

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

दवितीय तल, जी एस टी भवन / 2" Floor GST Bhavan. रेस कोसे रिंग रोड, Race Course Ring Road.



राजकोट / Raikot - 360 001

Tele Fax No. 0281 - 2477952/2441142 Email: cexappealsrajkota/gmail.com

रजिस्टर्ड डाक ए. डी. द्वारा :-

(B)

V2/4 & 5/GDM/2017 6195 to 6/78

मूल आदेश म / CLLCY No.

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Dake

ST/419 & 420/2016-17

27,10,2016

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

KCH-EXCUS-000-APP-104-TO-105-2017-18

आदेश का दिलाक /

जारी करने की तारीख

10.11.2017

Date of Order:

06.11.2017

Date of issue:

कुमार सतोष, आयुक्त (अपील्स), राजकोट दवारा पारित / Passed by Shri Kumar Santosh, Commissioner (Appeals), Rajkot

ग अपर अधुकरा संयुक्त आएकते उपायुक्त सहायक अधुकत केन्द्रीय उत्पाद शृतकर सेताकर, राजकोट । जामलगर । मधीधाम। द्वारा उपरविधित जारी मूल आदेश में मुजिल /

Arising out of above mentioned OIC issued by Additional/Joint/Deputy/Assistant Commissioner, Central Excise / Service Tax, Rajkot / Jamnagar / Gandhidham

Ħ अपीलकर्ता & प्रतिवादी का नाम एवं पता /Name & Address of the Appellant & Respondent :-M/s. The Kutch Salt & Allied Inds. Ltd., "Rankers House" Plot No.18, Sector No. 8, Gandhidham-Kutch

इस आदेश(अपीम) से प्यक्ति कोई प्यक्ति जिस्सिनिक्ति लिके में उपमुक्त प्राधिकारी / प्राधिकरण में समक्ष अपीम दायर कर सकता है। Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way

सीमा शुरूक केन्द्रीय उत्पाद शुरूक एवं शेवाका लगोलीय स्थापनीदेकरण के पति लगोल, केन्द्रीय उत्पाद शुरूक अधिनियस 1944 की धारा 358 के अनर्गत एवं फिल अधिनियस, 1994 की धारा 86 के अन्तर्गत निरम्भीविद्यार जन्म की जा सकती है ए (A)

Appeal to Customs, Excise & Service Tax Appellate Tribunal under Section 358 of CEA, 1944 / Under Section 88 of the Finance Act. 1994 an appeal lies to:

वरीकरण मुख्यावज से सम्बन्धित सभी सामने मीधा शुरुवः केन्द्रीय उत्पादम शुरुक एव संशाकः अपीनीय स्वादाधिकरण की विशेष पीठ गेस्ट क्लीब स 2. आर. के. पुराम, नहें फिल्मी, को की जानी याशिए ए Vii):

The special bench of Customs, Excise & Service Fax Appellate Tribunal of West Block No. 2, R.K. Puzpin, New Delhi in all matters relating to classification and valuation

उपरोक्त परिश्वेद ((a) में बातार तए असीजों के अलाता होंच राजी असीओं तीजा कुल्क केटीय उत्पाद कुल्क एवं मेंसाका असीजीय न्यामांशिक्यण (क्रिक्टर) भी परिचार क्षेत्रीय सीडिकर , दृष्टितीय तथ बहुआती आवन असाजी अनुसदाबाद २/०००० को ती उन्हों प्राणिए ए To the West regional banch of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) का. 2" Floor, Bhaumaii Bhawan, Asarwa Ahmedabad 380016 in case of appeals other than as mentioned in para- 1(a) above 000

