

DAP NO. 18D FOR AUDIT REPORT 2014-15 (CENTRAL EXCISE)

Non reversal of cenvat credit on provision made for obsolete stock

Rule 3(5B) of Cenvat Credit Rules, 2004 stipulates that, if the value of any input or capital goods before being put to use, on which cenvat credit has been taken is written off fully or where any provision to write off fully has been made in the books of account then the manufacturer shall pay an amount equivalent to the cenvat credit taken in respect of the said input or capital goods. Interest on belated payment of ineligible cenvat credit, if any, is payable as per Rule 14 read with Section 11AB/11 AA of the Central Excise Act, 1944.

M/s. Ashley Alteams India Ltd., under Pondicherry Commissionerate engaged in manufacturer of components, parts and accessories of motor vehicles falling under chapters 84, 85 and 87 of the Central Excise Tariff Act, 1985. made 'provision' of ₹ 1.56 crore and ₹ 1.45 crore for 'obsolete stock' during the years ended March 2010 and 2011 respectively. However the assessee did not reverse the corresponding cenvat credit of ₹ 31.10 lakh as verified from the returns filed. The ineligible credit was required be reversed alongwith interest.

Internal Audit of the assessee was conducted by the department in June 2011 but it did not detect the irregularity.

When we pointed this out (March 2012), the department replied (February 2015) that demand of duty of ₹17.03 lakh along with penalty of ₹ 8.52 lakh and interest of ₹ 2.70 lakh was confirmed out of which ₹ 17.03 lakh was appropriated. The assessee preferred appeal in CESTAT against the demand of interest of ₹2.70 lakh and penalty of ₹ 8.52 lakh, the outcome of which was awaited (May 2015).

o/c

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**LOCAL DRAFT PARAGRAPH No: CE- 08 /2014-15 PROPOSED FOR AUDIT REPORT
2014-15 ON CENTRAL EXCISE RECEIPTS**

Sub: Non reversal of cenvat credit on provision made for obsolete stock

Rule 3(5B) of Cenvat Credit Rules, 2004 stipulates that, if the value of any input or capital goods before being put to use, on which cenvat credit has been taken is written off fully or where any provision to write off fully has been made in the books of account then the manufacturer shall pay an amount equivalent to the cenvat credit taken in respect of the said input or capital goods. Interest on belated payment of ineligible cenvat credit, if any, is payable as per Rule 14 read with Section 11AB/11 AA of the Central Excise Act, 1944.

M/s. Ashley Alteams India Ltd., under Pondicherry Commissionerate is a manufacturer of components, parts and accessories of motor vehicles falling under chapters 84, 85 and 87 of the Central Excise Tariff Act, 1985. On a scrutiny of the Trading and Profit and Loss Account, it was noticed that the assessee had made 'provision' of ₹156.47 lakh and ₹145.49 lakh for 'obsolete stock' during the years ended March 2010 and 2011 respectively. However the assessee did not reverse the corresponding cenvat credit as verified from the returns filed. The ineligible credit has to be reversed alongwith interest paid. This aspect was not pointed out by Internal Audit conducted in May-June 2011.

The objection was discussed with the Assistant Commissioner of Central Excise, (February 2012) and communicated to the department (March 2012). The department (April 2014) replied that SCN was issued (March 2014) and demand of duty of ₹17.03 lakh was confirmed (January 2015) in the Order passed by the Commissioner of Central Excise, Puducherry and that the demand was appropriated against the amount already reversed (April 2013 & June 2014). The assessee had also reversed ₹7.32 lakh (June 2014) for the further period ended March 2013. However against the demand of interest of ₹2.70 lakh and the imposition of penalty of ₹8.52 lakh in the Order, the assessee had preferred appeal, the outcome of which is awaited (May 2015).

Approved on 12-06-2015

Director General of Audit (Central)

KEY

1.	Name of the assessee	M/s. Ashley Alteams India Ltd.,
2.	Commissionerate	Pondicherry Commissionerate
3.	Division	Villupuram Division
3	Range	Thiruvannamalai Range
4.	Reference	<ol style="list-style-type: none"> 1. Para 1/HB vide letter No.PAG(C&RA) /CERA/REP-II/VII/11-0327/2011-12/435 dated 12/3/2012 2. Letter C No. III/10/03/2012- CERA dated 23/4/2014 of the Assistant Commissioner of Central Excise, Villupuram Division, Puducherry Commissionerate. 3. This office letter No.DGA(C)/CERA/Rep II/VII/11-0327/2011-12/110 dated 23/5/2014 4. Letter C No. III/10/03/2012- CERA dated 6/6/2014 of the Assistant Commissioner of Central Excise, Villupuram Division, Puducherry Commissionerate. 5. This office letter No.DGA(C)/CERA/Rep II/VII/11-0327/2011-12/171 dated 18/7/2014 6. This office letter No.DGA(C)/CERA/Rep II/VII/11-0327/2011-12/284 dated 9/10/2014 7. Letter C No. III/10/03/2012- CERA CX dated 23/2/2015 of the Assistant Commissioner of Central Excise, Villupuram Division, Puducherry Commissionerate. 8. SFV NO. CE 08/2014-15 dated 27/3/2015 9. C.No. IV/10/424/2014- CERA dated 12/5/2015 of the Commissioner of Central Excise, Puducherry Commissionerate.

