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GOVERNMENT OF INDIA
MINISTRY OF FINANCE : DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX
No.1, WILLIAMS ROAD, TRICHIRAPALLI - 620 001.

Trade Notice : 17 / 2008.

Dated: 20.11.2008.

Sub:- C.Ex. - Clarification regarding reversal of Cenvat Credit in
case of Trade Discount - Reg.

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Copy of Circular No.877/15/2008-CX dated 17.11.2008 in
F.No.267/54/2008-CX-8 regarding reversal of Cenvat Credit in case of trade
discount is communicated herewith.

2. The contents of the Trade Notice may be brought to the knowledge of
all constituent members of Trade Associations/Chambers of Commerce.

(Issued in File C.No. IV/16/02/2008 - C.Ex. Pol)

- Sd /-

(VASA SESHAGIRI RAO)

ADDITIONAL COMMISSIONER (T)

Encl.: As above.

To

As per mailing list II / III.

**Copy of the Circular No. 877/15/2008-CX dated 17.11.2008 in
F.No.267/54/2008-CX-8**

Representations have been received from trade and industry seeking
clarification on the issue whether proportionate credit should be reversed in
cases where a manufacturer avails credit of the amount of duty paid by
supplier as reflected in the excise invoice, but subsequently the supplier
allows some trade discount or reduces the price, without reducing the duty
paid by him.

2. The issue has been examined. Since, the discount in such cases are given in respect of the value of inputs and not in respect of the duty paid by the supplier, the effect of reduction of value of inputs may be that the duty required to be paid on the inputs was less than what has been actually paid by the inputs manufacturer. However, the fact remains that the inputs manufacturer had paid the higher duty. Rule 3 of Cenvat Credit Rules, 2004 allows credit of duty "paid" by the inputs manufacturer and not duty "payable" by the said manufacturer. There are many judgements of Hon'ble Tribunal in this regard which have confirmed this view.

3. In view of above, it is clarified that in such cases, the entire amount of duty paid by the manufacturer, as shown in the invoice would be available as credit irrespective of the fact that subsequent to clearance of the goods, the price is reduced by way of discount or otherwise. However, if the duty paid is also reduced, along with the reduction in price, the reduced excise duty would only be available as credit. It may however be confirmed that the supplier, who has paid duty, has not filed/claimed the refund on account of reduction in price.

4. Trade and field formations may be suitably informed.

5. Hindi version will follow.

6. Receipt of this Circular may kindly be acknowledged

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