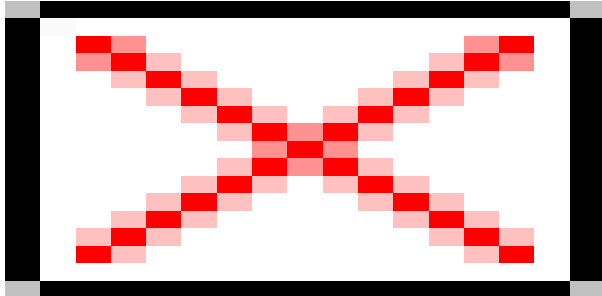


Responsive Board



TIOL-DDT 2819

04 04 2016

Monday

THE TIOL effect - Anomaly in Rule 6 rectified

During the Budget 2016, Rule 6 of the CENVAT Credit Rules, 2004 has been totally revamped aiming at some assessee friendly amendments. However, there is one anomaly even in the amended Rule. As per the amended Rule 6(3), a manufacturer or output service provider engaged in manufacture of dutiable and exempted goods/services shall

follow any one of the following options applicable to him, namely:-

(i) pay an amount equal to six per cent. of value of the exempted goods and seven per cent. of value of the exempted services **subject to a maximum of the total credit available in the account of the assessee** at the end of the period to which the payment relates; or

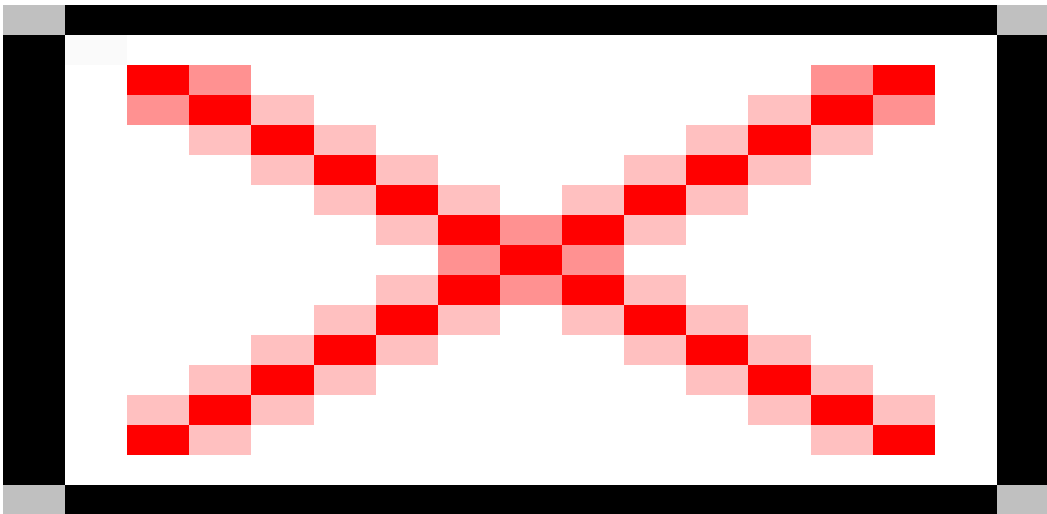
(ii) pay an amount as determined under sub-rule (3A):

A plain reading of the above would indicate that the 6%/7% amount is subject to a maximum of CENVAT Credit balance available in the account of the assessee at the end of the period, after debiting all the duties payable during the period. However, this was not the intention of the legislature as the idea was to restrict the 6%/7% amount to total credit taken on all the inputs and input services. In fact, the JS (TRU) letter clearly explained this amendment as:

