

## ः प्रधान कातुमा (अर्पातम्) ६० कार्यालम्, यस्त् एवं सेवा ४२ और वेश्वीय स्ट्यान शुक्रकः Өлү Түр түрі үрі үрі қаралы қаралы құрдық <u>құрды, Құрды, СЕТ & СТҮ</u>үрен (, ४, қ. қ. қ.

दिया। यह, ही एस है। संश्रह 35° Skan OST Signar रिक्र और दिया होता है Real Course Ring Rose

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### BHV-FXC9.8-000-APP-023/TO-025-2019

भवेश या दिवाल -Detection

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31.01.2019

ाना के उन्होंने की नारी कर Date of state:

04.112.2019

कमार सरीप, प्रधान अच्छा (श्लीष्टम), नामगीट दाच मारित /

Waked by Stirl Konnan Santosis, Principal Commissioner (Appeals), Rajbut

ीं राज्य के 9-57 र 4± था इक्तर उरावृत्तर, गणावक वायुक्त, केलीव एक्याव सुरुष्/ स्वावतर, कस्यु एवं स्वायतर, साववेदर / मासामार / मोधीधान हुए। स्पर्ण अ[एवं आर्थि सुरु आर्थ है है सुदिवतर,

Arthug out at began teer law to the level by Medicked Ajohn ConceptArthur Control (Medicker) Chin (1977) (1977) (1977) Poplar Cjarona, very sandt Millorn

रा 💎 अधिन करों के शिवर की कर ना में एक प्रमाप्ति आसार Advisees of the Appellants & Regressions .

Mis Gujarat Micacae Port L. most. Pipasps. Uthladen Tril Rahida, Annell

াৰ সংগ্ৰহণ প্ৰস্তুত্ব কৰিব কৰে আৰক্ষ লাম্বলনিক কৰিব বা বৰ্ণক বাংলাকাৰে সামান্ত্ৰকৰ কৰিব কৰাৰ লাভ কৰে বিলোধ সংগ তেওঁ কৰে জিলা কৰিব বুলি কৰিব বাংলাকিব কৰিব নামে সংগ্ৰহণ মুক্তৰ চি ধিন মুমুক্তৰ নাম্বলকৰ বিলোধ চিত্ৰিক বিশ্ব কৰ

ें दर्शक्त सर्वेशन, स्वाताहरू नहीं समर्थ नीमा कार, सर्वेशिक कारत को वेशिक कर विकास नहीं ने कि से के के कि से के द असे के कुछ है के दी की मान के कि स्व

The provider in the term by tack to your tack appeal to independ on Was, block the court to control to will control relation to a set former and whether

The space to the Acceleratificate lets the throughout cate in form EAC year second under face to tickers. Each is Appead folds. 2001 and the detections also in present and second and the detection also in a space to the space of the 1000 to 48000 the EAC with reference to the detection and the space of the space of

(1) ... में के आधारिक किया के अधीर कि के लिखेश महाइक्ष्मी प्राप्त करते हैं आहे हैं आहे हैं आहे हैं कि महिले के दूर की लिखेश की अधार के लिखेश हैं के लिखेश के स्थान की अधिक की लिखेश की किया की हैं के कि एक की किया किया की क

The appear uncertainties of the Section ED white. There where USA, as the Acces are Thomas Section is due quadruptions in the CD as provided above. Add 200, or the confidence CDA, and Section accordance by a capy of the process of the confidence of the CDA, and the confidence of the confidence of the CDA, and the confidence of the confidence of the CDA, and the confidence of the confidence of the CDA, below on the CDA, where the amount of particle to CDA below on the CDA, where the amount of particle to CDA below on the CDA, and the CDA, and the confidence of the confidence of the CDA, and the confidence of the confidence of the CDA, and and the CDA, and the C