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OFFICE OF THE PR. ACCOUNTANT GENERAL (C&RA)
TAMIL NADU

'LEKHA PARIKSHA BHAVAN',
No. 361, ANNA SALAI, CHENNAI-600 018.

No. PAG(C&RA)/CERA/Rep-II/VII/11-0327/2011-12/435

Dated: 12-3-12

To
The Deputy Commissioner of Central Excise,
Villupuram Division,
Villupuram- 605 602.

Sir,

Sub: Central Excise Receipt Audit Report on the local audit forwarded.

1. I am to forward herewith report on the local audit of the accounts relating to M/s. Ashley Altemas India Ltd., Plot No.2, SIPCOT Industrial Park, Chellaperumbullamedu village, Sozhavaram Post, Cheyyar Taluk, Thiruvannamalai District-631 701 Central Excise Receipts and refunds of and request you to furnish the replies of the Range Officer and your remarks and orders thereon to reach this office within a month from the date of receipt.
2. The audit was conducted from 23.01.2012 to 26.01.2012.
3. Important irregularities and omission for which specific replies of the Range Officer and your orders thereon are required to be sent to this office have been included in Part IIA of the report. Special attention is invited to of Part IIA of the report. Necessary instructions may be issued to the Range Officer concerned to rectify them immediately for verification during next audit.
4. Minor defects noticed during the audit have been enumerated in Part III of the report. Necessary instructions may be issued to Range Officers concerned to rectify them immediately for verification during next audit.
5. Copy of the report is also forwarded to the Range Officer to enable him to take action immediately.

Yours faithfully,


12/3/12

For Deputy Accountant General/CERA

Encl: One Report

Encl: No. PAG(C&RA)/CERA/Rep-II/VII/11-0327/2011-12/436

Dated: 12-3-12

Copy to the Superintendent of Central Excise,
Villupuram Division, Thiruvannamalai Range,
Villupuram- 605 602.

For information


12/3/12

Audit Officer/CERA

Encl: No. PAG(C&RA)/CERA/Rep-II/VII/11-0327/2011-12/437

Dated: 12-3-12

Copy to the Assistant Commissioner of Central Excise (Audit),
Puducherry Commissionerate,
For information.


12/3/12

Audit Officer/CERA


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Para 1/11 B: Non reversal of cenvat credit under Rule 3 sub rule 5(B) (i) & (ii) of Cenvat Credit Rule, 2004.

M/s. Ashley Aircams India Ltd, Plot No.3 Sipcot Industrial Park, Chellaperumbulmedu, Sholavaram Post, Cheyyar Taluk, Thiruvannamalai District, having ECC No AAGCA 1304 GXM 002 and ST Registration No AAGCA 1304 GST 001 are manufacturer of ESMA, lower and upper chassis sub assembly etc falling under chapter heading 85177090 under Central Excise Tariff Act, 1985.

On a verification of trading profit and loss account for the year ending March 2010 and March 2011, the assessee have given "Provision for obsolete stock" for Rs.13,647,289/- and Rs.14,549,671/- respectively.

As per sub rule 5(B) (i) & (ii) of Rule 3 of Cenvat Credit Rule 2004

If the value of any, input or capital goods before being put to use, on which cenvat credit has been taken is written off fully, or where any provision to write off fully has been made in the books of account, then the manufacturer or service provider, as the case may be, shall pay an amount equivalent to the Cenvat Credit taken in respect of the said input or capital goods.

In view of the rule provision stated above, the assessee has to reverse the credit already taken as detailed below:

Provision for obsolete stock for the year 2009-10	- Rs.15,647,289/-
Provision for obsolete stock for the year 2010-11	- Rs.14,549,671/-
	<u>Rs.</u>
Total provision for obsolete stock	- Rs.30,196,960/-
BED	- Rs.30,19,696/-
2% Education Cess	- Rs. 60,394/-
1% Hrs. Edu. Cess	- Rs. 30,197/-
	<u>- Rs.31,10,287/-</u>

Rs.31,10,287/- has to be reversed for the provision for obsolete stock for the year 2009-10 and 2010-11 along with interest under section 11AB (11AA) of the Central Excise Act, 1944.