अपोतीय न्यापाधिकरण के तम्हत अपीत परन्तुत करने के लिए केन्द्रीय उत्पाद शुरून (अपीत) निवसलकों, 2001 के लिया 6 के अतर्गत लियोरिस किए गये पण्ड EA-3 को पार प्रतियों से दर्ज किया जाना प्रतिय । इनसे से करा में कम एक पति के साथ, जहां उत्पाद शुरून की सीन क्याज की सीन और तमाख गया जुमीता, न्यण 5 लाख या उससे कस 5 लाख उपए था 50 लाख रूपए तक अपता 50 लाख रूपए में अपित है तो कमक 1,000/रूपये हैं, 5,000/रूपये का 10,000/रूपये का निर्धारित जाम शुरून की प्रति अंगरन को। निर्धारित शुरून का शुरूतन संबंधित अपीतीय न्यायाधिकरण की शाख से महायक रिजिट्स के लाग में कियो मी आपीतीय को के बीन द्वारा जारी रेखांकित कैंक इपएट रोजए किया जाना पाहिए। इससीयत अपीतीय न्यायाधिकरण की शाख किया है। स्थान आदेश (उट्टे ऑड्रेस) के लिए आपेटिस-एक के साथ 550/रूपए का शिर्धरित शुरून जाना करना होगा। (90)

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 / as prescribed under Rule 5 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 dight in favour of Asial 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 Association for the place where the bench of the Tribunal Association for the place where the bench of the Tribunal Association for the place where the bench of the Tribunal Association for the tribunal for the place where the bench of the Tribunal for the place where the bench of the Tribunal for the place where the bench of the Tribunal for the tribunal for the place where the bench of the tribunal for the place where the bench is situated. Application made for grant of stay shall be accompanied by a fee of Rs. 500/-

अभैक्षेय न्यावाधिकरण के शयक अवीस, विन्त अधिनियम, 1994 की धार 86(1) के अन्तर्गत संस्कार विश्वमवासी, 1994, के विषय ध(1) के तहत निर्मारित प्रथव S.T. 5 में धार पतियों में की जा सकेती एवं उसके साथ जिस आहेत के विरुद्ध अधीत की सभी हो, उसकी धीर शाध में सतरन को (उनमें में एक पति प्रमाणित होनी वाहिए) और इनमें से कम से कम एक पति के धार अगर वीमार की शीद स्थान की साथ और स्थान नुमीना, व्यप 5 नवड़ या उसमें कम, 5 जन्छ क्षण के 50 लाख क्या तक अधान 50 लाख क्या से अधिक है तो क्यार 1,000/ क्या के पत्र 5,000/ क्या अध्या 10,000/ त्याचे का निर्धारित जम गुल्क की धीर शायन करे। जिस्मित शुक्त का अधान अधीरित अधीरीत न्यावाधिकरण की शाया कि श्रांत के सहाय जाना साथिए। अधीरित श्रांत का स्थान की स्थान की शाया कि स्थान अधीरित अधीरित श्रांत की साथ की साथ जिस्सा के साथ जाना साथिए। अधीरित श्रांत की साथ की साथ जिस्सा के साथ जाना साथिए। अधीरित श्रांत की साथ की साथ जिस्सा है। अध्यान अधीर्य (मेरे ओर्डर) के लिए आहेरत-गत्र के साथ 500/- व्याप का विर्धारित श्रांक जमा करना होगा।

The appeal under sub-section (1) of Section 86 of the Finance Act, 1994, to the Appellate Tribunal Shall be filled in quadruplicate in Form 5.7.5 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 5 interest demanded 6 penalty levied of Rs. 5 Lakhs or less, Rs.5000/- where the amount of service tax 5 interest demanded 6 penalty levied is more than five takes but not exceeding Rs. Fifty Lakhs, Rs.10,000/- where the amount of service tax 5 interest demanded 6 penalty levied is more than tifty Lakhs rupees, in the form of crossed bank draft in favour of the Assistant Register of the bench of nonninited 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/-