- विकास विकास १८, वे की जान १६ को इस स्वरूपता है। सबै १६६) के सेनाइ क्या के उसी सर्वास जीवन को 1994 के सेक १९६ म १९६६) के ब्युष्ट करायि पार १.८६ में की जा इसके में एक सोध पुरास करने हुए एक भारत शाम स्वरूप करी। १९६० में १.८५ पोर्ट्ड पुरास की बोर्ट के देखा कर को का कर की बार कर होते का के पूर्व का प्राप्त कराय कराय स्वरूप कर के 100 का 100 के 100 का 100 के 100 का 100 की 100 ıI;
- हिंदा हुन कि कि उसके मुस्ताद प्रतिवाद परिवाद परिवाद प्रतिवाद प्र 31.7

প্ৰায়েক বৃহত্যালয় সূত্ৰী এই যে নিয়নি ১০০ (১৮৮) ই নিনিধাৰ নিয়ন্ত কৰিছে এই চাৰ প্ৰথম কৰিছে কৰেছে হয়েছে কৰেছ নিনিধাৰ বাবে নিয়নিক প্ৰথম কৰিছে বিশ্বস্থানিক বি :11

्रे २०५१: ६५-५ के पुरत्त ने विश्वविद्या त्राम**ः सम्बद्धः स्थान क्षाप्तानां साम मिना** हिन्दः उन्तर (१५ त १७७०) से स्वर्ण स्थानमञ्जूषे राज्योगित स्वर्ण १८०० हो। से स्वरूपन हो स्वरूप स्थानित है हुए स्वरूपने स्वरूपन 'nij

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मुक्तारक स्थाप के हुसाबा अरब के असाम २ किए हैं। के क्षेत्रिक अविभिन्त एक एके विवेद्य महस्तरकों के बहुत मूल का महादे के तीर आहे क यो सुकत करावेद के से कि कि अविभाग कर के 1,1 करी के किस महिला होता की बहु सहस्त के का महिला करा है कि कर का देन 15.0 er filg. Tredit of any dony a low dut to this i the consuperapable collection by preferenced with president with a surge pay If any desse file and another in proved for the first of the file of pays blooms about to delice oppointed prove Sec. (1991). The file of the configuration

रुपान अहेर हैं। है की हो कर कार 1968 है को के कर्जन स्वाहन स्व (प्रमुख कियानकी अकर है जो के के की है। कि कर के इंडिया के 1969 के 195 के अर्थन के बाले जानर 1 स्वरूप प्रमुख के कार के सुद्ध का कि से 196 का प्रमुख की बाले जात है। कर प्रमुख कर के विकेश के 1964 की होता कि 1968 के 1968 के 1968 के समस्य के बीच कर देखता की उसे 1968 के 196 (A)ត្សត្រីក្រុង Julius geoplasting and be made in the form in Touristic No. 800, special subsequents, the Central Report for Pro-And No. 100 magnification and special extremely with recording to the companies of the constraint who are sent in the electropy field for two constraints of the Constraint of the constraint of the constraint of the constraint of And cancer payment of place does be a sent with the constraint of th

्राहित । को उसके सम्बद्धितिक विश्वतिक (एक का राजारती की करी काहित उन्हें से श्री एक एक नहर जार का उसके कर की से उसके 2000 के कहता को को को स्वर्ध के उद्देश कर एक एक जान जार के उसका (1.1) का है। 2000 के का पुरस्का किया गए 1:5 вашим на удаживали их. 15. годину, дружевы изреблост рострог Неблии ме объек 200у выборы Берлируу, в добласти, Торев, Оре Гласт Мест 1, 5.8. 1910 ж. ж. ж. ж. бителе и мијар, удреж, Чави Исорд, Иле Бу

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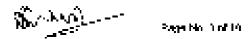
हम अभिनेता होति हैं। है कि क्षित्र करित्र करित्र करने हैं वहाँ कि समान कि समान प्रश्नित के कि साम कि वी कि विकास Reserved to the state of the first processor, years will approximate the right model to be the processor of a first processor with the processor of a first processor of

# :: ORDER IN APPEAL :

Wis. Outars. Ripavay Port Limited, Pipavay Ushnatys. Fig. – Rajula, Dist. – Amreli (nerdination offered to as "appellare") has filed following three appears against Orders in Origins, as shown below (bereinstter reterred to as "impagned order") bassed by the Supprintendent Contral GST Division, Phaymagar-III (bereinsfler referred to as "lower adjudicating sufficiency").