No SCN has been issued on this issue by the department.

This is brought to the notice of the department for taking necessary action under intimation to audit.

Senior Audit Officer/D8

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**STATEMENT OF FACTS No. CE-8/2014-15 FOR VERIFICATION AND POSSIBLE
CONCLUSION IN THE AUDIT REPORT OF THE COMPTROLLER AND AUDITOR
GENERAL OF INDIA FOR THE YEAR 2014-15.**

Sub: Non reversal of cenvat credit on provision made for obsolete stock

Cenvat Credit Rules, 2004 vide Rule 3(5B) stipulates that, if the value of any, input, or capital goods, on which CENVAT Credit has been taken is written off fully or where any provision to write off fully has been made in the books of account then the manufacturer shall pay an amount equivalent to the CENVAT credit taken in respect of the said input or capital goods. Interest on ineligible cenvat credit is recoverable as per section 14 of the said rules read with Section 11AB/11 AA of the Central Excise Act, 1944

M/s. Ashley Alteams India Ltd., falling under Thiruvannamalai Range, Villupuram Division, and Pondicherry Commissionerate is manufacturer of Cast light metal components, machine components, parts and accessories of motor vehicles falling under chapter 84, 85 and 87 of the Central Excise Tariff Act, 1985. On verification of the trading and Profit and Loss Account noticed that the assessee had made 'Provision for obsolete stock' for a sum of ₹156.47 and ₹145.49 during the years ended March 2010 and 2011. It was however noticed that the assessee did not reverse the corresponding cenvat credit for the provision made which is recoverable along with interest. Internal Audit was conducted by the department in May and June 2011, but this aspect was not pointed out by them.

The objection was discussed with the Assistant Commissioner of Central Excise, Villupuram Division (6th February 2012) and communicated to the department in this office Letter No.PAG(C&RA)/CERA/REP-II/VII/11-0327/2011-12/435 dated 12/3/2012. The department in its letter C No. III/10/03/2012- CERA dated 23/4/2014 replied that SCN No. 17/2014 dated 31/3/2014 had been issued by the Commissioner of Central Excise, Puducherry. The department in its further reply (February 2015) stated that the SCN was adjudicated and demand of ₹17.03 has been confirmed besides penalty and interest. As seen from the O-I-O 1/2015(C) dated 12/1/2015(Para 13), the assessee have reversed cenvat credit of ₹14.98 lakh (in April 2013) accumulated upto the year 2010-11 and ₹9.37 lakh (on 10/6/2013) for further period of 2011-12 and 2012-13. The details on recovery of interest and penalty confirmed in the O-I-O is awaited from the department (March 2015).

Sd/-

Deputy Director/CX

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Calculation sheet

M/s. Ashley Alteams India Ltd.,

Reversal made by the assessee

(Para 13 of O-I-O No. 1/2015 dated 12/1/2015)

Sl. No.	Year	Provision for obsolete stock (₹ in lakh)	Rate of duty	Amount reversed (₹ in lakh)
1	Upto 2010	145.49	10.3%	14.98
2	2011-12	19.87	10.3%	2.04
3	2012-13	59.22	12.36%	7.32
Total				24.34


Senior Audit Officer/CERA DP

ASHLEY ALTEAMS INDIA LIMITED
Schedules annexed to and forming part of the Balance Sheet as at March 31/2011

	2011 Rs	2010 Rs
Schedule - 1.5 INVENTORIES		
Stores and spares	10,185,153	
Consumable tools	9,340,113	5,818,730
Raw materials and components	103,280,263	67,308,928
Stock of trading goods- Die	13,769,287	8,209,511
Finished goods	29,110,705	
Work in Progress	33,093,674	31,862,891
Goods in Transit	20,998,274	1,084,046
	219,777,469	117,284,106
Total	(14,549,671)	(15,647,289)
Provision for obsolete stock	205,227,798	101,636,817
Total		
Schedule - 1.6 SUNDRY DEBTORS		
Unsecured	9,016,992	3,236,939
Trade Debtors Outstanding for period exceeding six months	370,906	370,906
Considered good	9,387,898	3,607,845
Considered doubtful		
	199,150,707	145,562,316
Other debts	208,338,605	149,170,161
Considered good	370,906	370,906
	208,167,699	148,799,355
Less: Provision for Doubtful Debts		
Total		
Schedule 1.7 - CASH AND BANK BALANCES		
Cash on hand	36,157	89,249
Balances with scheduled banks	60,900,656	2,940,281
- Current account	26,922,958	16,349,469
- Margin Money Deposits*		
* Lien marked for bank guarantee and letter of credit		
	87,859,773	19,378,999
Total		



Non-reversal
Current credit

31/10 287/10
1/1
+ gnt

3/28/10
1/1
+ gnt

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OTH/2014-2015/00000135

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Rep: R

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Telephone:
04146-229833 / 251730



Telefax: 04146-220077

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE
VILLUPURAM DIVISION, No.9A, SOLAI NAGAR, SUDHAKAR NAGAR,
VILLUPURAM - 605 602.

