

PENDENCY POSITION OF **AUDIT PARA ( SERVICE TAX )** IN RESPECT OF GUWAHATI COMMISSIONERATE FOR THE MONTH OF **SEPTEMBER, 2015** ( Rs in Lakh )

Sl. No	AUDIT REPORT NO.	AUDIT PARA NO.	DAP No.	ISSUE INVOLVED	ADMITTED / NOT ADMITTED / PARTLY ADMITTED / ADMITTED -in-PRINCIPLE	NAME OF THE ASSESSEE	AMOUNT OF SHORT LEVY and corresponding period pointed out by Audit.	Action Taken (such as recovery particulars and interest recovered)	WHETHER SCN ISSUED? If, yes, date, amount and period	ADJUDICATION PARTICULARS	DETAILS of APPEAL PROCEEDINGS, IF ANY. ( In all cases before Com(A), CESTAT, H.C, S.C. Appeal Number must be given )	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	
1	13 of 2009-10 ( SERVICE TAX )	AP No. 6.3.2. of 2009-10	<b>DAP No. 175/09</b>	Non payment of Service Tax on GTA by M/s <b>J.K.AVTAR Pvt. Ltd (Unit II)</b> for the period from April 07 to March 08 amounting to Rs 9.24 Lakh	The objection is accepted	J.K.AVTAR Pvt. Ltd (Unit II), 15th Mile, Jorabat, Assam	Rs 13.24 Lakh. for the period from April 07 to March 08	S.T. & Ed Cess recovered Rs.20.12 lakhs. Interest recovered Rs. 2.42 lakhs.	Yes . On 18.02.2010 for Rs 20.12 lakh for the period 2005-06 to 07-08.	Demand confirmed vide Adj Order No. 19/ADC/VNT/ST/GHY/10-11 dated 31/12/10. The amount of St & Ed Cess appropriated.	-	Reply against DAP sent on 25/11/09. Further reply along with payment particulars sent to Dy. AG on 07.05.2010. The DAP is converted to AP under No . 6.3.2 of of 2009-10 vide Audit Report no 13 of 2009-10 of C&AG. Reply of AP sent on 06.07.10. & 25.08.2010. Ministry forwarded the action taken report to AG vide F.No 232/175/2009-CX-7 dated 27.10.10 admitting the para.

PENDENCY POSITION OF **AUDIT PARA (Central Excise)** IN RESPECT OF GUWAHATI COMMISSIONERATE FOR **SEPTEMBER, 2015** ( Rs in Lakh )

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1	Audit REPORT 2003-04 (Central Excise)	AP No. 5.2.2/2003-04,	DAP No 53/2003-04 . <b>IOC LTD</b>	Non realisaion of interest on delayed payment of differential duty. The issue in brief is that the assessee collected Central Excise duty for the period1/4/96 to 31/3/2000 at enhanced rate which was increased w.e.f. 23 July 1996 simultaneously with the increase in price.However , the differential duty of Rs. 187.14 lakhs so collected were deposited quite belatedly ranging from 2 days to 1525 days. Therefore the interest amounting to Rs. 39.96 lacs is payable for delayed deposit of duty. The Audit is of the view that in terms of Sec 11D of the Central Excise Act., any amount collected representing Central Excise duty is to be deposited forthwith to the Govt. Exchequer.	The Department did not agree with the view of the Audit since the interest is payable on delayed payment of duty under section 11AB of the CEA which came into effect only on 11/5/01. Ministry while submitting ATR to the CAG informed that the matter will not be governed by the provosion of Sec 11A but by Sec 11D which was inserted w.e.f. 14/5/03.Further for the period in question there was no provision to charge interest. Hence requested for closure.	M/s IOC Ltd, Betkuchi under Guwahati Division	Rs.39.96 Lakh. ( Interest) for the period from 1-4-96 to 31.03.2000.	NIL	NO	N.A.	NIL	Reply sent by Commissioner on 07/08/06 to Comm (PAC) contesting the para. The Ministry's action taken report was submitted to the CAG on 6th January 2006 with the view that there was no provision at that time to charge interest on delayed payment of duty. Further reply was submitted on 22/3/10 inter-alia expressing the view that the Revenue considered the payment of the assessee as adequate and the question of recovery of interest does not arise.
2	2004-05 (Central Excise)	AP No. 12.4.4/ 2004-05,	DAP No 71/2004-05 <b>HPC LTD</b>	Writing or printing paper falling under Sub-heading 4802.10 is charged to NIL rate of duty provided that these are supplied directly from the factory of manufacture under purchase order placed by Text Book Publication Corporation or Board. Where no such corporation exists the orders are to be placed by an officer not below the rank of a Deputy Secretary of the State Govt . This is made available in terms of Chapter note of Chapter 48. The audit objected that from 23 rd May 04 to 30 th June 04 the assessee cleared 1002.07 tonnes of printing papers valued at Rs. 2.53 crores on the basis of order placed by Project Director of Sarba Shiksha Abhiyan Authority , Punjab which is not specified in the Chapter note. The Audit objected that the benefit is passed to a non-govt organisation.	The Department agreed with the view of the Audit since clearance of goods at NIL rate of duty was not correct as the Sarba Siksha Abhiyan Authority was not specified in the Tariff note ibid and benefit was passed to a party other than Govt. Agency	M/s HPC Ltd, under Guwahati Division	Rs.40.45 Lakh. For the period from 1-2-2003 to 30.06.04	SCN was issued which was confirmed by the Addl Commr on 23 rd Nov/05. Action Taken report in the DAP No 71/04-05 was submitted to the CAG by Board office on 31/3/07. CLEARANCE OF DUTY FREE PAPER TO a Non-GOVT. PARTY FOR Text book production violating the conditions of Tariff Note.Recovery has been suspended by H'ble High Court, Gauhati,i vide Order dt. 20.01.06 in W.P.( C ) No.280/2006 by suspending the O-i-O	Yes, on 20.01.05 for Rs. 40.45 with applicable Interest	Adjudicated by the Addl. Commissioner confirming the demand including applicable interest. Vide O-i-O no.36/ADDI.COMMR/CH-48/CE/2005 dated 23.11.05	Hon'ble Gauhati High Court suspended the O-i-O. Deptt. Filed Affidavit in Opposition on 29.03 07 which is not yet listed for hearing.	Reply sent by Commissioner on 13/07/07 to SO(PAC).Also a report was sent on 24.08.10 to Commissioner ( PAC) However , a similar issue has been dropped by the Commissioner and the Committee of Chief Commissioners also accepted the O- i -O.
3	CA NO. 30/2009-10	AP No. 2.24.1/ 2010-11	<b>98/2009-10</b>	<b>Non payment of duty on clearance of Waste &amp; Scrap of Capital Goods durin the year 2006-07,2007-08 valued at Rs.150.74 Lakh, duty of which is calculated at Rs.24.12 lakh.</b>	<b>Admitted in principle</b>	<b>M/s IOC LTD. (GUWAHATI REFINERY)</b>	<b>24.12 lakh</b>	<b>SCN ISSUED for Rs. 29.99 lakhs. DEMAND CONFIRMED</b>	SCN dt. 19/04/2010 issued by the Additional Commissioner	Adj Order No. 10/ADC/BT/CE/GHY/10-11 dt. 29/11/11 .Demand confirmed for Rs. 29.99 lakhs with equal amount of penalty & applicable interest.	Appeal filed by party before Comm (Appeals), C & Cex, Guwahati on 25/1/11 which is pending for decision.	ATN SUBMITTED TO COMMISSIONER (PAC) ON 07/06/2011