

May 04, 2015

**AMENDMENTS ON UTILISATION OF CENVAT CREDIT OF EDUCATION CESS AND SHE  
CESS FOR MANUFACTURER.**

1. Under the Cenvat Credit Rules, 2004, the credit of Edu Cess and SHE cess can be utilised only against the payment of respective cesses. The Finance bill 2015 increased the general rate of basic excise duty @12% to 12.5% w.e.f. 1st March 2015 and exempted Edu Cess and SHE Cess leviable on basic excise duty.

In view of the rate changes and the restriction under cenvat credit rules, the unutilised balance of Edu cess and SHE cess could not be adjusted against the payment of Basic excise duty. Further the credit of Edu cess and SHE cess on the goods received after 1-03-2015 could have been taken / availed by the manufacturer's but could not be utilized against any duty liability.

2. Many representations had been made to allow the utilisation of the accumulated credit of Edu Cess and SHE cess. In pursuance of the same, Notification No.12/2015-CE(NT) dated 30-04-2015 has amended the Rule 3 (7)(b) of the Cenvat Credit Rules, 2004, to provide for the utilisation of cenvat credit of Edu Cess and SHE Cess against basic excise duty as per details discussed below.

3. In terms of the said notification, the following utilisation is **PERMISSIBLE**:

Credit of Input and Input Services

Sr. No.	Situation	Utilisation Against Basic Excise Duty
A.1	Edu Cess and SHE Cess paid on Inputs <u>received on or after 1st March, 2015</u>	Can be utilised for payment of basic excise duty on or after 30th April, 2015
A.2	Edu Cess and SHE Cess paid on Input services <u>received on or after 1st March, 2015</u>	Can be utilised for payment of basic excise duty on or after 30th April, 2015

#### Credit of Capital Goods

Sr. No.	Situation	Utilisation Against Basic Excise Duty
B.1	Edu Cess and SHE Cess paid on Capital goods <u>received on or after 1st March, 2015.</u>	Can be utilised for payment of basic excise duty on or after 30th April, 2015.  The restriction of utilization will not apply to the credit of 50% availed in the year 2014-15 and balance 50% availed in respect of capital goods received in March 2015 and thus credit can be utilized in entirety.
B.2	50% of Edu Cess and SHE Cess paid on Capital goods received during April 2014 – March 2015, <u>which will be availed in Financial year 2015-16.</u>	Can be utilised for payment of basic excise duty on or after 30th April, 2015.  <u>The credit can be utilized only to the extent of 50% of Edu cess and SHE cess paid for capital goods received during 2014-15.</u>

4. However even after the amendment made vide above notification, the utilisation of the following amounts is **NOT PERMISSIBLE**.

#### Credit of Input and Input Services

Sr. No.	Situation	Utilisation Against Basic Excise Duty
C.1	Edu Cess and SHE Cess paid on input and input services <u>received before 1st March, 2015</u> , but for which the credit availed on or after 1st March, 2015	Cannot be utilised for payment of Basic Excise Duty.
C.2	Unutilised Cenvat Credit balance of Edu Cess and SHE Cess as on 28 <sup>th</sup> February 2105.	Cannot be utilised for payment of Basic Excise Duty.

Credit of Capital Goods

Sr. No.	Situation	Utilisation Against Basic Excise Duty
D.1	50% of Edu Cess and SHE Cess paid on Capital goods received during April 2014 – 28 <sup>th</sup> February 2015, <b>but credit availed in March 2015 or thereafter.</b>	Cannot be utilised for payment of Basic Excise Duty.  <b>In cases where the manufacturer has not availed the credit of capital goods received during April 2015 – Feb 2105 but has availed the credit of 50% only after 1<sup>st</sup> March 2015, then such credit can be availed but cannot be utilised against basic excise duty.</b>
D.2	Edu Cess and SHE Cess paid on Capital goods <u>received before 1st April, 2014</u> but for which the credit is availed after 1-03-2015 or has not been availed till date	Cannot be utilised for payment of Basic Excise Duty.
D.3	Unutilised Cenvat Credit balance of Edu Cess and SHE Cess as on 28-02-2015.	Cannot be utilised for payment of Basic Excise Duty.

5. It should further be noted that there is no one-to-one co-relation between the availment of the credit and the utilization of the credit. Further the amended Rule 14 of Cenvat Credit Rules provides for utilization of cenvat credit on FIFO basis. Thus in the event of utilisation of eligible credit as per the above notification, department may argue that utilization amount should be treated as being utilized from the opening balance of cess lying as on 28.02.2015. Therefore it is advised that assessee should write a letter to the department intimating that they will utilise the cenvat credit of Edu Cess and SHE Cess as per amendments made above and that such utilization is not from the opening balance of edu cess and She cess as on 28-02-2015. The Assessee's can also use the remark column of ER-1 return by stating that "closing balance of Cesses as on 28-02-2015 not utilized"