अर्थायक (अर्था

- (ii) वित्त अधिनियम, 1994 की धारा 86 की उप धाराओं (2) एवं (2A) के आरक्षेत्र दर्ज की नवी अपीज, नेशकर जियमकाती, 1994, के नियम 9(2) एवं 9(2A) के तहत निर्मारित स्पन S.T.-7 में की जा नकेनी एवं उतके साथ आयुक्त, केन्द्रीय उत्पाद कुरूब अशवा आयुक्त (अपीत), केन्द्रीय उत्पाद शुरूक दुवारा पारित आदेश की पतिथा सतरन करें (उतने से एक पति प्रशामित होती साहिए) और आयुक्त अधूका अधूकत अधूकत अध्वा उपायुक्त, केन्द्रीय उत्पाद शुरूका मेंगाकर, को अपीजीय त्यायाधिकरण को आनेदन दर्ज करने का जिद्देश देने ताने आदेश की पीत भी साथ में मानवन करनी होती । / The appeal under sub-section (2) and (2A) of the section 86 the Finance Act 1994, shall be fired in For 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
- सीमा शुरूक, केन्द्रीय उत्पाद शुरूक एवं सेवाकर आणितियम (सेस्टेट) के प्रति अणेतों के मामतों में केन्द्रीय उत्पाद शुरूक अधिनियम 1944 की पत्रा 350फ के अतमेत, जो की वित्तीय अधिनियम, 1994 की धारा 83 के अतमेत सेवाकर को भी तामू की गई है, इस आदेश के प्रति अधीनीय (0) पाधिकरण में अभीत करने समय उत्पाद शुरूकरेमेल कर मात्र के 10 परिशत (10%), जब मान एवं जुमीना विवादित है, या जुमीना, जब केवल जुमीना विवादित है. का भूगतान किया जाए, बसरी कि इस धारा के अतनेत जमा कि जाने वांगी अपेकिश देश राशि दम करोड़ वपर से अधिक म हो।

करदीय उत्पाद शुरूक एवं संदर्भर के अतरोत 'मांग किए गए शुरूक' में निम्न शामित है

प्राप्ता १३ की के अलावेल रक्षण

संस्थेट अभा की भी नई शास गांधि Hi

सेमाहेंद्र अभा प्रियमांगती के प्रियम 6 के आसीत देश रकत 1940

कार्त यह कि इस प्राप्त के प्राथमान विश्वास (स. 2) अधिनियम 2014 के आरम से पूर्व किसी अपीनाय प्राणिकारी के समझ विश्वासपीन उच्चयत अऔं एवं अधील की लागू नहीं होगे।

For an appeal to be field 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, 1954, an appeal against this order shall be 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

amount determined under Section 11 D;

00 amount of erroneous Cervat Credit taken:

amount payable under Rule 6 of the Cenvat Credit Rules. 040

provided further that the provisions of this Section shall not apply to the stay application and appeals peoding before any appellate authority prior to the commencement of the Finance (No.2) Act. 2014.

भारत सरकार को पूनरीक्षण आवंदन :

(C)

Revision application to Government of India: इस मादेश की पुनरीकाण शाविका निम्नतिस्थित राज्याती से. केटीय उत्पाद शरूक आंधिनियस, 1994 की धारा 35EE के प्रथम परंतुक के अतर्गत अवर राजिय, आरंज सर्वकार, पुनरीकाण आवेदन हेकाहे. शिरा संबाध्या, शावका विद्याल, जीधी आवेजन जीवन दीप अवस, रास्ट साले, सई दिल्ली-110001, की Name agent orders

A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue. 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, under Section 35EE of the CEA 1544 in respect of the following case, governed by first proviso to sub-section (1) of Section-358 delt.