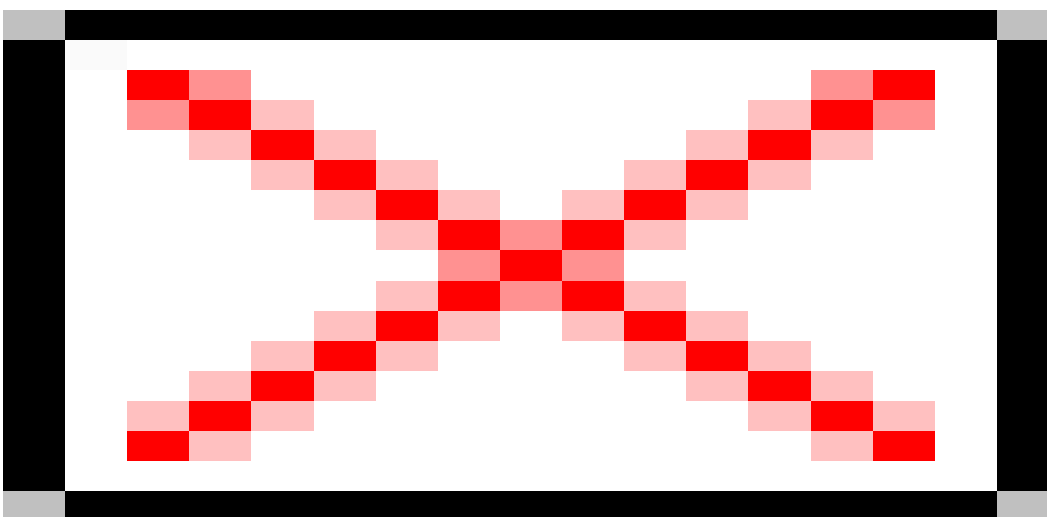
(iii) sub-rule (3) of rule 6 is being amended to provide that when a manufacturer manufactures two classes of goods for clearance upto the place of removal, namely, exempted goods and final products excluding exempted goods or when a provider of output services provides two classes of services, namely exempted services and output services excluding exempted services, then the manufacturer or the provider of the output service shall exercise one of the two options, namely, (a) pay an amount equal to six per cent of value of the exempted goods and seven per cent of value of the exempted services, subject to a maximum of the total credit taken or (b) pay an amount as determined under sub-rule (3A).

Not many observed this in fine print, but during TIOL Budget discussions, we raised this issue and pointed out that the Rule has not been properly drafted to reflect the intention of the Government.

My editorial colleague Raghavendra Rao explained the situation in <https://youtu.be/FYt1b5Pd6W8>



I asked a panel of experts the same question. Their views in <https://youtu.be/XbPiHFD4tis>



Now, the responsive Board has done the needful. An amendment has been made to sub-rule (3) of Rule 6. The amended Rule reads:

- (i) pay an amount equal to six per cent. of value of the exempted goods and seven per cent. of value of the exempted services subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period; or•;

As per this amended provision, assuming during a month, the value of exempted goods to be Rs one crore, the 6% amount would be Rs 6,00,000/-. However, if the opening balance of the credit of input and input Services plus the credit taken on all inputs and input Services during that month is Rs 1,20,000/- only, then the 6% amount would be restricted to Rs 1,20,000/- only.

All is fine, but even this new amendment has a problem. While Table No 6 of the ER1 return (CENVAT statement) has separate columns for fresh credit of inputs, input services and Capital goods, the opening balance of credit at the beginning of the Month does not have item-wise break up. This means, the opening balance of Credit includes capital goods credit and it is not possible to identify the "opening balance of credit on inputs and input services available" for the purpose of Rule 6(3).

Perhaps it is not easy to solve the problems created by this Rule which was born as Rule 57CC with several congenital defects. Even the surgery performed in 2016 budget seems to have side effects.

May be it is time to totally scrap the entire Rule 6 and accept the Cost accountant or Chartered Accountant Certificate of inputs/input services contained in exempted goods and seek reversal of that amount.

Sub-rule (1) of Rule 7B has also been amended to substitute the words "

invoices, issued in terms of the provisions of the Central Excise Rules, 2002, with documents specified under rule 9 ,". This Rule enables a manufacturer having multiple units to avail credit on inputs received from its warehouse. Prior to this amendment, the warehouse can pass on credit of inputs received under cover of invoice issued under CE Rules, 2002 only. With the amendment, the credit on even the imported inputs and inputs received from dealers can be passed on. Invoice alone is not the prescribed document.

