

324



**::आयुक्त (अपील्स) का कार्यालय, केन्द्रीय वस्तु एवं सेवा कर और उत्पाद शुल्क::  
O/O THE COMMISSIONER (APPEALS), CENTRAL GST & EXCISE.**



द्वितीय तल, जी एस टी भवन / 2<sup>nd</sup> Floor, GST Bhavan,

रेस कोर्स रिंग रोड, / Race Course Ring Road,

राजकोट / Rajkot - 360 001

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**रजिस्टर्ड डाक ए. डी. द्वारा :-**

क	अपील संख्या / Appeal / File No.	मूल आदेश सं. / G.I.D. No.	दिनांक / Date
	V2/15,16,17/BVR/2017	BHV-EXCUS-000-JC-40-2016-17	16.12.2016

**ख** अपील आदेश संख्या (Order-In-Appeal No.):

**BHV-EXCUS-000-APP-246-TO-248-2017-18**

आदेश का दिनांक / Date of Order:	<b>27.03.2018</b>	जारी करने की तारीख / Date of issue:	<b>02.04.2018</b>
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**कुमार संतोष, आयुक्त (अपील्स), राजकोट द्वारा पारित /  
Passed by Shri Kumar Santosh, Commissioner (Appeals), Rajkot**

**ग** अपर आयुक्त आयुक्त आयुक्त आयुक्त सहायक आयुक्त, केन्द्रीय उत्पाद शुल्क सेवाकर, राजकोट / जयनगर / गणधाम द्वारा उपरनिहित जारी मूल आदेश से सूचित /  
Arising out of above mentioned O/O issued by Additional/Joint/Deputy/Assistant Commissioner, Central Excise / Service Tax, Rajkot / Jamnagar / Gandhidham

**घ** अपीलकर्ता & प्रतिवादी का नाम एवं पता /Name&Address of the Appellants & Respondent :-  
**1.M/s Arsh Alloys, Plot No. 1, Survey No. 187, Ghanghali Road,, Sihor - 364 240,  
2.Shri Aminbhai Ismailbhai Lakhani, P/o M/s. Arsh Alloys,  
3. Shri Bharat M Sheth , Plot No. 619, B-2, Geetha Chowk, Jain Derasar Road, Bhavnagar**

इस आदेश(अपील) से व्यभिक्त कोई व्यक्ति विचलित/विचलित नहीं हो उपयुक्त अधिकारी / अधिकार के समक्ष अपील द्वारा कर सकता है।  
Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.

(A) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपील न्यायाधिकरण के प्रति अपील, केन्द्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35B के अन्तर्गत एवं वित्त अधिनियम, 1994 की धारा 86 के अन्तर्गत निम्नलिखित जगह की जा सकती है।  
Appeal to Customs, Excise & Service Tax Appellate Tribunal under Section 35B of CEA, 1944 / Under Section 86 of the Finance Act, 1994 an appeal lies to:-

(i) सर्वोच्च न्यायालय में संबंधित सभी मामलों सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपील न्यायाधिकरण की विशेष पीठ, वेस्ट ब्लॉक नं 2, आर.के. पुरम, नई दिल्ली, को की जानी चाहिए।  
The special bench of Customs, Excise & Service Tax Appellate Tribunal of West Block No. 2, R.K. Puram, New Delhi in all matters relating to classification and valuation.

(ii) उपरोक्त परिच्छेद 1(a) में बतलाए गए अपील के अलावा शेष सभी अपील सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपील न्यायाधिकरण (विस्टेट) की अधिकतम क्षेत्रीय पीठिका, द्वितीय तल, बहामनी भवन असावा अहमदाबाद- 380016 को की जानी चाहिए।  
To the West regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at, 2<sup>nd</sup> Floor, Bhaumik Bhawan, Asarwa Ahmedabad-380016 in case of appeals other than as mentioned in para- 1(a) above

(iii) अपील न्यायाधिकरण के समक्ष अपील प्रस्तुत करने के लिए केन्द्रीय उत्पाद शुल्क (अपील) विधिसूची, 2001, के नियम 6 के अन्तर्गत निर्धारित किए गये फॉर्म EA-3 को धार धारियों में दर्ज किया जाना चाहिए। इसमें से कम से कम एक प्रति के साथ, जहां उत्पाद शुल्क की सीमा उत्पाद की सीमा और जमाया राशि क्रमशः 5 लाख या उससे कम, 5 लाख राशि या 50 लाख राशि तक अथवा 50 लाख रुपए से अधिक है तो क्रमशः 1,000/- रुपये, 5,000/- रुपये अथवा 10,000/- रुपये का निर्धारित जमा शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का भुगतान संबंधित अपील न्यायाधिकरण की शाखा के सहायक रजिस्टार के नाम से किसी भी सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेकॉर्ड बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान बैंक की उस शाखा में होना चाहिए जहां संबंधित अपील न्यायाधिकरण की शाखा स्थित है। स्थान आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपये का निर्धारित शुल्क जमा करना होगा।  
The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 / as prescribed under Rule 6 of Central Excise (Appeal) Rules, 2001 and shall be accompanied against one which at least should be accompanied by a fee of Rs. 1,000/- Rs.5000/- Rs.10,000/- where amount of duty demand/interest/penalty/refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asst Registrar of branch of any nominated public sector bank of the place where the bench of any nominated public sector bank of the place where the bench of the Tribunal is situated. Application made for grant of stay shall be accompanied by a fee of Rs. 500/-