- बदि मात के किसी नकसान के सामने में, जहां नुकासन किसी मात को किसी बारवानों से शहर गृह के पारंगमन के दीवन या किसी उनके कारवानों की 111 किस किसी एक अंडार हुंड से दूसरे अंडार हुंड पार्शियन के टीशन या किसी अंडार गृह से या अंडारण से साल के प्रसानकार के टीशन किसी कारकार मां किसी अंडार गृह से आप के नुकसान के सामले से∪ 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
- भारत के बाहर बिजी राष्ट्र या लेंड को जिसीन कर रहे जान के तिनिसीन जी प्रयुक्त करने मान पर की गई केन्द्रीय उत्पाद कुल्क के पुट (रिबेट) के मामानें जे, जो भारत के बाहर किसी राष्ट्र या लेंड को निसीन की गयी है। / in case of inbate of duty of excise on goods exported to any country or territory outside toda of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India
- यदि उत्पाद शतक का भूगतान किए दिना भारत में बाहर, नेपाल वा भूटाव की मान नियोत किया गया है। / gini5 In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.
- सुनिधित उत्पाद के उत्पादन कुल्क के भूगतान के लिए जो इच्हीं केवीट इस जीपिनियम एवं इसके विकित्स पानपारों के तहत सारच की नई है और ऐसे सीदेश जो आयुक्त (अपीज) के देखार जिल्ल अवितियम (ल. 2), 1998 की घारा 109 के हवार जिल्ल की नई लिपिन अधक समस्याविधि पर या बाद से tivi unfore filter and 2 or Credit of any duty allowed to be unificed 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
- उपरोक्त अर्थटन की दो प्रतिका प्रथव सदमा EA-8 में, जो की कन्द्रीय उत्पादन सुन्त (अपीन) जिसमातको, 2001, व नियम 9 के अतर्यन विनिर्देश्य है. इस आदेश के रापेषण के 3 माह के अतर्यन की जानी प्राहिए । उपरोक्त अर्थटन के साथ मूल आदेश व अपीन उन्हेंस की दो पतिया सतरम की जानी चाहिए। साथ ही केन्द्रीय उत्पाद सुन्क अधिनियम, 1944 की धारा 35-EE के लहन निर्धातिन सुन्क की अद्रावनी के सक्ष्य के तीर पर TR-6 की प्रति (v) संस्था की जाती पाहिए।

The above application shall be made in duplicate in Form No. EA-B us 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 at prescribed under Section 35-EE of CEA 1944, under Major Head of Account

- पुनरिक्षाण अपकेदन के साथ जिल्लाविक्तित विश्वापित गुलक की अदायनों की जानी जाहिए । जहाँ सामग्रा १४७४ एक लाख रूपये वह इससे करू ही हो रूपये 2500 का भूगलन किया। जाए और पदि सत्तवन रूपन एक लाख रूपये से उत्पादी ही तो रूपये 1000 ं का भूगलन किया जाए । (vi) The revision application shall be accompanied by a fee of Rs. 2007 where the amount involved in Rupees One Lac or less and Rs. 10007, where the amount involved is more than Rupees One Lac.
- यदि इस आदेश में कई मार आदेशों का समावित है तो पानेक मून आदेश के लिए शरूब का अमानाम उपयुक्त दम से किया जाना पाहिये। इस संघ्य के होने हुए भी की विद्या पठी करने से लिए शर्मान्य अनीतिया जातिया पठी करने के लिए शर्मान्य अनीतिया जातिया किया जाता है। ते पा case if the coder covers various numbers of order in Original, five for each O.L.O. should be paid in the absential manner, not withstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptura work if excising Rs. 1 lake fee of Rs. 1000- for each (D)
- वकासशाधित त्यायालय सूर्व्य अधिविद्यम १९७५ के अनुसूर्यों के अनुसार भूत आदेश एवं त्र्यमत आदेश की पनि पर विद्योगित 6.50 रुपये का (E) expense give littles and electric of the case may be and the order of the adjudicating authority shall been a court fee stamp of Rs. 6.50 as prescribed under Schedule I in terms of the Court Fee Act. 1975, as amended.
- सीमा शुरू, केन्द्रीय उत्पाद शुरूक एवं सेवाकर अधीनीय स्थानाधिकरण (कार्य विधि) विधासधानी, 1982 में विधिन एवं अस्य संबन्धित सामानी की समित्रातित कार्स वाथे प्रियमों की और भी क्यान आकर्षित किया जाता है। / (F) 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
- उद्य अपीतीय प्राणिकारी को अपीत दर्शिक करने से शंबीरित दशाक, विश्तुत और नतीनतम प्राण्यानों के लिए, अपीतापी विभागीय वैक्सहर (G) www.cbec.gov.in को देख सकते हैं । ! For the elaborate, distribed and listest provisions relating to filing of appeal to the higher appellate authority, the appellant may refer to the Departmental website www.cbec.gov.in.