S No	Арага Ко	Order-n-Grigorial No & Date	Period	Cenval credit creallowed (Rs.)
7	n88/AVR/2017	5/SUP/00GST/RVR- 3/DIV/2017 18 datag 19.12.2017	October, 2009 to March, 2013	
2	670/ <b>BVR/2</b> 017	3/90/2/0691/8VR- 3/DIV/2017 18 pated 20.12.2017	Asril, 2010 to March 2011	3.24,302
3 <sup>"</sup>	571/BVF/2017	4/SUP/CGST/BVR- 3/DIW2017-18 pated 16 [2,2017]	April, 2008 Saptember, 2009	2,67 225

- The brief facts of the cases are that the appearnt was issued 3 demand notices. 2. alleging that they have availed convet credit of service sax paid on 'Rent-a-cab' service. and galering service' during the financial years 2005-10 to 2010-11 on the ground that these services were not used by them directly on indirectly. In or in relation to providing output services and these services did not fall within the purview of definition of tineur. service) under Rule 2(i) of Canvat Cradit Rules (2004) incremation referred to as 100R. 2004? Three show cause carrydemana nulloes dated 14.10.2015 5.1.2011 and 4 h5.2531 were issued to the appellant for recovery of convet credit aggregating to Rs. 3,40,674% by invoking extended period along with interest under Rule 14 of Gerwal. Credit Rules, 2004 (hereinarter referred to as 100R, 20047) read with Section 73/75 of Finance Act, 1994 if ereinafter referred to as "Act") and for imposing gonalty under Rule 15(3) of CCA, 2004 read with Section 78/78 of the Act. The impugned unders a divided central credit of service tax of Rs. \$13% on catering service, newcych, confirmed recovery of central credit of sprvice tax on rentralizable service along With inforest as proposed in SCNs and Imposed pensity equivalent to conventional of service tax systed on rent-a-cab service, upder Rule 15/3) of CCR, 2004 feat With Section 78 of the Act.
- 3 Being againeved by the implighed orders, the apparant proferred the present appeals, interests on the following grounds:
- (i) The appellant requested for condonation of delay in filling appeals in view of Section 55(3A) of the Act eline the Impugned orders recoived on 26.12.2017 were misplaced due to shifting of appellant's promises of new localism.



- the appellant authorited Cort. Commoduner (Appeals). Seject has elready passed Order-in-Appeal Niu. PRIVIDIOGE-00-1-027-85-2017-18 ideleti 1.12.2017 in favour of the appellant in somiar widter for wir fusancial years 2005-06 to 2008-08 before passing of the impugnes option by the tower adjudicating authority that the lower adjudicating authority that deeperlant during the personal fraction and for lower adjudicating authority has not bethered to check status of the residentialistic subjects the provision of law and we settled crinciple that the error pressed by the highest subjects or appoint authorities are conding on the adjudicating authority. The appellant reflection decision in the case of Fig. Dupont India Pvt. (a) reported as 2003-VI, -10-03UJ-OF and OBEO Disculation, 2017/2014-OX.6 called 25 8.2014 to substantiate toellook territors.
- (iii) The SONa were sauce on this ground that the rent-a-cab service was mality used for administrative staff and not related to input service, whereas the impugned orders have been passed on new ground that the services are provided outside compromises it degrand close of removal and house not eligible. It has been consistently held by the Courts of Law that an order travelling beyond SCN should be treated as bod in law and should be quashed. The appearant relied on decisions in the case of Consolidated Petrotoch Ind. Reported as 2000 (123) ELT 919 (Mum CES A I. Cravure Arts reported as 2000 (117) ELT 855 (Mumbai GESTAT) and Marak Chemicals reported as 2000 (118) FUT 886 (New Delhi CESTAT), suither the restriction in the definition of logic service is applicable to the manufacturers of the excessive groots and soft to the providers of output services and hence, the impugned orders are passed on wrong ground.
- The term 'imput servicer is defined under Rule 20) of CCR, 2004 to mean any service used by a provider of faxable service for crowlding output service. Therefore any services which are used by a service provider for providing output service should be neared as input service. The specifical relied on fullowing decisions to say that the lems 'includes' and 'auch as are illustrative in nature and are not an exhaustive in nature and the respective services are not required to be specifically stated in CCR, 2004 auturg as the same fate within the definition of input service related to bus ness operation.
  - Grainophone Co. 24 India 1985 (52) EUT 247.
  - ITC ats. -- 2009-7/08-1169-0598 AT-BANG.
  - Cuca Coss India Pvt. Lid. 2009-VIL-06-HC-BOM-ST.
  - High Land Coffee Works 1991 (3) SCC 617
  - Good Year India Ltd. 1997 (95) ELT 450.
  - All India Federation of Tax Practitioners 2007-FIGE-148-SC-ST.
  - GTC Industries Ltd. 2008 (12; STR 468 (Tri. LB);
  - Definite Fax Services Insta Pvt Ltd. 2009 (41) STR 200 (11) Rang (

