

Finance Act, 2003

Section 152 - Amendment of Rule 3 of the Cenvat Credit Rules, 2002

(1) In the CENVAT Credit Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, in rule 3, in sub-rule (3), the second proviso, as inserted by the CENVAT Credit (Amendment) Rules, 2002, published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 835(E), dated the 23rd December, 2002 shall be deemed to have and to have always had effect on and from the 1st day of March, 2002.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of March, 2002 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the CENVAT credit to be taken or utilised which would have been allowed to be taken or utilised but for the amendment made by sub-section (1), shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority--

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the CENVAT credit and no enforcement shall be made by any court of any decree or order allowing the CENVAT credit not allowed to be taken or utilised if the amendment made by sub-section (1) had been in force at all material times;

(b) recovery shall be made of all the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such CENVAT credit within this period, in addition to the amount of such CENVAT credit recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.--For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.--For the purposes of this section, the expression "CENVAT credit" has the meaning assigned to it in the CENVAT Credit Rules, 2002 referred to in sub-section (1).
