

VOC Port Trust
Finance department
Tax section

Circular No: 16/2016

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Availment and utilization of Cenvat Credit under Cenvat Credit rules

Port is remitting huge amount of service tax collected from the Port users on output services rendered by Port on monthly basis to the service tax department. While making the payment of output service tax to the service tax department, Port is utilizing the credit of service tax paid on input services and the balance service tax is paid through e-payment facility of Service tax department.

Cenvat credit rules, 2004 as amended from time to time till date govern the availment and utilization of input service tax for making the payment of output service tax.

Availment of input service tax under cenvat credit rules means treating the input service tax paid/payable by Port as an eligible input credit. This happens when input service tax paid/payable is accounted under an asset ledger code while passing an entry in the books.

Accounting of the Input service tax paid/payable is made under Asset ledger code -A804 which amounts to availment of input tax credit.

Utilization of Cenvat credit means when such input tax is used for making payment of output service tax. This happens at the time of paying output service tax to the service Tax department on or before due date by passing entry in the Books by debiting output service tax payable ledgers and crediting the Input service tax paid ledgers.

As per section 75 of the Finance Act, 1994 as amended by Finance Act, 2015, even if an ineligible cenvat credit is availed, though not utilized for payment of output service tax will attract interest.

Therefore, only the eligible credit should be accounted under A804, A805, A806 and as such it is necessary to have complete checking at the time of passing an

entry, whether an input service tax paid/payable is eligible for input credit or not in order to account such input service tax under A804 or as an expense.

Therefore to avoid unnecessary demand of interest and levy of penalty by service tax department, every Accounts Officers who are all posting entry in SAP may ensure the following, regarding the eligibility of cenvat credit to account any input service tax under the Ledger A804 for strict adherence:

This should be strictly adhered to by every Accounts officer at the time of saving /posting and accounting in SAP itself to avoid any errors and at the same time ensure that eligible service tax for cenvat credit is also availed.

I. ELIGIBLE INPUT SERVICES

The following services are eligible input services and included in the definition of input services and **thus service tax paid on such input services should be accounted under A804.**

- a) Service tax paid on service portion in Works contract in relation to **other than**
 - i. construction of a building or civil structure or a part thereof
 - ii. Laying of Foundation or making of structures for capital goods
- b) Service tax paid on Services by general insurance, servicing, repair, maintenance of a motor vehicle **which is a capital goods to Port**
- c) Service tax paid on accounting and auditing
- d) Service tax paid on Advertisement, promotion, market research,
- e) Service tax paid on activities relating to business, such as accounting, auditing, financing
- f) Service tax paid on computer, Service tax paid on Computer networking services received by Port
- g) Service tax paid on Security services received by Port not in relation to Port Hospital and Port Guest House.
- h) Service tax paid on Inward transportation of inputs or capital goods
- i) Service tax paid on recruitment, quality control, coaching, training and man power supply
- j) Hiring of Tug
- k) Service tax paid on any consultancy services directly in relation to Output service

II. INELIGIBLE INPUT SERVICES

The following services are specifically excluded in the definition of input services and **thus service tax paid on such input services should be accounted under corresponding expenses code itself and not under A804.**

- a) Service tax paid on construction services received by Port
- b) Service tax paid for service portion in Works contract in relation to
 - i. construction of a building or civil structure or a part thereof
 - ii. Laying of Foundation or making of structures for capital goods
- c) Service tax paid on Services by general insurance, servicing, repair, maintenance to a **motor vehicle which is not a capital good to Port**
- d) Service tax paid on outdoor catering, beauty treatment, health services, cosmetic, plastic surgery, membership of a club, health insurance, travel benefits extended to employees on vacation such as Leave or Home Travel Concession for personal use or consumption of Employee.
- e) Service tax paid on Pandal arrangement contract
- f) Service tax paid on any service in relation to Port Hospital or Guest House
- g) Service tax paid on garden maintenance
- h) Service tax paid on Rent-a-cab service received by Port

