

Cenvat Credit

S No	Citation	Name of the Party	Subject Heading
1	2012 (1) ECS (194) (Tri-Ban)	M/s. Telco Construction Equipment Company Ltd	It is required to establish an integral connection between the service and the business of manufacture for final product for the benefit of CENVAT credit on the service. The expression relating to business in Rule 2 (l) of CENVAT Credit Rules, 2004 refers to the activities which are integrally related to the business activity of the assessee and not welfare activities undertaken by the assessee
2	2013 (1) ECS (150) (Tri-Mum)	Provincial Life Style Retail Services, Nagpur	Appellant is not merely acting as a Commission Agent but does something much more than that i.e., designing, managing and operating a showroom, receiving goods on stock on transfer basis, undertaking sales promotion activities and collecting the sale proceeds on behalf of the principal. These activities in my view do not come within the purview of "Commission agent" as defined in the notification No.13/2003
3	2013 (4) ECS (198) (Tri-Ahd)	Friend & Friends Shipping Pvt. Ltd.	A cenvat credit case can be taken only with respect to the services availed by the service recipient .
4	2013 (4) ECS (11) (Bom-HC)	M/s. ONGC	Eligibility of Cenvat Credit of input services.
5	2014 (3) ECS (170) (Tri-Ahd)	M/s. Market Systems	Cenvat Credit of Service Tax paid on G.T.A services received in respect of outward transportation of finished goods beyond the place of removal is not admissible.

6	2014 (3) ECS (177) (Tri-Del)	M/s. Paramount Communication Ltd.	Denial of Cenvat Credit No evidence put forth to prove whether the insurance premium paid and transport facilities provided were to discharge any statutory obligation. It could not be proved that the facilities were provided to the workers in terms of law.
7	2014 (3) ECS (185) (Tri-Ahd)	M/s. Market Creators Limited	The appellant were not eligible for cenvat credit of Service Tax paid on input services used at unregistered premises.
8	2014 (3) ECS (25) (HC - Mum)	M/s. Bharti Airtel Ltd.	All capital goods are not eligible for credit and only those relating to the output services would be eligible for credit. The towers are immovable property and non-excisable and hence can neither be regarded as 'capital goods' nor can be categorized as 'inputs'.
9	2014 (4) ECS (158) (Tri-Ahd)	M/s. Lao More Biscuits Pvt. Ltd.	Cenvat Credit on inward freight - The service tax paid under the challans on reverse charge basis has to be considered as service tax paid by M/s. Parle Products Pvt. Limited and not by the appellant. Cenvat credit of such service tax paid is not admissible to the appellant.
10	2014 (4) ECS (160) (Tri-Del)	M/s. HCL Infosystem Limited	Interest on Cenvat Credit- Liability to interest under Rule 14 of the Cenvat Credit Rules, 2004 read with Section 75 of the Finance Act, 1994 would arise only on that amount of cenvat credit, both debited in assessee's books of accounts and utilised (taken) for remittance of the assessee's tax liability.

Valuation

S No	Citation	Name of the Party	Subject Heading
1	2013 (2) ECS (137) (Tri-Del)	M/s Bharti Aritel Ltd.	Taxable service provided- economic activity carried out had economic value-Merely creating a fiction of no consideration received in respect of free service provided, appellant appears to have been benefited by reduction of monetary package of remuneration to its eligible employees, their relatives and employees of Bharti Group of companies. Such undisputed benefit of appellant was at the cost of Revenue
2	2013 (3) ECS (212) (Tri-Del)	Neelav Jaiswal Brothers	The amount received for remunerating the personnel so also the amount of provident fund payable constitute the gross amount charged by the appellant for the taxable service provided.
3	2013 (4) ECS (189) (Tri-Del)	Truvision Photo Lab(P) Ltd.	Service Tax under section 67 is leviable on the gross value of the photographic service which included the value of chemicals and components consumed on the process
4	201 (1) ECS (183)(Tri-Del)	M/s Royal Jordanian Airlines	The petitioner had misdeclared gross value by assuming that part of consideration relating to fuel surcharge, insurance surcharge etc., were deductible. Prima facie, Section 67 does not accommodate such exclusion
5	2014 (2) ECS (266) (Tri-Del.)	M/s. Pagariya Auto Center	In case the transactional documents and other evidence on record indicates a substantial activity falling within the contours of any of the integers of the definition of BAS, it can be concluded that BAS is provided.