(iv) अपील न्यायाधिकरण के समक्ष अपील, वित्त अधिनियम 1994 की धारा 86(1) के अन्तर्गत सेवाकर विधिसूची, 1994, के नियम 9(1) के तहत निर्धारित फॉर्म S.T-5 में धार धारियों में दर्ज किया जाना चाहिए। इसमें से कम से कम एक प्रति के साथ, जहां उत्पाद शुल्क की सीमा और जमाया राशि क्रमशः 5 लाख या उससे कम, 5 लाख राशि या 50 लाख राशि तक अथवा 50 लाख रुपए से अधिक है तो क्रमशः 1,000/- रुपये, 5,000/- रुपये अथवा 10,000/- रुपये का निर्धारित जमा शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का भुगतान संबंधित अपील न्यायाधिकरण की शाखा के सहायक रजिस्टार के नाम से किसी भी सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेकॉर्ड बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान बैंक की उस शाखा में होना चाहिए जहां संबंधित अपील न्यायाधिकरण की शाखा स्थित है। स्थान आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपये का निर्धारित शुल्क जमा करना होगा।  
The appeal under sub section (1) of Section 86 of the Finance Act, 1994, in the Appellate Tribunal shall be filed in quadruplicate in Form S.T.5 as prescribed under Rule 9(1) of the Service Tax Rules, 1994, and shall be accompanied by a copy of the order appealed against (one of which shall be certified copy) and should be accompanied by a fees of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied is Rs. 5 Lakhs or less, Rs.5000/- where the amount of service tax & interest demanded & penalty levied is more than five lakhs but not exceeding Rs. Fifty Lakhs, Rs.10,000/- where the amount of service tax & interest demanded & penalty levied is more than fifty Lakhs rupees, in the form of crossed bank draft in favour of the Assistant Registrar of the bench of nominated Public Sector Bank of the place where the bench of Tribunal is situated. / Application made for grant of stay shall be accompanied by a fee of Rs.500/-

- (i) वित्त अधिनियम, 1994 की धारा 86 की उप-धाराओं (2) एवं (2A) के अन्तर्गत दायें की गयी अपील, सेवाकर नियमवली, 1994, के नियम 9(2) एवं 9(2A) के तहत निर्धारित फॉर्म S.T.-7 में की जा सकती एवं उसके साथ आवकत, केन्द्रीय उत्पाद शुल्क अध्याय आवकत (अपील), केन्द्रीय उत्पाद शुल्क अध्याय वॉरंट आदेश की प्रतियाँ संलग्न की (उपरोक्त में एक प्रति प्रमाणित होनी चाहिए) और आवकत दायी न्यायालय आवकत अध्याय उपदाखत, केन्द्रीय उत्पाद शुल्क अध्याय, को अपीलार्थ न्यायाधिकरण को अर्पण करने का निर्देश देने वाले आदेश की प्रति भी साथ में संलग्न करनी होगी। /  
The appeal under sub section (2) and (2A) of the section 86 the Finance Act 1994, shall be filed in Form ST-7 as prescribed under Rule 9 (2) & 9(2A) of the Service Tax Rules, 1994 and shall be accompanied by a copy of order of Commissioner Central Excise or Commissioner Central Excise (Appeals) (one of which shall be a certified copy) and copy of the order passed by the Commissioner authorizing the Assistant Commissioner or Deputy Commissioner of Central Excise/ Service Tax to file the appeal before the Appellate Tribunal.
- (ii) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलार्थ न्यायाधिकरण (सेक्टर) के प्रति अपील के अन्तर्गत से केन्द्रीय उत्पाद शुल्क अधिनियम 1944 की धारा 35एक के अन्तर्गत, जो की वित्तीय अधिनियम, 1994 की धारा 83 के अन्तर्गत सेवाकर को भी लागू की गई है, इस आदेश के प्रति अपीलार्थ न्यायाधिकरण में अपील करने समय उत्पाद शुल्क/सेवा कर लागू के 10 प्रतिशत (10%), जब लागू एवं जुर्माना विवादित है, या जुर्माना, जब केवल जुर्माना विवादित है, का भुगतान किया जाए, बशर्त कि इस धारा के अन्तर्गत जमा कि जाने वाली अपेक्षित टैक्स रकम इस प्रकार रूप में अधिक न हो।  
केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अन्तर्गत 'जमा किए गए शुल्क' में प्रिम्स शामिल है।  
(i) धारा 11 डी के अन्तर्गत रकम  
(ii) सेक्टर जमा की गई गलत रकम  
(iii) सेक्टर जमा विभागाधीन के विषय 6 के अन्तर्गत टैक्स रकम  
- बशर्त यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम 2014 के अन्तर्गत से पूर्व किसी अपीलार्थ न्यायाधिकरण के समक्ष विवादार्थीन भुगतान नहीं एवं अपील को खारिज नहीं होगी।  
For an appeal to be filed before the CESTAT, under Section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under Section 83 of the Finance Act, 1994, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute, provided the amount of pre-deposit payable would be subject to a ceiling of Rs. 10 Crores.  
Under Central Excise and Service Tax, "Duty Demanded" shall include :  
(i) amount determined under Section 11 D;  
(ii) amount of erroneous Cenvat Credit taken;  
(iii) amount payable under Rule 6 of the Cenvat Credit Rules  
- provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.
- (C) भारत सरकार को पुनरीक्षण आवेदन :  
Revision application to Government of India.  
इस आदेश की पुनरीक्षण न्यायाधिकरण निम्नलिखित मामलों में, केन्द्रीय उत्पाद शुल्क अधिनियम, 1994 की धारा 35EE के अन्तर्गत प्रत्येक के अन्तर्गत उक्त अधिनियम, भारत सरकार पुनरीक्षण आवेदन (इकाई, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जवाहर टॉप भवन, सराफा बाजार, नई दिल्ली-110001, को किया जाना चाहिए। /  
A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jawahar Deep Building, Parliament Street, New Delhi-110001, under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35B ibid:  
(i) यदि माल के किसी नुकसान के मामले में, जहां नुकसान किसी माल को किसी कारखाने से भंडार गृह के परिवहन के दौरान या किसी अन्य कारखाने या फिर किसी एक भंडार गृह से दूसरे भंडार गृह परिवहन के दौरान, या किसी भंडार गृह से या भंडारने में माल के परिवहन के दौरान, किसी कारखाने या किसी भंडार गृह में माल के नुकसान के सम्बन्ध में है। /  
In case of any loss of goods, where the loss occurs in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse  
(ii) भारत के बाहर किसी राष्ट्र या क्षेत्र को निर्यात का उद्देश्य से माल के निर्यात में प्रयुक्त किये गए माल पर अभी तक केन्द्रीय उत्पाद शुल्क के छूट (विशेष) के अन्तर्गत में, जो भारत के बाहर किसी राष्ट्र या क्षेत्र को निर्यात की गयी है। /  
In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.  
(iii) यदि उत्पाद शुल्क का भुगतान किए बिना भारत के बाहर, नेपाल या भूटान को माल निर्यात किया गया है। /  
In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.  
(iv) अधिनियम उत्पाद के उत्पादन शुल्क के अन्तर्गत के लिए जो इमुटी क्रेडिट इस अधिनियम एवं इसके विभिन्न प्रावधानों के तहत लागू की गई है और ऐसे आदेश जो आवकत (अपील) के द्वारा वित्त अधिनियम (सं. 2), 1998 की धारा 109 के द्वारा निर्यात की गई लागू अध्याय समावृत्ति पर या बट में प्रयुक्त किए गए हैं। /  
Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under such order is passed by the Commissioner (Appeals) on or after the date appointed under Sec. 109 of the Finance (No.2) Act, 1998.  
(v) उपरोक्त आवेदन की दो प्रतियां फॉर्म एचए-8 में, जो की केन्द्रीय उत्पाद शुल्क (अपील) नियमवली, 2001, के विषय 9 के अन्तर्गत निर्दिष्ट है, इस आदेश के संघर्ष के 3 माह के अन्तर्गत की जानी चाहिए। उपरोक्त आवेदन के साथ मूल आदेश व अपील आदेश की दो प्रतियां संलग्न की जानी चाहिए। साथ ही केन्द्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35-EE के तहत निर्धारित शुल्क की अदायगी के अन्तर्गत के तौर पर TR-6 की प्रति संलग्न की जानी चाहिए। /  
The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-in-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.  
(vi) पुनरीक्षण आवेदन के साथ निम्नलिखित निर्धारित शुल्क की अदायगी की जानी चाहिए।  
जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- का भुगतान किया जाए और यदि संलग्न रकम एक लाख रुपये से ज्यादा हो तो रुपये 1000 -/ का भुगतान किया जाए।  
The revision application shall be accompanied by a fee of Rs. 200/- where the amount involved is Rupees One Lac or less and Rs. 1000/- where the amount involved is more than Rupees One Lac
- (D) यदि इस आदेश में कई मूल आदेशों का समावेश है तो प्रत्येक मूल आदेश के लिए शुल्क का भुगतान, उपरोक्त दम से किया जाना चाहिए। इस तथ्य के होते हुए भी की विभागीय कार्य को करने के लिए वित्तीय अधिकारी अपीलार्थ न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है। /  
In case, if the order covers various numbers of order in Original, fee for each O.I.O should be paid in the aforesaid manner, notwithstanding the fact that the one appeal to the Appellate Tribunal or the one application to the Central Govt. As the case may be, is filed to avoid scriptoria work if excising Rs. 1 lakh fee of Rs. 100/- for each
- (E) वित्त अधिनियम, 1975, के अनुसूची-1 के अनुसार मूल आदेश एवं स्थान आदेश की प्रति पर निर्धारित 6.50 रुपये का न्यायालय शुल्क टिकित करना होगा। /  
One copy of application or O.I.O as the case may be, and the order of the adjudicating authority shall bear a court fee stamp of Rs. 6.50 as prescribed under Schedule-I in terms of the Court Fee Act, 1975, as amended.
- (F) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलार्थ न्यायाधिकरण (कार्य विधि) नियमवली, 1982 में वर्णित एवं अन्य सम्बंधित मामलों को सम्बन्धित करने वाले नियमों की और भी ध्यान आकर्षित किया जाता है। /  
Attention is also invited to the rules covering these and other related matters contained in the Customs, Excise and Service Appellate Tribunal (Procedure) Rules, 1982.
- (G) उच्च अपीलार्थ न्यायाधिकरण को अपील दर्जित करने में संबंधित न्यायालय, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थ न्यायाधिकरण वेबसाइट [www.cbec.gov.in](http://www.cbec.gov.in) की टैब सफल है। /  
For the elaborate, detailed and latest provisions relating to filing of appeal to the higher appellate authority, the appellant may refer to the Departmental website [www.cbec.gov.in](http://www.cbec.gov.in)

