

ABC of Rule 6 - What is P??

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THE obligation of the manufacturer of dutiable and exempted goods under Rule 6 of the Cenvat Credit Rules has always been a matter of dispute. Where the assessee does not maintain separate accounts for the inputs used in exempted goods and dutiable goods, the demands made at the rate 10% on the value of the exempted goods did not stand the judicial scrutiny in cases where the proportionate credit was reversed instead of paying 10%, following the ratio of Supreme Court ruling in Chandrapur Magnet Wires (P) Ltd ([2002-TIOL-41-SC-CX](#)). The latest amendment made to Rule 6 of the Cenvat Credit Rules appears to be aimed at giving effect to the Chandrapur Magnet ratio by providing an option to the manufacturers /service providers to reverse the proportionate credit or to pay 10% or 8% on the value of the exempted goods/services, as the case may be. The rule contains several formulae represented by letters of the English alphabet from A to P. For easy understanding, the letters and what they represent are tabulated as under:

Letter	What it means
A	CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods <i>in a month</i>
B	Total value of exempted services provided during the <i>preceding financial year</i> .
C	total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during the <i>preceding financial year</i>
D	total CENVAT credit taken on inputs during <i>the month</i> minus A.
E	total value of exempted services provided plus the total value of exempted goods manufactured and removed during the <i>preceding financial year</i>
F	total value of taxable and exempted services provided and total value of dutiable and exempted goods manufactured and removed, during the <i>preceding financial year</i>
G	total CENVAT credit taken on input services during <i>the month</i>

H	the amount of CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods in <i>the current financial year</i> .
I	Missing ..????? unintentional???
J	the total value of exempted services provided during <i>the current financial year</i>
K	the total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during <i>the current financial year</i>
L	total CENVAT credit taken on inputs during <i>the current financial year</i> minus H
M	total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during <i>the current financial year</i>
N	total CENVAT credit taken on input services during <i>the current financial year</i>
O	Missing ..not used
P	Used in the Rule, but not explained what is P .

Upto L, the rule is clear and understandable, but when it comes to M, N and P, there is a mix up in drafting. M,N and P are parallel annual figures for E,F and G which are used for provisionally determining the monthly credit payable on the input services used in exempted goods and services. Therefore the correct position should be:

M	total value of exempted services provided plus the total value of exempted goods manufactured and removed during the <i>current financial year</i>
N	total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during <i>the current financial year</i>
P	Total credit availed on the input services during <i>the current financial year</i> .

The relevant sub-rule 3A(c) reads now as under:

(iii) the amount attributable to input services used in or in relation to manufacture of exempted goods or provision of exempted services = (M/N) multiplied by P, where **L**

denotes total value of exempted services provided plus the total value of exempted goods manufactured and removed during the financial year, **M** denotes total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the

financial year, and **N** denotes total CENVAT credit taken on input services during the financial year;

This should read as:

*(iii) the amount attributable to input services used in or in relation to manufacture of exempted goods or provision of exempted services = (M/N) multiplied by P, where **M** denotes total value of exempted services provided plus the total exempted goods manufactured and removed during the financial year, **N** denotes total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the financial year, and **P** denotes total CENVAT credit taken on input services during the financial year;*

Therefore an immediate amendment is required in the above rule.

Further, there is also a need to have a re-look at D which has been defined as the credit taken on the inputs during the month minus A (credit attributable to the inputs used in the manufacture of exempted goods during the month). Since the inputs on which credit is taken **during the month** are not used completely in the same month, it may be appropriate to define D as total credit attributable to the inputs used in the manufacture of final products during the month minus the credit attributable to the inputs used in the manufacture of exempted goods.

The provisional monthly amount payable has to be worked out as under :

1. Inputs used in exempted goods	A
2. Inputs used in exempted services	(B/C)XD
3. Input services used in exempted \hat{A} goods/services	(E/F)XG

In respect of amount payable on the input services, in case 3 above, G has been defined as the total cenvat credit taken on the input services during the month. In effect, the amount to be reversed will be based on the ratio of the value of the exempted services /goods to the total value of the goods/services. However, sub-rule 5 of Rule 6 provides that full credit is allowed on certain common services used notwithstanding the sub-rules 1,2 and 3. Now, these amounts will also have to be included for arriving at G above, which means that the full credit allowed under sub-rule 5 on common services will also be divided now in the ratio of E/F. Therefore the formula in third case is in direct conflict with sub-rule 5 and G may have to be redefined.

(All See related analysis - [Rule 6 Calculus](#))

(The views expressed by the author are personal)