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- (v) The port is located in a terrole area where becessary public transportation fantities are not casily available to travel from city or residential area to the contribute the port is spress in wide area and hence the same facilities are raguited to commute within port that the said services are provided to all employees; that the facilities are also available to Customs officers as well as to company's executive traveiling from the AmorbRallway station to port and the above facility is not limited to the administrative staff only; that it is necessary to provide travelling facilities also the same is very crucial to operate the business efficiently and without availing this service, the respondent will not be as cith operate and provide port services in a smooth granner. The respondent reflied on the following case-taws:
  - Cable Corporation of India Ltd. = 2008- ±0c-1190-CESTAT-MUM.
  - J.K. Camarte = 2009-110L-411-CESTAT-DFI.
  - Muntifs Port & Special Economic Zone Ltd. 2000 (13) STR 178 (Tril-Ahmid.).
  - Haldyn Glass Gujsratiuts. 2389-T 02-379-0ESTAT-AHM.
  - Hadustan Coca Cola Beverages (P) Ltd. 2010 (18) STR 57 (T1. Bang.).
  - Dr. Roddy's Lab = 2010 (19) STR 71 (Tri = 3ang.).
  - Caliber Point Businesa Solutione Ltd. 2010 (19) STR 797 (Tri. Mumbal).
  - i15G u.c. -- 2010 (18) STR 448 (TC + Del.).
  - Reckay Fingg. & Castings . td. 2009 (16) STR 709 (Tri. Déi.).
  - U.K. Cement Works = 2009 (14) STR 538 (T6 = Dol.).
  - Stadzni Toyotetsu India Pvt. Ltd. 2009 (14) STR 316.
- (w) The appollant submitted that in order to invoke the extended period of limitation under proviso to Section 73(1) of the Act, there has to be suppression of facts on their sent and succession of facts should be made by their with 'intent to evade payment of aeryloe tax'. The appellant reflection occasion in the case of Jubri Chem Industries Limited reported as 1594 (76) FLT 257 (50) in support of their this contention. It was submitted that the appellant find \$1-3 returns wherein decays of convet credit availed and utilized are appropriately aediceed by them; that no other to mak is specified by the Board for disclosing the availment and utilization of nerver credit. I check there is no between violation of the provisions and hence, the industries should be substituted.
- (vii) The cervat credit availed or remarkab service was not utilized by the appellant, attosed the appellant had huge cervat credit in balance. Since remain credit was not pillized by the appellant, no interest is removerable on availment of cervat credit lancer Rule 14 of CCR. 2531. The sopellant reliad on decisions in the case of Bombay Dyg. & Mfg. Cu. Ltd. reported as 2(x)7-TiOI 156-CESTAT MJM. Dr. Reddy's Lacoratories Ltd. reported as 2(x)7-TiOI 1934-CES; A J-Mit, V and Inc-Swift I contatories Std. reported as 2009 (240) ELI 328 (PSH).
- (Mill) The penalty under Rule 15(3) of CCR, 2004 read with Section 78 of the Art can be imposed in a case, where cereat oranger service has been favor or chlisted Wichgly by reason of suppression of faces or contravention of the Act or Rules framed moreunder with intent to evade payment of service tax. Further the element of mens has primatafide intention must be necessarily present in order to justify in position of penalty. The appoint relied on