see

**::ORDER -IN -APPEAL ::**

The appeals detailed below have been filed by the 3 Appellants (hereinafter referred to as Appellant No. 1 to Appellant No. 3) against the Order-In-Original No. BHV-EXCUS-000-JC-40-2016-17 dated 16.12.2016 (hereinafter referred to as "the impugned order") passed by the Joint Commissioner, Central Excise & Service Tax, Bhavnagar (hereinafter referred to as "the lower adjudicating authority"); -

Sr. No.	Name of the Appellant	Appeal File No.	Appellant No.
01.	M/s. Arsh Alloys, Plot No. 1, Survey No. 187, Village – Ghanghali, Tal. Sihor, District - Bhavnagar	V2/15/BVR/2017	1
02.	Shri Mohammad Aminbhai Ismailbhai Lakhani, Partner of M/s. Arsh Alloys, Plot No. 1, Survey No. 187, Village – Ghanghali, Tal. Sihor, District - Bhavnagar	V2/16/BVR/2017	2
03.	Shri Bharat Sheth, Broker, Plot No. 619, B-2, Geetha Chowk, Jain Derasar Road, Bhavnagar – 364 001	V2/17/BVR/2017	3

2. The brief facts of the case are that Show Cause Notice F.No. DGCEI/AZU/36-10/13-14/538 dated 18.04.2013 (hereinafter referred to as "the impugned SCN") was issued to the Appellant No.1 to Appellant No. 3 for clearances of M.S. Ingots clandestinely to various customers alleging as under: –

- (a) Appellant No.1 had clandestinely manufactured and cleared their finished excisable goods, namely, M.S. Ingots attracting Central Excise duty of Rs. 13,59,146/- to various customers without issuing invoices and without payment of Central Excise duty.
- (b) Appellant No. 2 is Partner of Appellant No. 1, who has concerned himself in selling, storing, keeping and removing of the excisable goods which he knew and had reason to believe that the same were liable to confiscation, which has made him liable for penal action under Rule 26 of the Rules.
- (c) Appellant No. 3 is the Broker and had concerned himself in selling of the excisable goods on commission basis in clandestine manner, which he knew and had reason to believe that the same were liable to confiscation and liable to penalty under Rule 26 of the Central Excise Rules, 2002 (hereinafter referred to as the "Rules").

