

# NEGATIVE LIST BASED TAXATION OF SERVICES

CORPORATE GURUKUL



# CENVAT CREDIT: POST NEGATIVE LIST REGIME

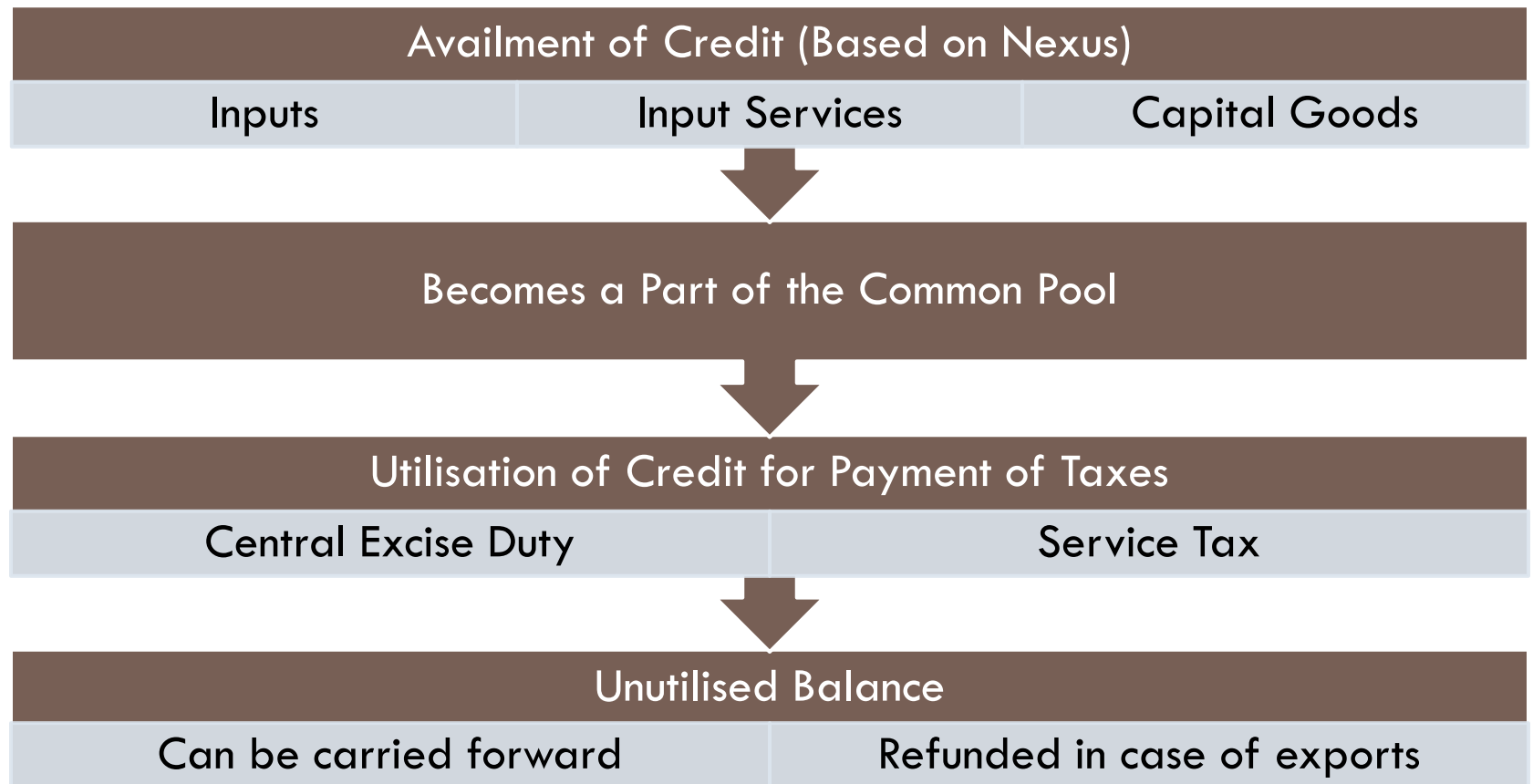
# CONCEPTUAL FRAMEWORK

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# Purpose

- To grant relief from cascading effect of central level indirect taxes (central excise duty, service tax and cess thereon)
  