[Notification No. 23 /2016- Central Excise \(N.T.\), Dated: April 01, 2016](#)

Baggage Rules -Duty Free Allowance - Foreign Tourist welcome

In **[DDT 2818](#)**

, we pointed out that in the amended Baggage Rules, the Indian Tourist appeared twice and the foreign tourist went missing. The Board has corrected it immediately and the second Indian tourist is corrected as foreign tourist. There seems to be a big attitudinal change in the Board. They are now willing to listen, correct and assist in ease of doing business. This augurs well for the Indian business.

[CBEC Corrigendum., Dated:April 01, 2016](#)

Bill of Entry Becomes Integrated Declaration

BILL of Entry (Electronic Declaration) Regulations, 2011 are amended and the rules have become the Bill of Entry (Electronic Integrated Declaration) Regulations. The electronic form is as given in the website [https:// www.icegate.gov.in](https://www.icegate.gov.in) . There is however a small hitch - the website does not open most of the times. Hopefully they will rectify it soon.

The site pronounces,

New Integrated declaration of BE's has implemented w.e.f. 1st April 2016. Users are requested to file documents & also get their applications modify accordingly. RES package from NIC is available at <http://ices.nic.in/lces/home.aspx>

And that site proclaims:

Fresh Package with Single Window changes for all users is available under Download Sec. Users may download the same as Res/Imports Fresh Package dated 31Mar2016. Existing Users may take the backup of their Database, Send and Checklist Folder. This application will give you the option to import the Supplier, IEC and Item Directory from your existing RES Database.

[Notification No. 45/2016-CUSTOMS\(N.T.\), Dated: April 01, 2016](#)

Customs - Fees for Rendering Services by Customs Officers - No Fee in 24/7 operations

AS per the Customs (Fees For Rendering Services by Customs Officers) Regulations, 1998,

On a request made in that behalf by any person, a fee as given in the Table shall be levied for rendering of services by the Customs Officers.

Now, the Board has amended the regulations to insert a proviso,

Provided that where the working hours in respect of clearance of cargo in Customs ports or Customs airports, has been prescribed as twenty- four hours on all days for customs clearance, no fee shall be leviable in such locations for the services rendered by the officers.

Maybe this is another "***ease of doing business***"

step. As such the rates are not very high. The fee for getting a Superintendent/Appraiser is a maximum of Rs. 180 per hour. You can get him for Rs. 1440 for eight hours during the night and Rs. 1120 during the day on a holiday. The Government pays him more than double that sum.

In fact, the CAG had raised an objection in 2014 that the Government has not revised the rates thus losing revenue. The CAG observed,

"MOT rates were increased by more than 100 per cent with effect from October 1998 by revising the existing rates prescribed in Regulations of 1968 consequent to 3 to 3.5 times pay hike of the Central Government employees after implementation of recommendations of the 5th Pay Commission. After implementation of recommendations of the 6th Pay Commission in August 2008, basic pay of Central Government employees was again hiked by 2.42 to 3.23 times as compared to the pay prescribed by 5th Pay Commission. However, corresponding revision of MOT rates has not been carried out so far by the Board and accordingly MOT charges are still being levied at rates prescribed in September 1998. Board did not contemplate periodical revision of the MOT rates subsequent to the revision of pay scales on implementation of the Pay Commission's recommendations."

Small Money!

[Notification No. 46/2016-CUSTOMS\(N.T.\), Dated: April 01, 2016](#)

Target Achieved - Now Focus on Key Areas of Work

~~RE~~ **have exceeded the RE of Rs 7,02,000 Crore for the year 2015-16**

.â€•, says the CBEC Chairman Najib Shah in a D.O. letter to the Chief Commissioners. Of course he admits that the steep hike in excise duty on petroleum products has helped him in reaching the target.

Now that the target is achieved, the Chairman wants the officers to focus on key areas of work - adjudication, refunds, arrears, audit, anti-evasion/anti-smuggling, scrutiny of returns, withdrawal of complaints/appeals/prosecutions where necessary.

He wants the officers to strive to make the Service responsive and responsible, and ensure that they act as true facilitators of genuine trade.

[CBEC Chairman D.O. No. 47/2016., Dated:April 01, 2016](#)

Until Tomorrow with more **DDT**

Have a nice day.

Mail your comments to vijaywrite@tiol.in