

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 3868 of 2012

[Arising out of Order-in-Original No. 67/SA/CCE/2012 dated 05.09.2012 passed by the Commissioner of Central Excise, Delhi-III, Gurgaon]

M/s Delta Energy Systems India Private LimitedAppellant

Plot No.43, Sector-35,
Gurgaon, Haryana

VERSUS

Commissioner of Central Excise, Delhi-IIIRespondent

Plot No. 36-37, Sector-32,
Gurgaon, Haryana

APPEARANCE:

Shri Rajiv Tuli, Advocate for the Appellant

Shri Aniram Meena and Shri Goverdhan Dass Bansal, Authorized
Representatives for the Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

FINAL ORDER NO. 61400/2025

DATE OF HEARING: 31.07.2025
DATE OF DECISION: 18.09.2025

P. ANJANI KUMAR:

M/s. Delta Energy Systems (I) Private Limited, the appellants are engaged in the manufacture Manufacturing of Power Rectifier Systems and UPS Systems and Trading for franking Machine, EPABX & modems. The Appellant took over the entire running operations of

M/s Ascom India Pvt. Ltd. from 2003. M/s Ascom India Pvt Ltd was carrying out trading of franking machines & paging machines and its spares since 1997 and started manufacturing of Power Rectifier of from 13th December 1999. The name of the company was changed to Delta Energy Systems Pvt Ltd via the FIPB letter dated 1st June 2004 and Central excise registration certificate obtained in the name of Appellant 04/08/2004. The appellant has written off some obsolete inventory periodically. On Conduct of an Audit, Revenue was of the opinion that the appellant was required to reverse the credit availed on the items written off as they were not put to use in the manufacture of excisable goods cleared on payment of duty. A show cause Notice dated 08.10.2010 was issued and the demand raised therein was confirmed by the impugned order dated 05/09/2012 passed by the Commissioner of Central Excise, Delhi – III Commissionerate, Gurgaon. Hence, the Appeal No. E/3868/2012(DB).

2. Shri Rajiv Tuli, Learned Counsel for the appellants, takes us through the provisions of Sub-rule 5(b) of Rule 3 of CENVAT Credit Rule 2004 and submits that the demand raised by the Central Excise Audit team is based on an obsolete inventory of Rs. 3,51,88,130, which has been written off as per the Audited Financial Statement of the appellant for the Financial Year ended 31st March 2007. He submits that the appellant was engaged in separate divisions, categorized as Manufacturing of Power Rectifier Systems and UPS Systems and Trading for franking Machine, EPABX & modems; the appellant has not availed any CENVAT credit on the Traded Inventory

including Swap Inventory; on the manufacturing inventory written off, they discharged duty obligation by reversing the CENVAT credit in November December 2005 itself through RG 23PartII. He submits that from the audited Financial Statements of the Appellant, it is evident that the trade-in inventory in the closing stock, was reduced from Rs. 31,452,721 to Rs. 1,67,832 in the year ending March 31st 2006; this is the Inventory of traded goods which has been written off as an obsolete inventory in the books of accounts for the financial year ended March 31st 2007; the traded inventory at the end of FY 2006 specifically mentioned to include Swap stock of ES for Rs. 13,328,592/- (Previous year Rs. 13,361,961/-) and swap stock related to UPS for Rs. 1,220,873/- (Previous Year Nil); therefore, the written off inventory of Rs. 3,51,88,130/- included the trading inventory of Rs.1,21,32,598/- and swap inventory of Rs. 1,75,79,972/-. He submits that the balance sheet figures are after all checked and authenticated by the auditors and there is no reason to disbelieve the same as held in M/S Shri Vijay Engg. & Metal Works 2011 (272) ELT 593 (Tri. -Del.).

3. Learned Counsel submits also that the demand raised by the department (Audit Team) for the obsolete inventory written off consists of the following.

Sl. No.	Type of Inventory	Nature of Inventory	Inventory Value (Rs.)	Excise Duty
1.	Raw Material	Excisable	Rs. 40,22,752	Paid
2	100% EOU Inventory	Non-Excisable	Rs.14,52,809	do

3.	SWAP/Customer Support Inventory	Excise duty paid on inventory	Rs. 1,75,79,972	Not Required to be paid
4.	Trading Inventory	Non-Excisable	Rs.1,21,32,598	do

4. He submits that the raw materials are common for various products manufactured by the Appellant; since most of the inventory was related to previous years, the total inventory value of Rs. 40,22,752, out of that CENVAT credit was reversed on material of value of Rs. 23,41,017; the applicable central excise duty of Rs.3,81,475.00 was discharged by a reversal in RG 23A Part-II Entry No. 3510 dated 13th December 2005 and Entry No. 3275 dated 29th January 2005. He submits that some of the raw material inventory was reused for the manufacturing of finished goods and the product manufactured out of the raw material was removed on the payment of Central Excise Duty. Board Circular No. 101/12/95-CX-8 dated 22.02.1995 clarified that in cases where the value of the inputs is partially written off / reduced in the accounts of the company, but the inputs are still capable for use in the manufacture of finished goods, there would be no question of payment of CENVAT credit availed; thus, there is no need for payment of excise duty on the raw material inventory amounting to Rs. 40,22,752/-, which has been already paid.