- In case output is not taxable, there should be no credit
  
- In case output is taxable, credit should follow
  - ▣ Manufacture of Final Product ~ Assessed at Transaction Value
  - ▣ Provision of Taxable Service

# Passbook Concept



# CENVAT and Accounting : Common Issues

- CENVAT Credit Balance
  - ▣ As per Form ST-3 vs. As per Balance Sheet
- Accounting of Service Tax Component on Expenses
  - ▣ Gross vs. Net
- What happens in Expense off Cases
  - ▣ In one account or respective accounts?
- Disconnect between Capital and Revenue:
  - ▣ Capital Goods vs. Inputs
  - ▣ Input Services for Capitalisation

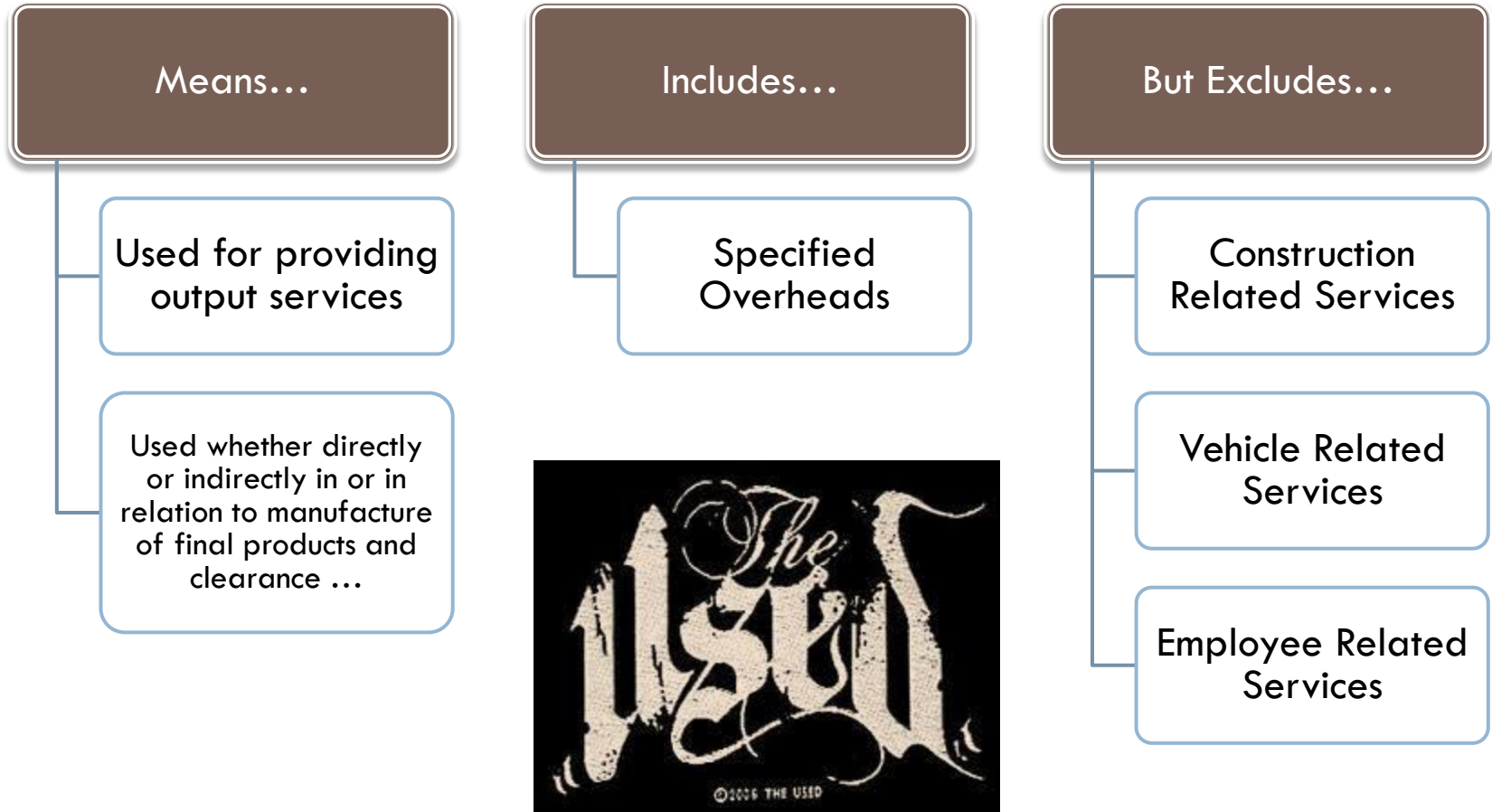
# **ELIGIBILITY OF CREDIT – INPUTS, INPUT SERVICES, CAPITAL GOODS**

# Inputs...

Nature of Input	Eligibility
Goods used in the factory by manufacturer	Yes
Goods cleared with finished goods as accessories	Yes
Goods used for providing free warranty for excisable goods	Yes
Goods used for generation of electricity	Yes
Goods used for providing output service	Yes
LDO/HSD/Motor Spirit	No
Goods used for construction of building or civil structure or foundation for capital goods	No, except for port, airport, construction, works contract service providers
Capital Goods	No, except when used as parts or components
Motor Vehicles	No
Goods for consumption of employee	No
Goods with no relationship to manufacture	No



# Input Services – the definition



# Input Services..

Nature of Input Service	Eligibility
Services used for providing output service	Yes
Services used in relation to manufacture of final goods	Yes
Modernisation, Repairs or Renovation of Premises	Yes
Advertisement, Sales Promotion, Market Research, Storage, Procurement of Inputs, Accounting, Auditing, Financing, Recruitment and Quality Control, Coaching and Training, Computer Networking, Credit Rating, Share Registry, Security, Business Exhibition, Legal Services, inward transportation, outward transportation upto place of removal	Yes