2.1. The above SCN was adjudicated by the lower adjudicating authority vide the impugned order, which confirmed demand of Central Excise duty of Rs. 13,59,146/- from Appellant No.1 under Section 11A(4) of the Central Excise Act, 1944 (hereinafter referred to as the "Act") along with interest on the confirmed demand under 11AA of the Act and also imposed penalty of Rs. 13,59,146/- upon Appellant No.1 under Section 11 AC of the Act read with Rule 25 of Central Excise Rules, 2002 (hereinafter

321

referred to as "the Rules") and imposed penalty of Rs. 7,00,000/- upon Appellant No.2 and penalty of Rs. 5,00,000/- upon Appellant No.3 under Rule 26 of the Rules.

3. Being aggrieved with the impugned order, Appellant No. 1 & Appellant No. 2 have preferred present appeals, *inter-alia*, on the following grounds: -

(i) The request of appellants to cross examine the persons whose statements are recorded and relied upon was rejected without giving any valid reasons to justify the rejection of cross examination which resulted into violation of principles of natural justice. The decision of not acceding to this request of the appellants is intimated to the appellants only while passing the final adjudication order. The appellant relied upon the decisions of Hon'ble CESTAT in the case of Self Knitting Works reported as 2009 (238) ELT 105 and Gandhi Enterprises reported as 2009 (247) ELT 353 and submitted that the lower adjudicating authority should inform the appellants about the refusal of request for cross examination before making a final decision. The cross examination of the persons whose statements are relied upon in this case would be very essential and relevant to bring on record the correct factual position. The Indian Evidence Act also lays down that truth or correct factual position could be established on record of a case by putting questions and cross questions to the concerned witness. It is held by Hon'ble Supreme Court, various High Courts and the Appellant Tribunals that if the department relied upon evidence of a particular person by recording his statement, then the assessee had a right to cross-examine such a person so as to establish whether the statement of the person was truthful and whether relevant facts having a bearing on the issue involved in the case were left out when the statement of such person was recorded. The appellant relied following case-laws in support of their contention.

- Shaduli Grocery Dealer – AIR 1977 SC 1627
- V.K. Singh – 1996 (84) ELT 520
- Arsh Casting Private Limited – 1996 (81) ELT 276
- Asha Jyoti Spinning – 1995 (60) ECR 584
- K.G. Gluco Biots Ltd. – 1996 (64) ECR 398
- GTC Industries Ltd. – 1991 (56) ELT 29 (Bom.)
- H.P. Jain – 1988 (17) ECR 765
- Mahadev Prasad Saraf – 2000 (126) ELT 32 (Cal.)
- Eros Metal Works Pvt. Ltd. – 1989 (43) ELT 361

(ii) Perusal of Para 3.5 & 3.6 of the impugned order shows that the statements of Shri Bharat Sheth is sought to be corroborated by various evidence which do not have any nexus to the allegation of clandestine removal of M.S. Ingots by the appellant. The lower adjudicating authority has erred in rejecting the cross-

920

examination of Shri Bharat Sheth on the ground that he was a co-noticee and also on the ground that his statements were not retracted. The appellants submitted that non-retraction of a statement can be held only against a person whose statement has been recorded but the same cannot be the basis for denying cross-examination of that person especially when such statement is being relied upon to sustain a charge against the appellants as they cannot ensure a retraction by any third person. The right to cross-examine the person has been enshrined and protected under Section 9D of the Central Excise Act, 1944. It is a settled legal position that statement of co-accused cannot be relied upon to sustain charges against any other accused. The appellant relied upon the following decisions.

- Nico Extrusions Private Limited – 2009 (248) ELT 497
- Harika Resim Pvt. Ltd. – 2010 (253) ELT 108
- Khandelwal Enterprises – 1983 (13) ELT 1258
- Arya Abhushan Bhandar – 2002 (143) ELT 25 (SC)
- F.M. Patia – 2000 (126) ELT 107 (Bom.)

(iii) The Annexure-A to the SCN shows that almost all of the alleged clandestine clearances were said to be have made to M/s. Vidhyaram Re-rolling Mill and surprisingly no investigation has been conducted by the department at such purchaser's end even though such investigation would have proved beyond doubt whether such clandestine clearances were made by the appellant or not. The appellants have requested that representative of M/s. Vidhyaram Re-rolling Mill may be summoned for examination as correct facts can be brought on the record as the said unit was alleged to be pre-dominant buyer of the clandestine clearances made by the appellant. However, the lower adjudicating authority has overlooked the request made by the appellants without any justification.

(iv) The lower adjudicating authority has relied upon various statements as well as evidence which pertains to alleged clandestine removal of plates and scrap obtained out of ship breaking to rolling mills and also issuance of fake invoices to various units without physical supply of goods which had no relevance to the serious allegations made against the appellants for clandestine removal of M.S. ingots. The statements and private records of Shri Bharat Sheth were not corroborated by the evidence in the form of statement of buyers, procurement of raw material, transportation of such material, etc. even though the lower adjudicating authority passed the impugned order confirming the duty demand.

(v) It is a settled legal position that a serious charge of clandestine manufacture and illicit removal of excisable goods cannot be considered only on the basis of statements of partners or directors or employees or any person(s) associated with a

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manufacturer as held in the cases of Arya Fibres Pvt. Ltd. reported as 2014 (311) ELT 529 (Tri. – Ahmd.) and TGL Pushpak Corporation reported as 2002 (140) ELT 187 (Tri. – Chennai).

(vi) Penalty is a quasi-criminal matter and therefore, it could be resorted to only in cases where malafide intention or guilty conscious of an assessee was established. The matter of penalty is governed by the principles as laid down by the Hon'ble Supreme Court in the case of Hindustan Steel Limited reported as 1978 (2) ELT (J159). There is no violation of any nature committed by the appellants and they have not acted dishonestly or contumaciously and therefore, even a token penalty would not be justified. There is no specific reason or ground spelt out in the impugned order for imposing penalty.

