

From:
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EXPORTER CAN GET REFUND OF SERVICE TAX REMAINING UNUTILISED

As per the provisions of Rule 5 of the CENVAT Credit Rules'2004, where any input or input service is used in the final products which is cleared for export or used in the intermediate products cleared for export or used in providing output service which is exported, the CENVAT credit in respect of the input or input service so used shall be allowed to be utilized by the manufacturer or provider of output service towards payment of:

- (i) Duty of excise on any final products cleared for home consumption or for export on payment of duty; or
- (ii) Service tax on output service,

and where for any reason such adjustment is not possible, the manufacturer shall be allowed refund of such amount subject to fulfilment of procedural requirements as provided in the relevant notification.

An illustration to show effects of the aforesaid provisions :

A textile manufacturing unit having aggregate turnover of Rs.500 crore in a Financial Year, having 200 crore of export sale, consumes following taxable services in a given Financial Year :

Description of Taxable Service Consumed	Cost of Service inclusive of Service Tax	Service of Amount as charged by service provider	Tax
	(Rupees in Crore)	(Rupees in Crore)	
Advertisement	25	2.5	
Telephone, Courier,	0.5	0.05	
Insurance, repair & maintenance, technical testing	5	0.50	
foreign exchange brokerage, aircraft operator,	1	0.10	
Legal, Consultancy & Audit	2	0.20	
Customs Clearing & Other clearing & Cargo Handling	2	0.20	
Banking & Finance	2	0.20	
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	37.5	3.75	
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In our opinion, in terms of provisions contained in Rule 5 of the CENVAT Credit Rules'2004, such textiles unit will be eligible to set off service tax of Rs.3.75 crore paid on various input services against their excise duty liability, if any. However, where there is no such liability of excise on their final products, proportionate of services used for manufacture of exported goods may be refunded. This claim will be worked out on proportionate basis. i.e. Rs.1.5 crore (Rs.3.75 crore / Rs.500 crore x Rs. 200 crore) and may become refundable if pursued properly.

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