:: ORDER IN APPEAL ::

The appeals listed herein below have been filed by M/s. The Kutch Salt & Allied Industries Pvt. Ltd., "Maitri Bhavan", Plot No. 18, Sector-08, Gandhidham-Kutch (hereinafter referred to as "Appellant") against Orders-In-Original shown against each appeal no. (hereinafter referred to as "impugned orders") passed by the Assistant Commissioner, Service Tax Division, Gandhidham-Kutch (hereinafter referred to as "the lower adjudicating authority").

Sr. No.	Appeal File No.	Order-In- Original No. & Date	Period of Refund claim	Amount of refund claim rejected (in Rs.)
01.	V2/04/GDM /2017	ST/419/2016-17 27.10.2016	August, 2016	18,815/-
02	V2/05/GDM /2017	ST/420/2016-17 27 10 2016	September, 2016	26,644/-

- Since the issue involved is identical, all these appeals are being taken up together for decision.
- 3. The facts of the case are that the appellant filed refund claims under Notification No.41/2012-ST dated 29.06.2012 of service tax paid to various service providers for rendering taxable services in relation to export of goods for the period specified in the refund claims. The lower adjudicating authority vide impugned order rejected the rebate claim for the amount as shown in the above Table.
- 4. Being aggrieved with the impugned orders, the appellant preferred the appeals, inter-alia, on the grounds that the lower adjudicating authority has erred in law and also on facts in rejecting the refund of Swachh Bharat Cess (hereinafter referred to as "SBC") without assigning any cogent reason thereof. The refund claims of SBC have been rejected without affording any opportunity to the appellant to explain their case and thus violating the principles of natural justice.
- 5. Personal hearing in the matter was attended to by Shri Manish H. Vora, Chartered Accountant, who reiterated grounds of Appeal and submitted that no opportunities of personal hearing have been given to them; that P.H. notices were not issued even though refunds of SBC were granted earlier; that P.H. notices were refunds of SBC have not been granted without any valid reasons.
- 5.1 The appellant submitted written submission wherein it has been interalia submitted that the only grievance of appellant is that the lower adjudicating authority has denied refund of SBC to the Appellant without affording

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any opportunity/notice to the appellant to explain their case as to why such refund should not be denied to them. The lower authority has simply given go by to such fundamental Principle of Law and rejected the claim of the appellant by simply stating that "SEC is deductible from the claim" without assigning any reason as to why such claim is deductible thus violating the Principle of Natural Justice.

- 5.2 They have filed refund claim of Service Tax paid on the input service which they have utilized in export of goods as stipulated in Notification No. 41/2012-ST dated 29.06.2012. The said Notification allows rebate of Service Tax paid on the taxable service received by the exporter of goods and utilized by them for export of goods. The enabling provisions for levy of SBC on services were incorporated under Section 119 of the Finance Act, 2015, under Chapter–V of the said Act.
- The appellant referred Frequently Asked Question (FAQ) on SBC issued by CBEC wherein it has been clarified that SBC is not cess on service tax and all provisions relating to levy and collection of Service Tax as enumerated in Chapter-V of the Finance Act, 1994 and Rules made there under including those relating to exemption and refund from tax will be applicable to SBC also. Further CBEC prescribed an accounting code wherein refund of SBC should be accounted for. If there is no intention of allowing refund of SBC to the public at large, question of notifying accounting code for refund of SBC would not has been arisen.
- The appellant referred Notification Nos. 1/2016-ST to Notification No. 3/2016-ST dated 02.02.2016 and Notification No. 29/2016-ST and Notification No. 30/2016-ST both dated 26.05.2016 and submitted that these Notifications allowed SBC as rebate/refund to the exporter. It is submitted that vide Notification No. 1/2016, CBEC has increased the scheduled rate of tax refundable to the exporter due to increase in tax because of introduction of SBC whereas vide Notification No. 2/2016-ST & 3/2016/ST with respect to Notification No. 12/2013-ST dated 01.07.2013 and Notification No. 39/2012-ST dated 20.06.2012, refund of SBC is allowed to the exporter. It is also submitted that in their own case, the department itself has allowed the refund of SBC and therefore adopting the contrary stand in the case under consideration is not justifiable.
- The appellant relied decision of Hon'ble High Court of Karnataka in the case of M/s. TVS Motors Ltd. wherein the Hon'ble High Court has held that rebate of automobile cess paid on motor vehicles exported out of India is refundable even though the same is not mentioned in the Notification No. 19/2004-CE(NT) and decision in the case of Shree Renuka Sugars Ltd. wherein the Hon'ble court has held that the cess which is levied on production of sugar is