(vii) There is no short levy or short payment or non-levy or non-payment of Central Excise duty, therefore, Section 11AB of the Act is not attracted and order for recovery of interest is bad and illegal.

(viii) Penalty on Appellant No. 2 under Rule 26 of the Rules is bad and illegal inasmuch as Rule 26 of the Rules is not applicable in the instant case. This rule provides for penalty on any person who is in any way concerned with any excisable goods which he knows or has reason to believe, were liable to confiscation as held by Hon'ble CESTAT in the case of Standard Pencil reported as 1996 (86) ELT 245.

(ix) The imposition of penalty on Appellant No. 2 as partner of the firm cannot be imposed when penalty was already imposed on the partnership firm as held by Hon'ble Gujarat High Court in the case of Jaiprakash Motwani reported as 2010 (258) ELT 204 (Guj.) and also in cases reported as 2010 (259) ELT 179 (Guj.) and 2010 (260) ELT 51 (Guj.)

3.1. Being aggrieved with the impugned order, Appellant No. 3 has preferred present appeal, *inter-alia*, on the following grounds: -

(i) The impugned order is based on jejune and surmises and is also based upon conjunctures of the adjudicating authority. The impugned order in original is perfunctory and therefore it is required to be quashed and set aside.

(ii) The adjudicating authority had not supplied the relied upon documents along with the SCN. It was not proper and legal, but supplied some copies of document after request made by him. There were huge numbers of documents had been relied upon which were mainly in the form of recorded statements. For preparing defense reply, each and every document was required to be studied by comparing the contentions contended in the statements of the respective persons namely Manish

3/8

Patel whose statements had been discussed in the SCN. This important work could not be done from the relied upon documents supplied in CD. Therefore, it is clearly established that the adjudicating authority has grossly violated the principle of natural justice. He relied upon the settled case laws *Secure Industries Ltd. [2003 (155) ELT 559 (CESTAT)]*, wherein it has been laid down that "adjudication order was set aside when copies of documents relied upon were not supplied to Assessee, even if he was given opportunity one month prior to hearing to take photo copies. It was held that department was obliged to supply all documents. Otherwise, there is violation of principle of natural justice". In the case of *PGO Processor [2000 (122) ELT 26]*, the Hon'ble Divisional Bench of High Court, Rajasthan has held that "authenticated copies of documents relied upon are required to be supplied. Mere opportunity to inspect the documents and to obtained photo copy thereof is not sufficient". In the present case, the adjudicating authority has failed to supply the complete set of relied upon documents though requested. Therefore, the impugned order is not proper and legal, but deserves to be set aside.

(iii) The Sub Rule (1) of Rule 26 is pertaining to the circumstances under which circumstances such penalty is imposable. In this provisions, it has been specified that when any person is concerned in transportation, concerned in depositing, keeping, concealing, selling or purchasing any excisable goods which he knows or reasons to believe are liable to confiscation under the Act or Rules framed there under. In the present case, no such charge of confiscation had been made in the SCN. Therefore, it is clearly established that the adjudicating authority has wrongly and without authority of law has imposed penalty under Sub Rule (1) of Rule 26 of the CER. Sub Rule (2) of Rule 26 provides two such clauses as (2) (i) and 2 (ii) of the CER. The Sub clause (i) is pertaining to a person who is issuing excise duty invoice without delivery of goods or any person abetted in making such invoice. But in the present case, it is admitted fact that only his name in the invoice appears to had been written as "broker" though he was not a broker under the definition as provided in the section 2 (k) of the Act. Department has not proved that the so called Central Excise invoice had been prepared under his presence or under his instruction. Further, it is also on record that the so called Central Excise invoice, if any, used to be issued by the respective manufacturers i.e. Ship Breaking unit situated at SBY Alang /Sosiya. Whereas, the Sub clause (ii) provides for imposition of penalty in the circumstances when a person issue any documents or abates in making such documents, on which basis the user of the said unit or documents is likely to take ineligible benefit under the Act or the Rules made there under like claiming of Cenvat credit. Such penalty, under this clause, is imposable a penalty no exceeding the amount of such benefit or five thousand Rupees, which is greater. In the present case, the adjudicating authority

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317

has failed to prove that for which documents, the unit had benefited as well as appellant had received such benefit. Without taking the base of Central Excise Record, maintained by the unit, such penalty is not imposable. In the present case, these aspects are silent. In addition to this, no such findings have been given by the adjudicating authority with regard to how many amount has been received in so called transaction. Therefore, it is clearly established that the adjudicating authority has wrongly and without authority of law has imposed penalty under Sub Rule (1) & (2) of Rule 26 of the CER.

(iv) The impugned order is not self-contained order. In the findings, the adjudicating authority has mainly repeated the facts narrated in the SCN. To sustain such charges of clandestine removals, such Central Excise records would have been verified. In the present case, no such verification has been taken on record. Only on the basis of such statements, such clandestine removal cannot be sustained. Therefore, the impugned order is not correct and true in absence of such verification of the statutory records pertaining to the Act and Rules framed there under. The sales details submitted by the unit, such clandestine removal cannot be sustain on the basis of the above sales particulars without corroborative evidences with reference to the Central Excise records. Therefore, *mens-rea* is not proved to sustain the charge of clandestine removal. Further, he had acted a limited role to recognize the buyer and seller to each other and fixed the price of the goods on the basis of the market rate prevailing at the material time. He was not used to go the unit to the ship breaking units for managing loading of the dutiable goods, he had not remained present at the time of preparation of Central Excise invoice and at the time of removing of the dutiable goods from the factory premises of the unit. Nowhere in the findings of the impugned order, has it been held that he was present at the time of removal of such dutiable goods clandestinely etc. Further, it was also the fact that the freight charges appear to have been paid by the buyer of the so called goods. Therefore, he was not at all involved in any way as provided under Rule 26 (1) & (2) of the CER.

(v) The adjudicating authority has simply narrated the events mentioned in the SCN but failed to establish the charges framed in the SCN. The adjudicating authority has simply proved the charge by importing the facts and circumstances narrated in the SCN. He has not given his own findings which are required to be given being a quasi judicial authority.