 $\underset{\mathsf{page}}{\mathbf{W}} (\mathbf{w}_{\mathsf{page}}^{\mathsf{page}})_{\mathsf{page}} = - \| \mathbf{p}_{\mathsf{page}} \|_{\mathsf{page}} \|_{\mathsf{page}}$ 

decision in the case of Hindustan Stat. Co. reported you 1978 (2) F1 T J (1941) and authoritied. that no penalty can be impresed on the appoint or the ground that they taked to pay service. tax under the Act. In the precent cause, the nearest conditionalist on injury saw on its a matter of oleoprostron of law and thankiste, bistoire is not betilled as need by CESTAT in following CB866

- Electrolics Kelvington (2002 (434), 5) (7.67) (764).
- Purpab Worsed Spg. Milks 2004 (196) Ft 3 (1995) T.;
- Samle inc.a = 2001 (158) ELT 1009 (Tril).
- BAK Parts = 2002 (145) 5LTM31 (Tr. SMR).
- Personal bearing in the mater was effected to by Ms. Ami Materidan Chaptered. 4. Accountable, who receivated the grounds of all fires appeals and submitted that at times sapsals involve issue of norwest prode on rential-ted zerobe. That OIA dated 5 (2.20) / passed by Commissioner (Appeals) on this issue in their own base is relevant and hence. produced with the Appeal Memorande; that there is no change in regal position from 2005-00 to 2008-09 to 2015-11. That the facts of these causes are also similar to the earlier cases: that these appeals have occar filed effor 60 tays but within 90 days; that the orders received it Doctorbor, 2017, were precladed and got sent to their sistor concernyeccounter office in Huse and hence delay, which was required to be condened.

#### FINDINGS: -

- I have carefully gond tomugh the facts of the cases, the impogned orders. Appeal Momoranda and submissions mede by the appearant. The esse to be posited is whether in the facts and discussionness of the obsent ease, the impughed orders caseed by the lower adjudicating authority diselfowing centre, credit of service tax paid on rong-a-censervice during the FY 2009-10 to 2010, 16 is contect or not.
- 5 I find that the appeternines field applications for condension of decay in filling of appeals under Section 65 (SA) of the Action the properties that the improperties received. by them on 28.12.2017 got misplaced friring stifting of the appellant a premises of monobstion and all three appeals have been lifed on 27.3.2018, let beyond porind of 60 days. but within further period of 30 days. Since the appeals have been filled within further time. period of 30 days, as prescribed by the Act, I conduce the delay in filing of those throp. earth is etable to descend thrushoods are goding misplaced and proceed to deckte sit three uppeas on meršs.
- I find that the facts of the present cases are baving identical facts to the proceedings. 7. Indiated against the appellant vice SCN No. V/15  $\pm 27/\mathrm{Dem}A\,\mathrm{IQ}(2009)\,\mathrm{daylod}(30), 01, 2009)$ and subsequent SCN No. W15-67/Scm/HQ/2008 dated 08/10/2003 isation for the period 2005-08 to 2007-08 and itsy then adjudicating authority vide Orbets-to-Original

200 No. 6 = 200 kg (6 of 10)

No. RHV-FXCUS-000-IC-25 to 78-2016-17 dated 03-58-2016 drupped the proceedings initiated vide the said SCNs. The department then challenged the said Impugned order before. Commissioner (Appeals). Rajkot and Order-n-Appeal. No. BHV-EXCUS-000-APP-85-2017-19 dated 1-12-2017 passed by Commissioner (Appeals), Rajkot, wherein it has been held as under.

