

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. (a) These rules may be called the CENVAT Credit (Amendment) Rules, 2010.

(b) Except, clause (i) of rule 3, the provisions of these rules shall come into force on the date of their publication in the official Gazette and clause (i) of rule 3 shall come into force on and from the 1st day of April, 2010.

2. In the CENVAT Credit Rules, 2004 (hereinafter referred to as the said rules), in rule 3, in sub-rule (5), for the second proviso, the following proviso shall be substituted, namely:-

“Provided further that 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 CENVAT 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.”.

3. In the said rules, in rule 4,-

(i) in sub rule (2), in clause (a), after the second proviso, the following proviso shall be inserted, namely:-

“Provided also that where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year, the CENVAT credit in respect of capital goods received by such assessee shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year.

Explanation.- For the removal of doubts, it is hereby clarified that an assessee shall be “eligible” if his aggregate value of clearances of all excisable goods for home consumption in the

preceding financial year computed in the manner specified in the said notification did not exceed rupees four hundred lakhs.”;

(ii) in sub-rule (5), for clause (b), the following shall be substituted, namely:-

“ (b) The CENVAT credit shall also be allowed in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to,-

- (i) another manufacturer for the production of goods; or
- (ii) a job worker for the production of goods on his behalf, according to his specifications.”.

4. In the said rules, in rule 6, in sub-rule (6), for clause (vii), the following clause shall be substituted, namely:-

“ (vii) all goods which are exempt from the duties of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty leviable under sub-section (1) of section 3 of the said Customs Tariff Act when imported into India and are supplied,—

- (a) against International Competitive Bidding; or
- (b) to a power project from which power supply has been tied up through tariff based competitive bidding; or
- (c) to a power project awarded to a developer through tariff based competitive bidding,

in terms of notification No. 6/2006-Central Excise, dated the 1st March, 2006.” .

5. In the said rules, for rule 15, the following rule shall be substituted, namely:-

“15. Confiscation and penalty.- (1) If any person, takes or utilises CENVAT credit in respect of input or capital goods or input services, wrongly or in contravention of any of the provisions of these rules, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty not exceeding the duty or service tax on such goods or services, as the case may be, or two thousand rupees, whichever is greater.

(2) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of the Excise Act, or of the rules made thereunder with intent to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of section 11AC of the Excise Act.

(3) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of these rules or of the Finance Act or of the rules made thereunder with intent to evade payment of service tax, then, the

provider of output service shall also be liable to pay penalty in terms of the provisions of section 78 of the Finance Act.

(4) Any order under sub-rule (1), sub-rule (2) or sub-rule (3) shall be issued by the Central Excise Officer following the principles of natural justice.”

[F.No. 334/1 /2010-TRU]



(Prashant Kumar)

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Note.- The principal rules were notified vide notification No. 23/2004-Central Excise (N.T.), dated the 10th September 2004, vide number G.S.R.600(E), dated the 10th September,2004, and last amended by notification No. 22/2009-Central Excise (N.T.), dated the 7th September, 2009, vide number G.S.R. 645(E), dated the 7th September, 2009.