C.No.III/10/03/2012 - CERA

Dated: 23.04.2014

To

The Director General of Audit (Central)
Central Excise Receipt Audit
Lekha Pariksha Bhavan
361, Anna Salai
Chennai - 600 018.

Sir,

Sub: LAR on M/s.Ashley Alteams India Limited - Reg

Ref: DGA(C)/CERA/ REP-II/VII/11-0327/2011-2012 dated 12.03.2012

Please refer to the above mentioned reference on the above subject. The following reply is furnished hereunder:

Para I/IIB: Non reversal of cenvat credit under Rule 3 sub rule 5(B)(i) & (ii) of Cenvat Credit Rules, 2004

In this regard, it is submitted that Show Cause Notice No.17/2014© dated 31.03.2014 has been issued by Commissioner of Central Excise, Puducherry Commissionerate (Copy enclosed) demanding Rs.47,85,284/- being equivalent to cenvat credit involved on the obsolete stock written off in the books of accounts during the financial years 2009-10 to 2011-2012.

In view of the above, this para may please be considered for closure please.

Para 4/IIB: In correct availment of service tax input credit on out door catering service

In this regard, it is submitted that Show Cause Notice No.17/2014© dated 31.03.2014 has been issued by Commissioner of Central Excise, Puducherry Commissionerate demanding Rs.1,41,797/- being wrong credit availed on out door catering service.

In view of the above, this para may please be considered for closure please.

Moved
23.4.14
SAO/Rep. II
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TELEPHONE NO. 21

V-144-22833 7 251730



TELEFAX: 4144-220097

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE
VILLUPURAM DIVISION, NO. 9A SOLAI NAGAR, SUDHAKAR NAGAR,
VILLUPURAM - 605 602

C. No. III/10/03/2012-CERA Cx.

Date: 23.02.2015

To

The Director General of Audit (Central)
Central Excise Receipt Audit, Lekha Pariksha Bhavan
351, Anna Salai, Chennai-600018.

Sir,

Sub: CERA - LAR No.11-0327/2011-12 -M/s. Ashley Alteams India Ltd- Reg.

Ref: DGA (C) CERA/REP-II/VII/11-0327/2011-2012 dated 23.05.2014.

Please refer to this office letter of even no. dated 06.06.2014 on the above subject. Further reply in respect of Para 1/IIIB, 4/IIIB, 6/IIIB and 7/IIIB is furnished hereunder.

As show Cause Notice No. 17/2014 dated 31.03.2014 issued by Commissioner has been adjudicated vide Order-in-Original No. 01/2015 dated 12.01.2015. The details of the order issue involved are furnished hereunder:

Sl. No.	Para No.	Issue Involved	Amount Rs.	Gist of the Order
1.	1/IIIB	Non reversal of Cenvat credit under Rule 3 sub rule 5(B) (i) & (ii) of Cenvat Credit Rule, 2004, Period : 2009-10 and 2010-11	31,10,287	Confirmed Rs.17,03,285/- Appropriated Rs.17,03,285/- Penalty imposed : 8,51,643/- Interest: Rs.2,69,751/- Period : 2009-10 to 2011-12
2.	4/IIIB	Incorrect availment of service tax input credit	1,41,797	Credit allowed
3.	6/IIIB	Availment of Cenvat credit on ineligible documents (Xerox copy, Extra copy, Missing invoice).	5,54,001	Recovery of credit of Rs.21,682/- availed on ineligible documents confirmed and Rs.21,682/- paid and appropriated. Interest Rs.6,557/- paid and appropriated. Penalty imposed: Rs.10,841/-
4.	7/IIIB	Misc. Income details called for not produced to audit.	63,87,393	Details produced. Proceedings dropped.

As show cause notice issued covering the above paras has been adjudicated by the Commissioner, Puducherry, it is requested that the paras may be considered for closure.

Yours faithfully,

(R. CALAIMANY)

ASSISTANT COMMISSIONER

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forwarded by
SAO/CERA Paltu

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