

Circular 213/3/2019 -Service Tax

F. No 137/31/2013-Service Tax
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Service Tax Wing

New Delhi, dated 5th July, 2019

All Principal Chief /Chief Commissioners of GST and Central Excise
All Principal Directors General/Directors General/ Chief Commissioner AR CESTAT
All Principal Commissioners/Commissioners of GST and Central Excise /AR CESTAT
All Principal Additional Directors General/Additional Directors General

Madam/Sir,

Subject: Provisions in the Cenvat Credit Rules 2004 regarding reversal of credit

I am directed to draw your attention to the legal provisions regarding reversal of Cenvat credit in the case of services and to analyse some issues which have arisen in this context.

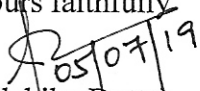
2.0 Issue: Is reversal under rule 6(3) of the Cenvat Credit Rules 2004 additionally required for all the services specified in notification 26/2012-Service Tax dated 20-6-2012?

Answer: On a plain and strict interpretation of the provisions, all services mentioned in notification 26/2012-Service Tax dated 20-6-2012 do not, ipso facto, become "exempted services". They will become so only if they satisfy the twin conditions specified in section 2(e) of the Cenvat Credit Rules, 2004 i.e there is a restriction on both inputs and input services.

3.0 Issue: Is reversal under rule 6(3) of the Cenvat Credit Rules 2004 additionally required, when providing the "service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as part of the activity". (i.e. section 66E (i) of the Finance Act, 1994) ?

Answer: On a plain and strict interpretation of the wording of the relevant provisions, other than the restrictions in rule 2C of the Service Tax (Determination of Value) Rules 2006, there is no need for any further reversal of credit under rule 6(3) of the Cenvat Credit Rules 2004.

Yours faithfully


(Pallabika Dutta)

Joint Commissioner & Officer on Special Duty
Service Tax Wing

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