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nothing but a duty of excise and as per Rule-3 of the Cenvat Credit Rules-2014, credit of such duty as excise are available to the appellant. The same analogy would apply to the case of SBC and appellant is eligible and entitled for refund of SBC as service tax paid on service received which were utilized for export of goods.

FINDINGS:

- 6. I have carefully gone through the facts of the case, the impugned orders, appeal memorandums and the submissions of the appellant. The issue to be decided in the present case is as to whether the appellant is entitled for rebate of SBC paid on services used for export of goods under Notification No. 41/2012-ST dated 29.06.2012 or not.
- The appellant has contended that the refund claims were rejected without assigning any cogent reasons, without issuance of SCN and without affording any opportunity to the appellant to explain their case and thereby impugned orders have violated the principles of natural justice. I find force in the arguments made by the appellant. I find that the refund claims were decided by the lower adjudicating authority without issuance of SCN and even without granting opportunities of personal hearing to the appellant. It is settled position of law that the refund claims should not be rejected without issuance of SCN demonstrating reasons for denial of refund claims and without affording sufficient opportunities to explain their case. Hence, I find that the impugned orders are not sustainable at all, the same being non-speaking orders as far as rejecting refund claims of SBC is concerned.
- 7.1 In view of the above facts, I am of the considered view that the impugned orders need to be set aside and the matter needs to be remanded back to the lower adjudicating authority to pass speaking and reasoned orders offering fair opportunities to the appellant.
- 8. I find that the Commissioner (Appeals) has power to remand appeals 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 CESTAT in the case of CCE, Meerut-II Vs. Honda Seil Power Products Ltd. reported in 2013 (287) ELT 353 (Tri-Del) wherein it has been held that Commissioner (Appeals) has inherent power 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 w.e.f. 11.05.2011 in Section 35A (3) of the Central Excise Act, 1944, the Commissioner (Appeals) would retain the power to remand.

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- 9. In view of above, I set aside the impugned orders to the extent of rejection of refund of SBC and allow the appeals by way of remand with direction to the jurisdictional adjudicating authority to pass speaking and reasoned order within three (03) months of the receipt of this order giving fair and reasonable opportunities to the appellant to submit their written submissions.
- ९.१ अपीलकर्ता द्वारा दर्ज की गई अपील्स का निपटारा उपरोक्त तरीके से किया जाता है।
- 9.1. The appeals filed by the appellant stand disposed off in above terms.

(कुमार संतीष) आयुक्त (अपील्स)

By Regd. Post AD

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M/s. The Kutch Salt & Allied Industries Pvt. Ltd.,	मे. ध कच्छ सोल्ट & एलेड इंडस्ट्रीज प्रा. लिमिटेड,
"Maitri Bhavan", Plot No. 18, Sector-08,	"मैत्री अवन", प्लॉट न. १८, सॅक्टर - ०८,
Gandhidham-Kutch	गांधीधाम - कच्छ

Copy to:

- 1) The Chief Commissioner, GST & Central Excise, Ahmedabad Zone, Ahmedabad.
- 2) The Commissioner, GST & Central Excise, Kutch Commissionerate, Gandhidham
- 3) The Assistant Commissioner, GST & Central Excise Division, Gandhidham
- F. No. V2/05/GDM/2017
- 5) Guard File.