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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 NO.10/2009

Dated:07.12.2009

Sub:C.Ex.-Communication of Circular No. 897/17/2009-CX
dated 03.09.2009-Reg.

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Copy of the Ministry's **Circular No. 897/17/2009-CX dated 03.09.2009** issued in file F.No.267/83/2009-CX-8 regarding liability of interest where CENVAT credit was wrongly taken but reversed by assessee before utilization 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 from file C.NO.IV/16/02/2009-C.Ex.Pol)

Sd/-
(R. SARAVANA KUMAR)
Addl. COMMISSIONER(Tech)

To
As per mailing list I/II//III.

Sub.:- Liability of interest where CENVAT credit was wrongly taken but reversed by assessee before utilization-Reg.

Representation has been received from the field formation stating that the decision of Hon'ble High Court of P&H in the case of CCE, Delhi III V/s Maruti Udyog Ltd. [2007(214)ELT173(P&H)], has upheld the order of Tribunal wherein it was held that assessee is not liable to pay interest in the case where credit was only taken and not utilized. The SLP against this order has been dismissed by the Hon'ble Supreme Court. On the other hand, Rule 14 of The CENVAT Credit Rules, 2004, provides for recovery of credit taken or utilized wrongly with interest. In view of this conflict in legal provisions and the decision of Hon'ble Supreme Court, a clarification has been requested from the Board.

2. The matter has been examined. It is seen that the Tribunal decision and the High Court judgement referred to above, was delivered in the context of erstwhile Rule 57I of the Central Excise Rules, 1944 and that the Supreme Court order under reference is only a decision and not a judgement. Since, the Rule 14 of the CENVAT Credit Rules, 2004, is clear and unambiguous in the position that interest would be recoverable when CENVAT credit is taken or utilized wrongly, it is clarified that the interest shall be recoverable when credit has been wrongly taken, even if it has not been utilized, in terms of the wordings of the present Rule 14.

Sd/-
(Amish Kumar Gupta)
OSD (CX-8)