# Input Services - Negative List

Nature of Input Service	Eligibility	Exceptions
Construction & Works Contract Services used for construction	No	unless used for providing specified output services
Rent a Cab of motor vehicle	No	unless the credit is available on the motor vehicle itself
Insurance and Repairs connected with motor vehicles	No	unless the credit is available on the motor vehicle itself or used by manufacturer or insurance company
Outdoor Catering, Beauty Treatment, Health Services, Cosmetic Surgery, Club, Health Club. Life Insurance, Health Insurance, Travel Benefits to employees	No	

# Capital Goods

- Goods falling in Excise Tariffs:
  - Chapter 82 (Tools & Implements of Base Metals)
  - Chapter 84 (Machinery & Mechanical Equipments)
  - Chapter 85 (Electrical Machinery & Equipments)
  - Chapter 90 (Technical Instruments)
  - Headings 68.04 & 68.05
- Spares, Components & Accessories
- Generation of Captive Electricity
- Pollution Control Equipment, Refractories & Refractory Material, Moulds & Dies, jigs & fixtures, Tubes & Pipes, Storage Tanks
- Motor Vehicles except those specifically excluded
- Specific Motor Vehicles for specified service providers only
  
- Credit Available subject to non claim of Depreciation

# Timing of Credit

Nature of Eligibility	When can credit be claimed	Remarks	Documents for claiming credit
Inputs	Immediately on receipt in premises	Reversal required for removals and write offs.	Excise Invoice / Bill of Entry
Capital Goods	50% in the year of receipt, balance in next year	Reversal required for removals and write offs.	Excise Invoice / Bill of Entry
Input Services – Domestic	On Receipt of Invoice	Reversal required if not paid within 90 days	Invoice / ISD Invoice
Input Services – Reverse Charge	On Payment of Value and Tax	N.A.	GAR-7 Challan