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ECS subject-wise list of Central Excise cases

S No	Citation	Name of the Party	Subject Heading
1	2012 (2) ECS (101) (Tri Mum) (150 KB)	Star Auto Industries P. Ltd.	The rent is in respect of the premises of the job worker, who is an independent manufacturer and not paying duty. In view of the above applicant failed to make out a case for total waiver of duty
2	2012 (2) ECS (111) (Tri Ban) (169 KB)	M/s Ultratech Cements Ltd	The question whether the respondent should pay interest on any amount of CENVAT credit wrongly taken during September - December, 2004 and rightly reversed on 31.10.2005 has to be examined in terms of Rule 14 as it stood during the material period. Rule 14 as it stood during September, 2004 - October, 2005 was considered by the Hon'ble Supreme Court in the case of IndSwift Laboratories (supra). As per the decision of the Hon'ble Supreme Court, the respondent is liable to pay interest on the amount of CENVAT credit for the period from the date of its irregular availment to the date of its reversal, this period being covered by Rule 14 pre amendment
3	2012 (1) ECS (3) (Tri Del) (206 KB)	M/s. Lafarge India Pvt. Ltd	The definition of 'place of removal' in Section 4(3) (C) of CEA, 1944 can be adopted for the purpose of Cenvat credit Rules, 2004, only when duty on Financial Product is advalorem and not when specific
4	2012 (1) ECS (7) (Tri Del) (350 KB)	Tawi Chemical Industries	Cenvat Credit of BED cannot be utilized for payment of EC and SHEC under exemption Notification No. 56/2002 - CE

5	2012 (1) ECS (29) (Tri Ahd)(294 KB)	M/s. Gujarat Fertilizers and Chemicals Ltd	Non eligibility for availment of Cenvat Credit of duty paid on Low Sulphur Heavy Stock used as fuel in the generation of steam which was used in the manufacture of exempted fertilizer
6	2012 (2) ECS (122) (Tri Mum)(145 KB)	M/s Indian Smelting & Refining Co Ltd. M/s Dhuleva Metal Corporation M/s Time & Space Haulers M/s Chawla Highway Carriers	Revenue relied upon the various statements recorded from the transporters to show that the goods are disposed of in Delhi only and goods were not received in manufacturing unit. Revenue also heavily relied upon the statement of Shri Ujamraj Jain Proprietor of M/s Nakoda Trading Corpn. to show that the goods has not been supplied to the manufacturing unit. Hence manufacturing unit wrongly availed credit and other noticee has abated in taking such credit
7	2012 (2) ECS (84) (Tri Mum)(150 KB)	Laxmi Board & Paper Mills Ltd.	The consignment which is received under bill of entry dated 26.12.2007, the shortage is 5 MT against the quantity mentioned in the invoice of 15.649 MT. Similarly in some other consignments also there is shortage of 84 MT. The applicants availed credit in respect of the quantity not received in the factory hence the demand is rightly made.
8	2012(2) ECS (68) (Tri Del)(136 KB)	M/s Jagdamba Power & Allyos	The appellant have not produced any evidence, as neither the fabrication of the capital goods nor components or accessories have been specifically intimated by the appellant to the jurisdictional central excise officers nor the fabrication of various items of capital goods and their components and accessories was declared in the ER-I return. Cenvat credit in respect of these items would be admissible only if there is conclusive evidence that these items had been used for fabrication of capital goods and their components, parts and accessories.