(vi) Further, no such signature of the appellant was taken in token of having the information shown in the said Annexure E was correct and genuine. Therefore, the impugned order is not sustainable in the eyes of law in the circumstances when the worksheet of demand of SCN appears had been prepared on the basis of such



particulars mentioned in the seized Diaries which were the records pertaining to the business carried out by him and not pertaining to the business carried out by the unit against whom the charge of clandestine removal was framed.

(vii) It is observed that the subject SCN had been issued on the basis of the say and submissions made by Sh. Manish Patel, especially with regard to the use of name of such party in "short name". But such provisions is silent about any coded or secret data, if any, mentioned in the Diary and decoded whether the said person under pressure. This "decoded" explained by said Sh. Manish Patel had not been demonstrated before the unit or before the authorized person of unit. Therefore, the way of the investigation carried out by the DGCEI is appears to be doubtful. Without acceptance such decoded data by the law, such order is not tenable within the eyes of law.

(viii) The present case is covered under provisions of the Act which is an Act for collection of Tax i.e. Central Excise duty. Therefore, for making such allegation of evasion of Central Excise duty, a document showing the illicit manufacture of excisable goods and document pertaining to illicit removal of excisable goods without payment of duty are to be produced by the department. In the present case, only the seized Diaries had been taken as evidence for demanding such duty. But these Diaries cannot be said as a "legal document" to frame charge of demanding of duty unless and until it is corroborated by any of the Central Excise documents prescribed under provisions of CER. Therefore, the impugned order deserves to be set aside.

(ix) It is further to submit that the buyer was always been deploying their man known as Chhatiwala for loading of the required Cenvatable goods to the concerned unit ship breaking units. But, though the Chhatiwala was the key person to state whether the goods under reference had been removed clandestinely, or not, there is no mention in this regard. Therefore, the finding of the adjudicating authority that the dutiable goods had been removed clandestinely is not correct and legal.

(x) In the SCN, it was also stated that the Angadias have played key role in the issue under reference. However, no SCN had been issued to the Angadias. The Angadias have been found to have been involved in cash transaction as alleged in the SCN. But no any specific evidence has been placed with reference to particular consignment /Central Excise invoice for which the so called transaction had taken place. Therefore no direct specific evidence was there in the SCN. Therefore, the findings given by the adjudicating authority are not correct.

315

(xi) From the above submissions, and from the facts and circumstances of the case, he has proved that:

(a) He is not liable for a penal action under Rule 26 (1) & (2) in as much as no such allegation or charge of confiscation of the so called clandestine removal of the excisable goods had been framed in the SCN. The penal action under the Rule 26 can be imposed only when the so called goods has been charged for confiscation. This legal position has been accepted in the case of M.N. Shah [2008 (232) ELT 110 (CESTAT)].

(b) Without having direct material evidences, the adjudicating authority has wrongly and without authority of law has imposed penalty and in as much as there was no charge of confiscation, there was no any material evidences that he was concerned in transpiration of goods illicitly, he had not abated any documents of the unit. The department has failed to prove that he was aware of clandestine manufacture and removal.

(c) The so called clandestine removal of the dutiable goods has not been proved on basis of the material evidences. For each consignment as mentioned in the SCN, it is required to be independently proved. But in the present case, the same has been concluded in general. This is not correct.

(d) The so called cash transaction had not been proved with each and every consignment as mentioned in the SCN.

(xii) No such evidence has been produced regarding seizure of incriminating documents from the factory premises of the unit to prove the so called charge of clandestine removal reported to have been made by the unit. Therefore, it is clearly established that the subject case had been made out on the assumption presumption ground only. He had not defended the case vehemently as contended in the impugned order. The findings of the impugned order appear to have been made without any corroborative evidence with reference to each and every so called consignments cleared clandestinely by the unit. Since, the case against the unit appears not to have been proved with material evidence, the Co-Noticee i.e. the appellant was also not liable for penal action as penalized vide the impugned order.

(xiii) The adjudicating authority has failed to consider the various case laws as relied upon by him and mentioned in the above mentioned written submission dated 22.01.2015. Again, he is relying upon the said case laws which are reproduced here under as the same are squarely applicable in the present case: -

374

- (a) Mukund Limited V/s. CCE - 2007 (218) ELT 120
- (b) Indo Green Textile V/s. CCE - 2007 (212) ELT 343
- (c) Vishal Shal V/s. CCE - 2007 (210) ELT 135
- (d) S.R. Jhunjhunwala V/s. CCE - 1999 (114) ELT 890
- (e) S.L. Kirloskar V/s. UOI- 1993 (68) ELT 533 (Bom HC), 1997(94) ELT A 248(SC).
- (f) Gujrat Borosil V/s. CCE - 2007 (217) ELT 367 (CESTAT)
- (g) Amrit Foods Co. Ltd. Vs. CCE – 2003 (153) ELT190 (Tri. Del.)

4. Personal Hearing in the matter was attended to by S/Shri Aditya Tripathi and Amal Dave, Advocates on behalf of Appellant No. 1 and Appellant No. 2, who reiterated the grounds of appeals and submitted that the impugned order is not correct as it should have been passed after their request for cross-examination as stated in Para 4 of reply dated 16.09.2016 to SCN was decided; that this case has been made out only on the basis of statements and hence cross-examination is necessary and appeals need to be decided by remanding the case to the adjudicating authority as held by Hon'ble CESTAT in the cases of Spectrum Dyes & Chemicals Pvt. Ltd. by CESTAT Ahmedabad vide Order No. A/13579/2017 dated 22.11.2017, Nico Extrusions P. Ltd. reported as 2009 (248) ELT 497 (Tri.- Ahmd.) and Arya Fibres Pvt. Ltd. reported as 2014 (311) ELT 529 (Tri. – Ahmd). No one appeared from department despite P.H. Notices were issued to the Commissionerate.

4.1 Personal Hearing in the matter was attended to by Shri N.K. Maru, Consultant on behalf of Appellant No. 3, who reiterated the grounds of appeal and submitted that there is no corroborative evidences to implicate Appellant No. 3; that no investigation has been carried out by DGCEI on ship breaking units though they are to be treated as manufacturer; that in similar cases against Shri Bharat Sheth a lenient view was taken by Hon'ble CESTAT and the then Commissioner (Appeals), Rajkot; that in absence of evidences, lenient view may be taken in this case also as per CESTAT's orders dated 05.12.2016 and dated 17.07.2015, copy of orders submitted by him. No one appeared from the department despite P.H. Notices were issued to the Commissionerate.



