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Cenvat Credit on Accrual basis



It is said that Excise is painful to understand
But, when in business, you have to

Members have been asking us,

Accrual of service tax credit is now allowed or not ? **Answer is YES**

And members wanted some proof. So, there is the proof. And its simple language translation

Background ?

Last month in this Union Budget 2011, the Govt Declared that the Service providers shall have to pay the “service tax” to the Government on the “accrual basis”.

So, logical Question was

“Will the Manufacturer get Cenvat on accrual basis ?” **Answer is YES**

How, let us read the next 2 pages



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Source : **Notification No. 13/2011-Central Excise (N.T.)** Dated the 31st March, 2011

1. (1) These rules may be called the CENVAT Credit (Third Amendment) Rules, 2011.
(2) They shall come into force on the 1st day of April, 2011.
2. In the CENVAT Credit Rules, 2004 (hereinafter referred to as the "said rules") in rule 4, for sub-rule 7, the following sub-rule shall be substituted, namely:-

Question : When will I get the Cenvat Credit ?

Answer

'(7) The **CENVAT credit in respect of input service shall be allowed, on or after the day on which the invoice, bill or**, as the case may be, challan referred to in rule 9 **is received**:'



>>> Great News

Now the law is same , for "service tax,

as always was in case of taking Modvat/Cenvat of **CST, Local Sales Tax/VAT and in Excise Duty on inputs.**

Question : What if I don't pay the vendor for his services ?



Government is not so "naive".

Law has clarified that

If you don't pay within 3 months, you have to reverse that cenvat credit taken on "bill accrual basis".

So, if you don't pay your Telephone bill later on, you have to reverse the modvat taken. Similarly, if you don't pay for the Heat Treatment charges to your job worker, or Audit fees to your CA, or fees to your Interior Decorator etc you have to reverse the credit

Source : ".....Provided further that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9, is not made **within three months** of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service"

What if I Raise a Debit note on the Vendor later on ?

Government knew you could try this. So, the Law has clarified that



If you demand , or , get a Refund later on, you have to reverse that cenvat credit already taken on "bill accrual basis".

Source : ".....Provided also that if any payment or part thereof, made towards an input service is refunded or a credit note is received by the manufacturer or the service provider who has taken credit on



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such input service, he shall pay an amount equal to the CENVAT credit availed in respect of the amount so refunded or credited.....”

What about the Bills dated prior to 31.3.2011 ?



That is simple.
Old bills, continue as per old laws.

Means

You will get MODVAT credit on those old bills, only on payment basis.
(simple Isn't it !!!!)

Source :“.....Provided also that CENVAT credit in respect of an invoice, bill or, as the case may be, challan referred to in rule 9, issued before the 1st day of April, 2011 shall be allowed, on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9.....”

What if I don't follow these rules ?

That is a real simple answer.

Means

You will have to pay back the excess credit taken.
Plus interest + penalties, if any.

And one thing more. If you are a regular offender you can be assured of imprisonment between 6 months to 3 years.



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Just a reminder

1. Service tax Returns – Late Filing Penalty


- a. Till now the late fee (penalty) was only upto Rs 2000. Now the “Late filing fee limit” **increased 1000%** → to Rs 20000
- b. The rate of interest on delay now increased to 18% p.a.



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For queries, suggestions and feedback , you can e-mail us at :

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