9	2013 (1) ECS (1) (Guj HC)(297 KB)	M/s Cadila Healthcare Ltd.	<p>Cenvat availed on input services in respect of inspection and checking of instruments by the service provider. Department of the view that certification of instruments has no nexus with the manufacture of final products and, therefore, cannot be considered to be an input service. Allowed holding that such certification is a statutory requirement and service availed to ensure that said equipment are of the accuracy which is required for manufacture of the final products. When the above referred equipment are used in and in relation to the manufacture of the final products, maintenance, checking and calibration of such instruments would as a necessary corollary, also fall within the expression "in relation to manufacture of the final products"</p>
10	2013 (1) ECS (26) (Guj HC)(209 KB)	Inductotherm (I) Pvt. Ltd	<p>Goods cleared as such at a higher value and passing on unutilized Cenvat credit by raising the value of inputs and collection the same from the buyer. Since there was no manufacturing activity, no question of collection of excise duty would arise and therefore, the entire amount so collected had to be deposited in terms of section 11 D of the Act. Held: After 1.3.2003, the respondent had to follow the procedure laid down in the amended Rule 3 (4) of Rules 2002 and thereafter Rule 3 (5) of the Rules of 2004. Such Rules required that on clearance of goods on as such basis, the assessee should have paid an amount equal to the credit availed in respect of such inputs and that such removal should have been made under the cover of an invoice referred to in Rule 9.</p>

11	2013 (2) ECS (73) (Tri-Del)	M/s Global Energy Food Industries	Cenvat credit is admissible of duties specified under the Cenvat Credit Rules. Sugar Cess not been specified, its credit is not admissible
12	2013 (2) ECS (83) (Tri-Del)(184 KB)	M/s Lord Chloro Alkali Ltd	Credit in respect of raw material/packing materials which were not put to use or were not even issued for use as is required to be reversed
13	2013 (2) ECS (101) (Tri-Ahd)(178 KB)	M/s Sarvesh Refractory Pvt. Ltd	There is no dispute that items are used by appellant not for fabrication of machinery of the tanks etc. hence is covered by the Judgment of the larger bench in the case of Vandana Global
14	2013 (2) ECS (52) (Tri-Ahd)(112 KB)	M/s Castrol India Ltd	Definition of input service in Rule 2 (1) of Cenvat Credit Rules, 1994 is quite comprehensive. However, every assessee taking cenvat credit of input service has to establish that such services are utilized in relation to manufacturing activity.
15	2013 (2) ECS (63) (Tri-Ahd)(184 KB)	Gujarat Narmada Valley Fertilizer Co Ltd	Assessee is not entitled to cenvat credit in respect of LSHS used in generation of steam / electricity which is further used in the manufacture of fertilizers in light of Apex court decision
16	2013(2) ECS (94)(Tri-Mum)(178 KB)	M/s Pratibha Ispat Pvt. Ltd	Cenvat Credit on Welding Electrodes (SS and MS Electrodes) used for repair and maintenance and therefore Cenvat Credit cannot be allowed. Contention of appellant at different stages of adjudication and appeal has not been consistent directed to deposit 25% of the duty demanded. In view of the said position, appellant have not been able to make out a strong prima facie case.

17	2013 (3) ECS (107) (Tri-Del)	Ranjan Polyesters Limited	Goods already consumed before 1.4.2003 - hence not lying in stock as on 31.3.2003 Cenvat credit not available
18	2013 (3) ECS (113) (Tri Ahd)(117 KB)	M/s Transpek Industries Ltd.	Availability, of Cenvat Credit on any goods barred, where duty confirmed by invoking of proviso to section 11 A (1) of the Central Excise Act, 1944.
19	2013 (2) ECS (46) (Tri Ahd)(109 KB)	M/s Bajaj Food. Ltd	Peanut Butter manufactured is fully exempted- such goods are neither exported under bond nor under a letter of undertaking- Cenvat Credit Rules not applicable and no refund under Rule 5 of Cenvat Credit Rules 2004 is admissible because no credit accumulation is possible in view of the provisions of Rule 6(1) of the Cenvat Credit Rules
20	2013 (4) ECS (65) (Tri Del)(192 KB)	M/s Kuantum Paper Limited	Tribunal does not have power to review its order in absence of statutory mandate in the regard.
21	2013 (4) ECS (104) (Tri Del)(281 KB)	M/s Ultratech Cement Limited	Definition of place of removal in Section 4(3) cannot be applied to clearances made under payment of specific rate of duty on the ariff value fixed under Section 3(2).
22	2014 (1) ECS (27) (HC All)(171 KB)	Upper Ganges Sugar & Industries Ltd.	Items used neither for production nor for processing of any goods or bringing about any change in any substance for manufacture of final products are not capital goods
23	2014 (1) ECS (87) (Tri Mum)(215 KB)	M/s Sharp Industries Ltd.	Rule 8(3)- accumulated Cenvat Credit cannot be utilized during the period of default.
24	2014 (1) ECS (97) (Tri Mad)(170 KB)	M/s Navodhaya Plastic Industries Ltd	Capital Goods removed after use cannot be considered removed "as such" .