4.2 Shri N.K. Maru, Consultant also submitted written submissions on behalf of Appellant No. 3, stating that: -

(i) The department had not supplied copies of relied upon documents along with SCN though they had requested for. CD containing copies of relied upon documents is not the material evidence in the circumstances that he could not make effective defense reply. If the relied documents were physical available for referring the contentions as contended in the respective statements of the respective persons which had been relied upon in the SCN, he would have defended the case strongly

as the SCN had been issued only on assumption presumption grounds without direct material corroborative evidences.

(ii) All such confessional statements recorded by the department were not alone to establish such charges as charged. All such confessional statements have been recorded under the provisions of Act only on the basis of the "Private Records viz. seized Diaries which was only pertaining to the business carried out by him with such limited purpose, trip registers, private records maintained by Angadias etc. These all private records had not been corroborated with the Central Excise records maintained by the Ship Breaking units Alang as well as Hot Re Rolling units/Furnace units.

(iii) The department has also failed to establish with material evidence that by which truck No. the stated dutiable goods had been transported from the registered premises of the appellant No. 1. In absence of this evidence, the charge of removal of the dutiable goods without payment of duty is not proved.

(iv) The seized Diaries under reference, it is observed that no such vehicle number appear to have been found therein, Therefore, the act of transportation stated to had been made from the factory premises of the Appellant no. 1 is not proved. Only the say and submission of Shri Manish Patel is not the material evidence to prove that Appellant no. 1 had cleared the dutiable goods clandestinely. If the said Diaries is an authenticated documents to frame charge of clandestine removal, then such vehicle number and freight charges, if any, would been written in the Diaries. Therefore, the Adjudicating Authority has wrongly and without authority of law has confirmed the duty by passing the impugned order. The sale proceedings can be ended when such name of buyer is there. In the present case, no such evidence with regard to the "buyers" had been taken on records for framing the charge of clandestine removal. Therefore, it is clearly established that the Adjudicating Authority confirmed the demand without having any direct material corroborative evidences as discussed in the grounds of appeal. In addition to this, the adjudicating Authority has wrongly imposed penalty upon the Appellant No. 1 under section 11AC of the CEA, 1944 / Rule 25 of the CER, 2002 in as much as department is failed to established the clandestine removal of dutiable goods. Such charges have been confirmed only on "assumption presumption grounds". As well, the Appellant No. 2 was also not liable to penalized under Rule 26 (1) (2) of the CER, 2002 in as much as such order has been passed only on assumption presumption grounds.

(v) The appellant submitted so called "financial transaction" taken base from the particulars shown in the seized Diaries cannot be proved without any corroborative evidence. The department had only made the allegation upon him on assumption

312

presumption ground and not in with accordance with each and every so called consignment shown in the worksheet attached to the SCN. The authenticity of records seized from my premises has not been proved by material corroborative evidences viz. Central Excise records maintained by the appellant No.1. All such evidences taken on records were of only "private records" and these "private records" have not been proved with any kind of Central Excise records viz. Daily Production Register, Duty payment particulars, Cenvat Credit Accounts etc.

(vi) The adjudicating authority failed to give due respect to the various case laws cited by him during the course of deciding the SCN. The same are again referred as squarely applicable and prayed to consider the same, so as to his legitimate right may not be damaged.

(vii) The present case has only been made only on "Assumption Presumption grounds" without direct corroborative evidences which were maintained under the Central Excise Law and in absence of the, the charge of clandestine removal without payment of duty is not at all sustainable and accordingly he is also not liable for penal action as the present case has been built up only on "Private Records".

(viii) He relied upon following case laws which are squarely applicable in the present case.

(a) 2014 (311) ELT 354 (Tri Ahd.)- M/s Om Aluminum Pvt. Ltd. v CCE Vadodara

(b) The Hon'ble CESTAT Ahmedabad has passed an Order No. A/11033- 1034/2015 dated 17.07.2015 in the case of an Appeal filed by M/s. Bajrang Castings Pvt. Ltd., Shri Amit R. Bhasin v/s CCE and Service Tax, Ahmedabad-II.

(c) CCE Chandigarh Vs Shakti Roll Cold Strips Pvt.Ltd. [2008 (229) ELT 661 (P&H)] has allowed credit. Appeal against this order filed by the Department was dismissed by Apex Court [2009 (242) ELT A 83 (SC)].

(d) CESTAT Chennai in the case of T.G.L. Poshak Corporation Vs CCE Hyderabad [2002 (140) ELT 181 (Tri-Che.)]

#### **FINDINGS:**

5. I have carefully gone through the facts of the case, the impugned order, the appeal memoranda filed by Appellant No. 1 & Appellant No. 2, and appeal memorandum filed by Appellant No. 3 and written as well as oral submissions made during the personal hearing. The issues to be decided are: -

317

- (i) Whether in facts and circumstances of the present case, the denial of request of cross-examination of the persons whose statements have been relied upon for demanding Central Excise duty is justified, legal and proper or not.
- (ii) Whether in facts and circumstances of the present case, the impugned order confirming demand of Central Excise duty, interest and imposing equal penalty under Section 11AC of the Act is correct or not.

6. It is on record that Appellant No. 1 was registered with Central Excise to manufacture M.S. Ingots in their induction furnaces and Appellant No. 2 was the Director of Appellant No. 1. The officers of the Directorate General of Central Excise Intelligence (hereinafter referred as DGCEI) gathered intelligence, which indicated that some ship breaking units of Alang/Sosiya are engaged in large scale evasion of Central Excise duty by way of clandestine removal of plates to the Rolling Mills; diversion of goods, undervaluation of goods etc. and that most of the aforesaid type of illicit activities are carried out by the Ship Breakers with the support of some brokers, who procured orders from Rolling Mill Units and Furnace Units, made arrangements of transportation for delivery of the goods and realization of sale proceeds, etc.; that brokers procured orders from Furnace Units and Registered Dealers etc. for supply of false Cenvat invoices without any physical supply of goods. The DGCEI conducted search operations at the premises of Appellant No. 3 and recovered incriminating documents and carried out investigation with Transporters, Angadias, etc. which allegedly led to conclusion that Appellant No. 1 had clandestinely manufactured and cleared M.S. Ingots and evaded Central Excise duty. Based upon these documentary evidences, SCN was issued to Appellant No. 1 demanding Central Excise duty and for imposition of penalty and duty was confirmed by the lower adjudicating authority under the impugned order and penalty was also imposed under Section 11AC of the Act read with Rule 25 of the Rules.

