciation under the Income Tax Act cannot be claimed on the value of Capital goods which represent amount of duty on such goods.

INPUT SERVICES

Input services means any service:

- Used by Service provider for providing Output services or
- Used by manufacturer whether *directly or indirectly* in or in relation to manufacture and clearance of final product *up to the place of removal and*
- **Includes** services in relation to :
 - o Modernization, renovation or repairs of :
 - Factory or
 - Premises of Output Service Provider or
 - Office in relation to such factory or premises
 - o Advertisement or Sales Promotion
 - o Market research
 - o Storage up to the place of Removal
 - o Procurement of Inputs
 - o Accounting, auditing, financing
 - o Recruitment and Quality Control
 - o Coaching and Training
 - o Computer networking
 - o Credit rating
 - o Share registry
 - o Security
 - o Business Exhibition
 - o Legal Services
 - o Inward transportation of inputs or Capital goods
 - o Outward transportation *up to place of removal*

But Excludes:

- Service portion in execution of Works Contract of:
 - o Building or civil structure or a part thereof or
 - o Laying foundation or making of structure for support of Capital goods
- Services of renting of Motor Vehicles (unless the credit is available for M.Vehicle itself as Capital Goods)

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- Services of Insurance of motor vehicles (unless the credit is available for M.Vehicle itself as Capital Goods)
 - Services for personal consumption of employees

Points to remember:

With effect from 01-04-2011, CENVAT credit on Input Services can be claimed at the time of receipt of Invoice ***but, if*** the payment is not made within ***three*** months, the CENVAT credit claimed, if any will have to be reversed.

UTILISATION OF CENVAT CREDIT

Both Availment and Utilization of CENVAT Credit refers to two separate sets of procedures.

Availment refers to availability of CENVAT Credit to an eligible person, on payments made/to be made towards Central Excise duty, Service tax and related taxes at the time of procurements of goods and/or services thereby booking of CENVAT credit in respect of taxes so paid in the books of accounts of eligible person.

Whereas Utilization refers to the adjustments of CENVAT credit so availed, against of Output service tax or Excise duty payable.

Typically, the CENVAT Credit can be utilized as under:

- Payment of Output Service tax or excise duty as the case may be.
- Claim of refund of accumulated CENVAT Credit to the extent of exported goods/services.
- Carry forward of Balance Credit. ***There are no provisions which treat the unutilized balance as lapsed.***

Points to remember:

- Education cess paid on excisable goods/taxable services cannot be utilized on payment of excise duty but there is no bar in utilization of accumulated excise duty credit for effecting the payment of education cess.
- Accumulated CENVAT Credit cannot be utilized for effecting payment of service tax under reverse charge mechanism.
- CENVAT credit cannot be availed in cases where the inputs or the input services are used in manufacture of exempted goods.
- Whereas if the manufacturer or service provider is involved in both exempted as well as taxable activities then it requires one to one identification of inputs with the outputs to claim CENVAT credit with respect to taxable goods and services.

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- But in case of eligible Capital goods used both for taxable and exempted services, full credit can be claimed.

We hope that by way of this write up, we are able to through some light on various concepts used in determining eligibility, availment and utilization of CENVAT credit.

Please note that, various other aspects of CENVAT credit like Proportionate calculations, Procedural aspects- Documentation, maintenance of records, filing of returns, refund claims, storage and removal of inputs/Capital goods etc are not covered in this write up.