

Amendment in distribution of Cenvat Credit by ISD from 1st April, 2014

The CBEC vide Notification No. 05/2014-Central Excise (N.T.) dated February 24, 2014 (“**the Notification**”) has amended Rule 7 of the Cenvat Credit Rules, 2004 (“**the Credit Rules**”), which would come in to force w.e.f. April 1, 2014 and summarized as under:

Rule	Old Provision	Amended Provision	Effect
Rule 7	The input service distributor may distribute the CENVAT credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following conditions, namely:—	The input service distributor may distribute the CENVAT credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following conditions, namely:—	No Change
Rule 7(a)	the credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon;	the credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon;	No Change
Rule 7(b)	Credit of service tax attributable to service used in a unit exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed.	Credit of service tax attributable to service “used by one or more units” exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed.	Services used by more than one unit exclusively engaged in exempted goods or exempted services shall not be distributed
Rule 7(c)	Credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit.	Credit of service tax attributable to service “used wholly by a unit” shall be distributed only to that unit.	Credit used wholly by a unit to be distributed to that unit only
Rule 7(d)	Credit of service tax attributable to service used in more than one unit shall be distributed pro rata	Credit of service tax attributable to service used by more than one unit shall be distributed pro rata on the	Common input services credit to be

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	on the basis of the turnover during the relevant period of the concerned unit to the sum total of the turnover of all the units to which the service relates during the same period.	<u>basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.</u>	distributed between such units which are operational in the year of distribution during the relevant period.
Explanation 1 to Rule 7	For the purposes of this rule, —unit ¹ includes the premises of a provider of output service and the premises of a manufacturer including the factory, whether registered or otherwise.	For the purposes of this rule, —unit ¹ includes the premises of a provider of output service and the premises of a manufacturer including the factory, whether registered or otherwise.	No Change
Explanation 2 to Rule 7	For the purposes of this rule, the total turnover shall be determined in the same manner as determined under rule 5.	For the purposes of this rule, the total turnover shall be determined in the same manner as determined under rule 5	No Change
Explanation 3 to Rule 7	<p>a. The relevant period shall be the month previous to the month during which the CENVAT credit is distributed.</p> <p>b. In case if any of its unit pays tax or duty on quarterly basis as provided in Rule 6 of Service Tax Rules, 1994 or Rule 8 of Central Excise Rules, 2002 then the relevant period shall be the quarter previous to the quarter during which the CENVAT credit is distributed.</p>	<p><u>a. If the assessee has turnover in the 'financial year' preceding to the year during which credit is to be distributed for month or quarter, as the case may be, the said financial year; or</u></p> <p><u>b. If the assessee does not have turnover for some or all the units in the preceding financial year, the last quarter for which details of turnover of all the units are available, previous to the month or quarter for which credit is to be</u></p>	Change in Definition of relevant period.

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	<p>c. In case of an assessee who does not have any total turnover in the said period, the input service distributor shall distribute any credit only after the end of such relevant period wherein the total turnover of its units is available.</p>	<p><u>distributed.</u></p>	<p>Open Issue: Assessee will not be able to distribute credit till the time details of turnover of all the units are available.</p>
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The related notification is given hereafter:

[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. 05/2014 – Central Excise (N.T.)

New Delhi, the 24th February, 2014

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, 2014.
(2) They shall come into force on the 1st day of April, 2014.
2. In rule 7 of the CENVAT Credit Rules, 2004, -
 - (i) in clause (b) for the words, “used in a unit”, the words “used by one or more units” shall be substituted;
 - (ii) in clause (c) for the words, “used wholly in a unit”, the words “used wholly by a unit” shall be substituted;
 - (iii) for clause (d), the following clause shall be substituted, namely:-

“(d) credit of service tax attributable to service used by more than one unit shall be distributed *pro rata* on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.”;

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(iv) for *Explanation 3*, the following shall be substituted, namely:-

“Explanation 3.- For the purposes of this rule, the ‘relevant period’ shall be,-

(a) If the assessee has turnover in the ‘financial year’ preceding to the year during which credit is to be distributed for month or quarter, as the case may be, the said financial year; or

(b) If the assessee does not have turnover for some or all the units in the preceding financial year, the last quarter for which details of turnover of all the units are available, previous to the month or quarter for which credit is to be distributed.”.

[F.No. 354 /246/ 2013-TRU]

(Akshay Joshi)

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 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 vide notification No. 02/2014 - Central Excise (N.T.) dated the 20th Januray,2014 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 36(E), dated the 20th January,2014.*

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