25	2014 (1) ECS (140) (Tri Del)(161 KB)	M/s Steel Authority of India Ltd.	Safety shoes are indispensable necessity for Iron & Steel factory workers. It is the requirement of welfare legislation and object thereof cannot be defeated.
26	2014 (1) ECS (178) (Tri Kol)(192 KB)	M/s. Cemer Manufacturing Company Ltd.	The Assessee availed Cenvat credit on invoices issued by head office which was not registered as an input service distributor. Hence, such invoices not valid/ correct documents for availing Cenvat credit.
27	2014 (2) ECS (191) (Tri - Kol.)(152 KB)	M/s Pushkar Techno Pvt Ltd	Cenvat Credit availed on supplementary invoice issued by Registered dealer- A supplementary invoice issued only by manufacturer or importer of inputs or capital goods would be considered as a valid document for availing of Cenvat Credit
28	2014 (2) ECS (197) (Tri. - Mad)(281 KB)	M/s Titan Industries Ltd	Adoption of wrong method by Input Service Distributor for distribution of Cenvat Credit: Evidence placed after passing of the stay order cannot be accepted during the hearing of the modification application.
29	2014 (2) ECS (210) (Tri- Ahm.)(493 KB)	M/s Shree Labdhi Prints	CENVAT Credit was correctly denied to the appellant as he had taken the same on fabrics that did not exist. The appellant was allowed to avail the 25% reduced penalty under Section 11AC of the CEA, 1944. The partner of the Company was also made liable as he was party to the fraud.
30	2014 (3) ECS (25) (HC - Mum)(3.05 MB)	M/s. Bharti Airtel Ltd.	All capital goods are not eligible for credit and only those relating to the output services would be eligible for credit. The towers are immovable property and non-excisable and hence can neither be regarded as 'capital goods' nor can be categorized as 'inputs'.

31	2014 (3) ECS (103) (Tri - Ahd.)(475 KB)	M/s. Swiss Parenterals Pvt. Ltd.	Non-maintenance of separate inventories for exempted and dutiable goods- Extended period could not be invoked as department was aware of the relevant facts after issuing first SCN- If Cenvat Credit attributable to the inputs used in manufacture of exempted goods is reversed along with interest, they cannot be said to have taken credit of inputs used in or in relation to manufacture of final exempted goods.
32	2014 (3) ECS (118) (Tri - Del.)(1.28 MB)	M/s R.S. Metals Pvt. Ltd.	In terms of Rule 7 of Cenvat Credit Rules, 2002, invoices on the basis of which cenvat credit can be availed should be furnished by either a 1st stage or a 2nd stage dealer and not by a third stage dealer
33	2014 (3) ECS (131) (Tri - Ahd.)(792 KB)	M/s. Prince Vitrified Pvt. Ltd.	The appellant defaulted in duty payment under Rule 8 of the CEx. Rules, 2002. They failed to discharge the duty liability on consignment basis as is mandated for the further period and also utilized Cenvat Credit.
34	2014 (3) ECS (121) (Tri - Del.)(751 KB)	M/s. Atul Enterprises	Cenvat Credit issued without delivery of actual goods Second Stage Dealer successively passed on the paper credits to the buyers thereof without any goods covered by such invoice delivered
35	2014 (4) ECS (127) (Tri - Ahd)(115 KB)	M/s. Systematic Intel Industries (P) Ltd.	Irregular availment of Cenvat Credit - Zinc ingots procured and cenvat credit taken but the GI furnace in which these ingots were intended to be used was not working -admission by works Manager that the said ingots not received in the factory