III. OBTAINING PROPER SERVICE TAX BILL IS MANDATORY:

For any input services to be accounted under ledger A804 for claiming credit, a proper service tax bill should be obtained fulfilling the following conditions cumulatively –

1. The Bill should be Serially numbered (bill claim in a letter pad of the service provider without serial number should not be accepted)
2. The Bill should be properly signed by the authorized person.
3. The Bill should contain the following particulars:
 - a. Name and address of the Service provider
 - b. Name and address of the Port as service receiver
 - c. Valid Service tax Registration Number of the Service Provider
 - d. Full Description of the nature of services rendered

- e. Value of the Service rendered
- f. Rate and Amount of Service tax claimed by the Service provider indicating as 'service tax''

If any of the above conditions are not satisfied, then the corresponding input service tax, if paid to the service provider becomes ineligible to claim credit and thus should not be accounted under A804.

Therefore every Accounts Officer is insisted to obtain proper service tax bill from service providers to avoid financial loss to Port and also to ensure that the tax should be released only if the above conditions are complied.

IV. SERVICE TAX SHOULD NOT BE PAID TO THE SERVICE PROVIDER UNLESS IT IS DEMANDED BY THE SERVICE PROVIDER BY SUBMITTING PROPER SERVICE TAX BILL:

As envisaged in the para III above, **Service tax could be paid to the service provider only on demand.** The demand of service tax should be made by the input Service provider only by way of issuing proper service tax bill as envisaged in para III above.

Accounts officers are strictly instructed not to make any payment of service tax based on the terms of Work order issued to or any Contract entered with the input service provider if proper service tax bill is not issued by the service provider.

Also Accounts officers are directed to submit a copy of Service tax bill that are accounted under A804 to Tax section, on the next day itself, Tax section shall maintain the same in file (one month one file and a abstract with details of the same as required by service tax audit).

V. INPUT SERVICE TAX PAID UNDER REVERSE CHARGE MECHANISM AND ITS ELIGIBILITY TO AVAIL CENVAT CREDIT:

- a) Currently, Port is paying service tax under reverse charge mechanism in respect of the following services
1. Services rendered by CISF to Port.
 2. Services rendered by arbitral tribunal
 3. Services rendered by an individual advocate or firm of advocates by way of legal services.
- b) In addition to the above, if Port receives any services from Union Government/State Government/Local authority then such services will fall under reverse charge mechanism and Port should pay service tax to the service tax department **subject to the exception mentioned below in (c)**
- c) Cases not covered by Reverse charge mechanism even though rendered by Union Government/State Government/Local authority :
- a. renting of immovable property service
 - b. services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services
 - c. Services in relation to an vessel, inside or outside the precincts of Port
 - d. Transport of goods or passenger

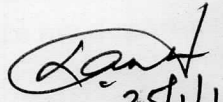
For the above cases Port should pay service tax to the service provider (Union Government/State Government/Local authority) if demanded by them by submitting proper service tax bill.

VI. Ineligibility of Swachh Bharat cess of 0.5% to claim cenvat credit:

- a. With reference to earlier circular e-mail date 13/11/2015 sent to all the accounts officers, with effect from 15/11/2015 Swachh Bharat cess of 0.5% is levied on Taxable value of services along with Service Tax of 14%.

- b. As this Swachh Bharat cess does not come under the purview of Cenvat credit Rules, 2004, Cenvat credit cannot be claimed on such input Swachh Bharat cess paid.
- c. Therefore Swachh Bharat cess (i.e. 0.5% paid in excess of 14%) paid on any input service should be accounted only under corresponding expenses code and not under A804.

This is issued in consultation with the Tax Consultant.
Any violation on the compliance of the above and consequent financial loss to the port, concerned officers shall be held responsible/accountable.


25/1/16
Financial Advisor and
Chief Accounts Officer

To

All HOD
Sr DCAO I/II
DCAO
All Accounts Officers

Copy to:

PA to CPT
PA to Dy. CPT
Tax consultant

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