6.1. Appellant No. 1 & Appellant No. 2 have contended that their requests to cross examine the persons, whose statements are recorded and heavily relied upon in SCN and impugned order, were rejected without giving any valid reasons, which resulted into violation of principles of natural justice. I find that the impugned SCN demanding Central Excise duty on account of alleged clandestine clearances of M.S. Ingots was issued to Appellant No. 1 on the basis of incriminating documents recovered from the premises of Appellant No. 3 and statements of Appellant No. 3 and his accountant Shri Manish Patel and others. The appellants have made requests for cross-examination of persons whose statements were relied upon in SCN vide their reply to SCN. The lower adjudicating authority has not communicated his decision on such

310

requests made by them and denied the request of cross-examination also in the impugned order only. The lower adjudicating authority was required to decide the requests of cross-examination and communicate such decisions before passing the impugned order. I also find that the lower adjudicating authority heavily relied on the oral evidences and confirmed demand without proper analysis of the evidences available on record and without considering submissions of the appellants, which violated principles of natural justice.

6.2 I further find that similar appeals filed by various Ship Breaking Units and Rolling Mill Units against Orders-in-Appeal passed by the then Commissioner (Appeals), Central Excise, Rajkot were decided by the Hon'ble CESTAT, Ahmedabad vide Final Order No. A/13877-13931/2017 dated 28.12.2017, remanding back the cases to the adjudicating authority. Para 6 of the said order is re-produced as under:

*"Heard both sides and perused the record. On going through the impugned orders of the authorities below, I find that even though various case laws on the subject have been referred to, however, detailed analysis of the facts and evidences which were collected during investigation in the form of statements/documents, particularly, the statements of the Director and the Accountant of the Appellant broker, Shri Bharat Sheth have been not analysed and findings were not recorded on the evidentiary value of these statements vis-à-vis the documents. In the absence of the detailed analysis of the evidences, it is difficult to ascertain the facts alleged in the show cause notice. In these circumstances, both sides fairly submit that it is prudent to remand the matters to the adjudicating authority, to analyse the evidences in detail and record findings on the said evidences relied upon in raising the demands and proposing penalties against the respective Appellants. All issues are kept open. The Appellants are at liberty to submit evidences in support of their defence. Needless to mention that a reasonable opportunity of hearing be given to all the Appellants. The Appeals are allowed by way of remand to the adjudicating authority."*


6.3 In view of above factual and legal position, I find that this case is a fit case to be remanded to the lower adjudicating authority, who shall examine the request of cross-examination and pass fair and reasoned order after detailed analysis of the facts and the evidences available in the case giving sufficient and reasonable opportunities to the appellants to explain their case. All issues are kept open and the appellants are at liberty to submit evidences in their defence.

6.4 I find that Commissioner (Appeals) has power to remand as decided by the Hon'ble CESTAT in the case of CCE, Meerut Vs. Singh Alloys (P) Ltd. reported as 2012(284) ELT 97 (Tri-Del). I also rely upon decision of the Hon'ble Tribunal in the case of CCE, Meerut-II Vs. Honda Seil Power Products Ltd. reported in 2013 (287) ELT 353 (Tri-Del) wherein views have been expressed in respect of inherent power of Commissioner (Appeals) to remand a case under the provisions of Section 35A of the Act. The Hon'ble Gujarat High Court in Tax Appeal No. 276 of 2014 in respect of Associated Hotels Ltd. has also held that even after the amendment in Section 35A (3) of the Central Excise Act, 1944 after 11.05.2011, the Commissioner (Appeals) would retain the power to remand.

7. In view of above discussion, I set aside the impugned order and remand the matter back to the lower adjudication authority.

८. अपीलकर्ताओ द्वारा दर्ज की गई अपीलो का निपटारा उपरोक्त तरीके से किया जाता है।

8. The appeals filed by the Appellants stand disposed off in above terms.

  
(कुमार संतोष)  
आयुक्त (अपील्स)

By RPAD

To,

1.	M/s. Arsh Alloys, Plot No.1, Survey No. 187, Village – Ghanghali, Tal. Sihor, District - Bhavnagar	मे. अर्श एलोयस, प्लॉट न. १, सर्वे न. १८७, विल्लेज - घांघली, तालुका - सिहोर, डिस्ट्रिक्ट - भावनगर
2.	Shri Mohammad Aminbhai Ismailbhai Lakhani, Partner of M/s. Arsh Alloys, Plot No.1, Survey No. 187, Village – Ghanghali, Tal. Sihor, District - Bhavnagar	श्री मोहम्मद आमीनभाई इस्माइलभाई लाखानी, पार्टनर, मे. अर्श एलोयस, प्लॉट न. १, सर्वे न. १८७, विल्लेज - घांघली, तालुका - सिहोर, डिस्ट्रिक्ट - भावनगर
3	Shri Bharat Sheth, Broker, Plot No. 619, B-2, Geetha Chowk, Jain Derasar Road, Bhavnagar – 364 001	श्री भरत शेठ, ब्रोकर, प्लॉट न. ६१९, बी-२, गीता चौक, जैन देरासर रोड, भावनगर – ३६४ ००१

Copy for information and necessary action to:

- 1) The Chief Commissioner, CGST & Central Excise, Ahmedabad Zone Ahmedabad for his kind information.
- 2) The Commissioner, CGST & Central Excise, Bhavnagar Commissionerate, Bhavnagar.
- 3) The Assistant Commissioner, CGST & Central Excise, City Division, Bhavnagar.
- 4) Guard File.