5. Learned Counsel submits in addition that the Appellant had a Customer Support Division which was registered with Central Excise; they maintained separate records/stock of the inventory related to the after-sale support function; such inventory as generally being

used for replacement of faulty components at Customer site and few components (except consumables where repair was possible) were again added back to the after-Sales Support inventory after repairs hence the same was termed as "SWAP Inventory"; SWAP inventory included Direct Imports/Direct Purchases on which CENVAT Credit of duty paid has not been taken; Separate inventory records were maintained; inventory was transferred from the manufacturing units after payment of appropriate excise duty on the basis of stock transfer/excise invoices.

6. Learned Counsel submits that the excise duty was paid on the transfer of goods from the manufacturing unit to the Customer support division; further, the inventory has been written off after the closure of the manufacturing unit; in respect of EOU Inventory, he submits that at the time of the de-bonding of the unit, the duty was paid on the same for obtaining No Due Certificate from the Central Excise office. He submits that the company started in 1997 as a trading unit and was not registered with the Central Excise; appellant was not able to take any CENVAT Credit in respect of the same; the inventory lying in the trading division of the Appellant was obsolete and had no relation to the manufactured products; therefore, there is no question of CENVAT Credit payment; further, the inventory lying in the trading division of the Appellant had no relation with the products being manufactured and no relation with the Bills of Material; hence, there is no question of them being used in manufacturing and availing the CENVAT Credit on the same.

7. Learned Counsel submits further that the demand is time-barred as there has been no suppression of facts; the inventory written off in the books of accounts includes both manufacturing and trading inventory; insofar as the manufacturing inventory is concerned, the appellant had reversed the input CENVAT credit and duly intimated the Superintendent of Central Excise vide a letter dated 24.01.2006; the same has been reflected in the Central Excise Records, as evidenced by RG 23 Part I; given that the appellant had already reversed the duty on the manufacturing inventory and intimated the Central Excise Department in a timely manner, there is no suppression of facts.; hence, the extended period of limitation cannot be invoked; furthermore, the remaining inventory pertains to traded goods including SWAP Inventory, as per the audited financial statements for the year ended 31.03.2007, on which NO CENVAT credit has been availed; the same was not required to be intimated to the Central Excise Department; therefore, the invocation of the extended period of limitation is not justified.

8. Shri Aniram Meena, learned Authorized Representative for the Department reiterates the findings of the impugned order.

9. Heard both sides and perused the records of the case. There are two issues that require to be considered in the instant case. First one being, as to whether, the appellants are required to reverse the CENVAT credit on the items written off by them and as to whether, the Department was correct in invoking the extended period. Coming to the issue of limitation, we find that the appellants are

manufacturer/ assessee who were paying central excise duty regularly and filing returns from time to time. The appellants, in fact, have informed the Department, the fact of reversal of applicable CENVAT credit on the items written off from the manufacturing inventory, by a letter dated 24.01.2006. Moreover, the case has been made on the basis of an audit objection. We find that other than making an assertion that extended period is invokable, Department did not provide any evidence to show that the appellants have resorted to mis-declaration, suppression of fact, fraud etc. with intent to evade payment of duty. Therefore, we find that the show cause notice does not make out any case for invocation of extended period. On this count alone, the appeal merits to be allowed.

10. Coming to the merits of the case, we find that the appellants have submitted that they had separate manufacturing and trading divisions and have maintained the records separately; as far as the trading division is concerned, there was no requirement to reverse the CENVAT credit as CENVATA credit was not availed at all. In respect of manufacturing inventory, the appellants have paid the applicable central excise duty when the same were removed after use. The facts have not been controverted. Moreover, the appellants have recorded the transactions in their books of accounts. Learned adjudicating authority disregards the accounts without any valid reasons. We find that the Principal Bench of the Tribunal, in the case of Shri Vijay Engineering & Metal Works and others (Tri. Delhi) vide Order No. 154-155/2010 dated 22.01.2010, held that the balance

sheet figures are, after all, checked and authenticated by the auditors and there is no reason to disbelieve them.

11. In view of the above, we find that the appeal requires to be allowed on limitation and on merits. Accordingly, we allow the appeal with consequential relief, if any, as per law.

(Order pronounced in the open court on 18/09/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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