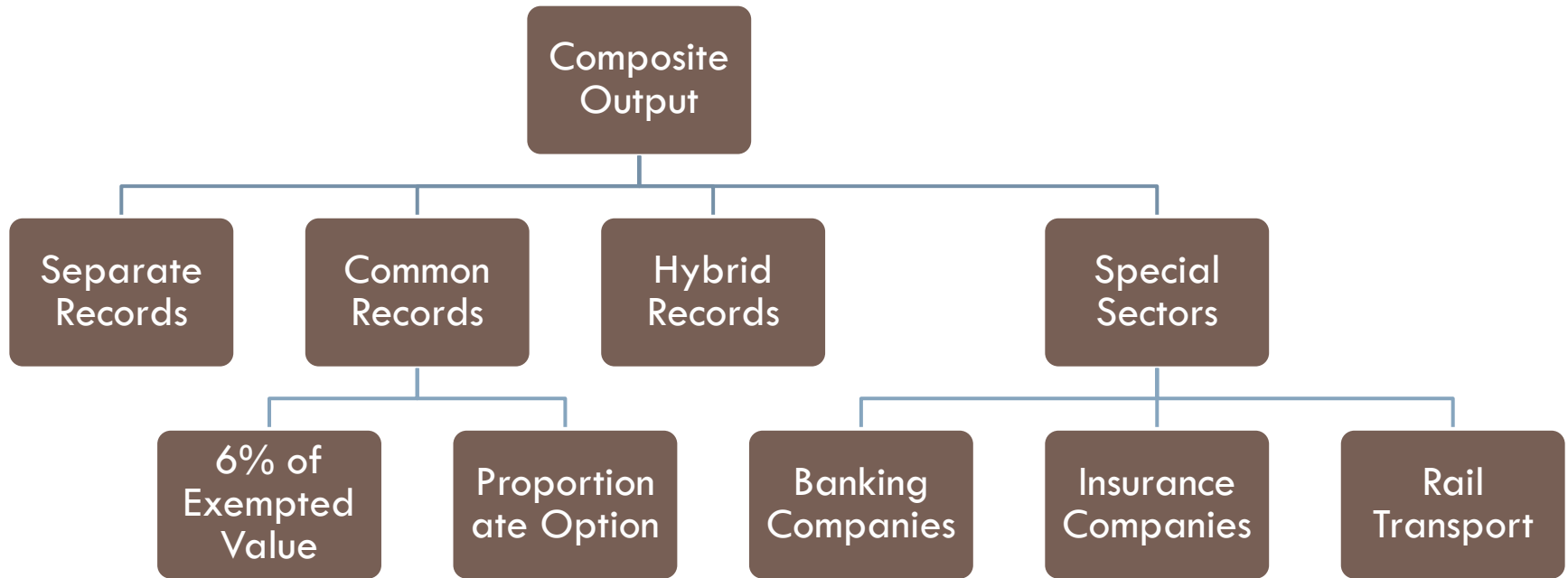
# COMPOSITE OUTPUT

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# Eligibility of Credit based on Output

	Taxable	Exempted
Manufacturers	<ul style="list-style-type: none"> <li>• Excisable Goods</li> <li>• SEZ Units/Developers</li> <li>• Export of Goods</li> </ul>	<ul style="list-style-type: none"> <li>• Exempted Goods</li> <li>• Goods cleared at 1% or 2% Rate</li> </ul>
Service Providers	<ul style="list-style-type: none"> <li>• Taxable Services</li> <li>• Export of Services</li> <li>• Services to SEZ Units/Developers</li> </ul>	<ul style="list-style-type: none"> <li>• Exempted Services</li> <li>• Excluded Services</li> <li>• Services in Non Taxable Territories</li> </ul>
Special Rates/Values	<ul style="list-style-type: none"> <li>• Services on which Abatement is claimed under Notification 26/2012-ST without the condition</li> <li>• Services on which Composition Scheme /Special Rates Aailed</li> </ul>	<ul style="list-style-type: none"> <li>• Services on which Abatement is claimed under Notification 26/2012-ST subject to the condition that no credit is available on inputs and input services</li> <li>• Trading in Goods and Securities</li> </ul>