- If I find that the describen of hipsel services under Rule 2(t) of Hules. 2004. Is a two parts. Cleuses (t) and (t) of Rule 2(t) cover the "sometic provided and the "menufacturer" respectively. The present case relates to carpot service provider I would like to reproduce the definition of "hipsel service under Rule 2(t) of OCR, 2004, as it was prevailing at the material time, so facing it may relevant for service provider, which reads as under -
- (i) l'impai service" miestis sny service «
- eta = c and by a provider of toxable service for providing an pulput service, or -
- $(\tilde{N})$  ......

end includes services used in relation to solding up, maternization renovation or repairs of a factory, promises of provider of output 86/408 00 an office relating to much factory or premises, edvertisement or seles promotion, market receases, storage upto the piace of removal, pronumment of inputs, astrotices relating to business, such as executivity, auditing, financing, remailment and quality control, coaching and baiding computer networking, are discussed retrog, share registry, and secunity, trivially transportation of inputs or esonal goods and outpus intransportation upto the place of removal.

(Entalisate supplied):

- 9.1 If could be soon from the above definition that the expression larry services if read with rused by a provider of taxable service for providing an emipot service in clease (i) of Rule 2(i) of the Rules, 2004 has widehed the scope of input service in respect of output service provider. Thus, it is described any service used by a service provider for providing an output service and includes services used in economes relating to husbress, is an imput service for the service provider if is well-schilled that literal interpretation would provide, where the plain words of statute are clear and commissions.
- 8.2 The department has contended that ront a cah sorvines have been used by the respondent for commuting between vertices places cutsing part area and not in the part area end therefore, these cannot be considered to be seeded in connection with manufacture or business and upto the place of removal, hance, cannot be considered as an input service. The respondent has countered this argument that the term imput service is defined under Rule 2(t) of CCR, 2004 to mean any service used by a provider of texable service for providing nation service and that any services which are used by a service provider for providing output service and that respondent that travelling facilities is very crucial to operate the

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bosiness efficiently, and actival analogy his service, the respondent mental operate and cumot could be post decided in electrosis in element of another the respondent is a sprace popular providing and nondoos and modern test convices have been used to precise operation of their officiels translated and whose beet no provide their resolute services to part services without which they are not decidedly early call their business. The dehadron of limits service does not contain that the services must have been used within the pix or of reviews by the provider of laxable service. I find that Harrible High Court or harriab & Harrans in the case of Manufi Sorosi India Limited repedied as 2017 (49) STR 261 (P&I) discussed depertment appear involving plentical grounds. The relovant pages of the said decision are an produced as under .

Cenvet predit - Availment of - Renfie-Cab services used by execurives of apageage for hovelling for business meetings, visits to dealers high, visits highligh, visits to dealers highligh, visits to dealers highligh, earlies, etc. - HELD. This espenditure was relatively to outsides as it was incurred to provide today and for official highligh of business. Hence, assesses was entitled to avail Cenvet prout of Service - ax paid thorses - Bulo 3 of Cenver Credit Rules, 2004.

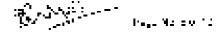
- 2. The appear was sciminion for consideration of the following substantial quastions of law arising out of the programmeted 14-5-2015 passed by the Customs Expire & Service Tox Appellate Tribunal Principal Bence New Delhi (for the short the Tribunal) in Excise Appeal Nee, 3614-3615 of 2012 pertaining to the assessment years 2009-10 and 2010-11:
- "(ii. Whether the respondent can avail Cenvet credit on account of Service Tax paid on Mexicap Keeping Services and Rent-e-Cab Services by treating the same as input somices?

. .. ... ... ...

24. Similarly, the Reiths-Cab services used by the executives of the respondent ror the purpose of travelling maying for business meetings visits to the decidentation visits to the meadurables, idealers meet, business oramition solvings, vehicles larguing conferences, etc. is a sit expenditing, in relation to business being inoursed by the respondent in order to promote the soles and for efficient running of the business for which they are entitled to eveil Capyal coads.