# Options for Composite Output





# CENVAT : Composite Output: Examples

Assumptions : Credit 2 lakhs, TS = 40 lakhs, ES = 60 lakhs	Total	Working
Specific Identification and claim for taxable goods / services (Option I)	2,00,000 Say 1,10,000 + 90,000	Claim 1,10,000
No identification – composite scheme for manufacturers / service providers based on output (ad hoc payment) – OPTION II	2,00,000	Claim 2,00,000 Pay 3,60,000
No identification – composite scheme for manufacturers / service providers based on input & input services (proportionate payment) – OPTION III	2,00,000	Claim 2,00,000 Pay 1,20,000
No identification – composite scheme for manufacturers / service providers based on input services (proportionate payment) – OPTION IV	2,00,000 Say 60,000 + 20,000 + 1,20,000	Claim 60,000 + 1,20,000 Pay 72,000

# Abatement : Impact on CENVAT

Description of taxable service	Taxable Percentage	Eligibility of CENVAT Credit on			Impact on Expense off Ratio	
		Inputs	Capital Goods	Input Services	ES	TS
Financial Leasing	10	Yes	Yes	Yes	0	100
Rail Freight Transport	30	Yes	Yes	Yes	0	100
Rail Passenger Transport	30	Yes	Yes	Yes	0	100
Mandap Keeper	70	Yes*	Yes	Yes	0	100
Air Passenger Transport	40	No	No	Yes	0	100
Hotel Accommodation	60	No	No	Yes	0	100
Goods Transport	25	No	No	No	100	0
Chit	70	No	No	No	100	0
Rent a Cab	40	No	No	No	100	0
Coastal Transport	50	No	No	No	100	0
Services by a tour operator	various	No	No	No	100	0
Sale of Under Construction Flats	25	No	Yes	Yes	0	100

# Other Cases: Impact on CENVAT

	Taxable	Exempted
<b>Works Contracts :</b>		
Original Works	40	0
Contracts relating to moveable assets	70	0
Other Contracts	60	0
<b>Catering Contracts</b>		
Restaurants	40	0*
Outdoor Catering	60	0*
<b>Trading</b>		
in Goods	0	GP or 10%
in Securities	0	GP or 1%
Composition Cases	Reverse Work	0

# CENVAT: Common Points

- FULL Credit available for capital goods if used for common purposes
- Exercise Option across all activities
  - Circular 868/6/2008-CX dated 09-05-2008 Q. 2
- Option once exercised should not be changed in financial year
- Prior intimation for Options III/IV

# CENVAT: Special Cases

Nature of Service	Special Payments
Banking & Financial Services provided by banking company, financial institution or NBFC	Pay 50% of the amount claimed as credit on input and input services
Services in the nature of life insurance and ULIP Related Services	Pay 20% of the amount claimed as credit on input and input services
Rail Transport Services	2% of the exempted component

# Refunds

- Refund of Accumulated CENVAT Credit on Exports
- Refund for specified areas
- Refund in case of Reverse Charge Mechanism cases

# PROCEDURAL ASPECTS



# Registration

- No Categories with effect from 01.07.2012
  - Service Provider
  - Service Recipient
  - Input Service Distributor
- Existing Registrations to continue
- Premise Specific Registration and Role of Centralised Registration
- Procedure for Online Registration and Amendments



# Invoices

- Name, Address & Regn. No
- Name & Address of Service Recipient
- Description of Service
- Value of Taxable Service
- Service Tax & Education Cess
- Signed & Serially Numbered
- To be issued within 30 days

# Payment of Tax & Filing of Returns

	Current	Proposed
<b>Existing Assesseees</b>		
Paid tax of Rs 25 lakh or more in previous year	Monthly for Corporate Quarterly for Others	Monthly
Paid tax of less than Rs 25 lakh in previous year	Monthly for Corporate Quarterly for Others	Quarterly
<b>New Assesseees</b>		
Individuals and Firms	Quarterly	Quarterly
Other than Individuals and Firms	Monthly	Monthly
<b>Filing of Returns</b>	Half Yearly	Coinciding with Payments

# Procedures = Snapshot..

- No concept of assessment
- Various Levels of Audit / Scrutiny
  - ▣ Audit – EA / CERA / Jurisdiction
  - ▣ Investigation – Anti Evasion / DGCEI
- Show Cause Notice pursuant to above / repeat SCN
- Adjudication based on show cause notice
- Appeal to be filed before Commissioner (Appeals) / CESTAT