(Emoracio supotica):

<sup>4.</sup> The learned counsel for appellants organ that his visiting usableen arrangly denied. The disputed period is from October, 2019 to December, 2010. (Served credit of Rs. 76.4624 on Figures-Cabberrious fies been denied stating the reason that the same has



<sup>8.4.</sup> The Houble CESTAT, New Dothins the case of LIGE Technologies. Limited reported as 2015 (40) 879 1124 (Tri - Oothi) todd as under

to recaus with the provision of calcul services. It is seen abserved by the authorities below that Rante-Cab and four operator were treed by a pamoular oproprioriest though on a regular basis and that vehicles our used in the right also. The konnett coansel, Ms. Bakrill Cas. appearing for the appellants explained that appellants are a BHO Company and those services are offized for the purposes of transportation of its employees in turn from the workplace and their homes and also for business meetings. Further, that for the safety of lady <u>Photoses the venicles are used and blick in the mahi also. The security of the Parameters are the Parameters and Indiana and Indiana are the Parameters and Indiana are the Ind</u> appellants being a BPO Company the add working bears and iranapuntation employees, especially the lady employees is eservice inecessary and indispensable for the activities in which the Company is engaged. <u>The amendment hasagit form in the</u> <u>definition of input sorrices word. I 4,2011 excludes Reni a-Cab</u> services. But the department vide Circular No. 943/04/2011-CX, dated 29-4-2011 has gladified that the credit on such services shell be available if its' provision had bean completed before 1.4. 2011. According to the appellants the credit was availed for the nation Opinion, 2010 to Departmen, 2010. They also relied upon the judgments rendered in CSF, Apagalam v. Hell Commiss -2012 (25) S.T.R. 128 (Kar.), CCE, Bangaiore v. Sianzen Toyoloisu India (P) Ltd. - 2011 (23) S.T.R. 444 (Kar.) and KPMS. v. CCE, New Deliti - 2014 (33) S T R 198 (Tri -Doil). The learned CIR reflerated the findings in the impogined order and controlled that credit cennot be availed as these services have no nexus with the putnet services. On hearing the automissions and perosel of records, the instant case stands concred by the decisions rendered in the above judgments which are held in layour of the assessee. The requirement for eyeiling gradit is that the opput service must be used for providing the unique service. The appellants being a BHO, knew the employees have to work in shifts even during night hours, I cannot agree with the view of the estimates below that the such services have no waxas with the output services provided. The refund on these services is ellawed.

(Emphasis supplied):

- 6.5 In wow of above factual and legal obsition, I find no reason to interfere with the findings of the lower adjudicating authority allowing convet credit or service tax paid on rent a cab' services under Rule 2(t) of COR, 2004 and transform. I propold the improped croise and reject the appeal.
- I find that in present cases also, the appellant has used rent-a-cab services for transportation of their efficials from city to pert and within part to enable them to provide their taxable aervices i.e. part services and without use of this service the appellant cannot efficiently carry our their business. I also find that the definition of imput service does not say that the services must be used within the place of removal by the provider of taxable output service. I also find that there is no change in the detailtion of imput services output service. I also find that there is no change in the detailtion of imput services correctly is within the sinich of imput service as defined.

-44: 40 3 410

under Rule ?() of CCR, 2004 And gates, the sobsident is object a for central or service tax paid on rent-a-cabiser (demopiled by their cuding the impugned period.

- 5. In view of above, I set aside হ'ও !htps:::sec a Years a. d allow appeals filed by the appellant.
- १९. <mark>- अमीलकर्ता दवारा हर्ज की गएं अभीतस</mark> कर शिन्धान अभीका अर्थके में किया जाता है।
- 10. The appeals filed by the appealant sie discound off in above terms

e==1FAZin

জিনি নিজ্ঞানিক (ভূমান নিনাম) - মণ্ডা কমুক্ত (কনিম)

## <u>By Special sost</u>

Τu,

Mis. Gajarat Pipayay Portii H.,

Pipavey, Udihsiya,

Tal. - Rajule,

Dist. - Armeli

न पुंजरात (विशेषके पीर्ट नी पीटेंड) भिष्यतिक एक ह्या शक्तुका – सप्ततः, डिल्हिक्ट – अभरेरी

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- The Principal Chief Commissioner CGST & Comrail Excise Ahmadabed Zone, Ahmedabed for kind Information Sease.
- The Commissioner CGST & Control Excise, Bhavnagar Commissionerate, Bhavnagar for recessary action.
- The Assistant Commissioner Central GST (initiation, Bhavnagar-II) for necessary action
- 4) The Superintendent Central CS. Division, Bhavnagaz-Irl, for necessary action.
- \_∕5) Cuard F e.