

ः ५.७१ नामुन्तः प्रामीतरः । जा बार्यालयः, तस्यु एक नेता कर और केटीय कराज शुर्वाः । Сит Ты в **Ж**омбиран, гобильським райа изски выкульноску гаан, кусивы

> विशेष **नदः की एम की भारत**् 🐒 सं 🗯 🛈 सार्थित विशेष निवन 역는 소를 본러 하는 기Rate Citase Ring Roto. নুক্ত $\mathbf{L}_{\mathbf{k}}(\mathbf{k}_{\mathbf{k}})$ হৈ $\mathbf{L}_{\mathbf{k}}(\mathbf{k}_{\mathbf{k}})$

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धेनीन हैं। Units: Ç-22-281**H**

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ЪНУ-ЕХСЦЉ-000-АРР-026-ТО-027-2019

ड हेप्टक्र दिल्क Sec. 2008. 44

21.01.2019

जारी घटने की सर्वेतर अ Particulation as

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पुरागर क्योंक, स्थान अनुक्त (अर्थ का), सक्कोट हान का रेत हैं

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ক্ষাৰ বাবে প্ৰস্তুত্ব হাৰ্যন্ত (১৪৮১) সামে কৰাৰ প্ৰায়ুক্ত, কিছিল মেলাৰ মূলকু বীৰাক্ষাৰ লৈছে হয় ইলাক্ষয়, सारकोट असम्बद्धाः असीरक्ष्याम् हारा सार्वसेन्यस्य नार्वे भूषे अर्थेश्व ने मुख्यतः 🖯

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មានប្រជាពីនេះ ប៉ុន្តែក្រុម មាន ស្ត្រី ទេកក្តុមានភេសន៍ដៅមានការដែលអំពុលនៅការ និត្រីបានការដែលបាន

1.508 Bossel Ship Stenkers Pri Ltd, Pk.t No.25, Ship Recycling Yand, Along P.O. Monar, Showneyn-2947-02

2.51:1 Trailed Keysunchand Barrad (Director of MA Bursal Ship Brenkers Pet 190) Plot No.2555(p. However, I was P.O. Mazzar, Bhennagar, 164010.

্নান্ত সভাৱ আৰু আৰু আৰু স্থানিক আৰু কাৰ্য্য কৰিছে। তেওঁ কাৰ্য্য কাৰ্য্য কৰিছিল চুচ্চুই পাল্ড ১৯ ৰ সভাৱ মান্ত সংগ্ৰহণ কৰিছে। তেওঁ বিশ্ব কৰিছিল আৰু চিন্তু কৰিছিল। তেওঁ কৰিছে আৰু কাৰ্য্য কৰিছিল। চুচ্চুই কাৰ্য্য ১৯৯ ৰ সভাৱ আৰু সংগ্ৰহণ কৰিছিল। তেওঁ সংগ্ৰহণ কৰিছিল কৰিছিল। তেওঁ কৰিছিল। তেওঁ ১৯৮ কিছে চুচ্চুই চুচুই চুচ্চুই চুচুই চু :00

্বী ১৮০০ চনত বিভাগতিক ৰ বিভাগে পৰিল কৃষ্ণ কিন্তীয় সময়ৰ কৃষ্ণ কোৰাৰ প্ৰথমিক লাকাই কোনেই। এই চাইজু উচ্চ আছি ই এক চাৰ্কাৰ সংস্কৃতিৰ কাৰ্য কৰিছে।

To sportly because Common Common Service in a Appell of the typical service of Weyl Hope Sec. 2016. Pureout Sec. 2016. It is all the terminal contents addressed.

भवे कि पार की कार्य कर ने अन्द्र असे के लिए केटा कारण क्षात्र (भिष्टि केटा बार्ट, 200, के लेक्स कार्य की कि कि सामान (200 मा मार्टि के कारण) कि पार असे हैं। असे के असे कारण की कारण कार केटा केटा की में कारण की कारण की कार कारण के पुरस्के के असे असे कार्य के लाव कारण के अध्यान करा उठ समझ कर कारण कर केटा केटा कारण (1,000,400 के पार १३३, अम्बार के लिए के का केले काम ह

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र ^{करन}ा क्योरिक भेटिक र असीन, विका**र**िक्त, स्थल कि एक ल्यूपिक अस्ति के उन्हें के निकारी किया ने विकार प्राप्ति के एक त्य प्राप्त के प्राप्त के जा के किया है किया प्राप्त किया प्रकारिक विकास की एकी है, उपने की ताब के किए की किया कि एक प्रश्निक कार भाई प्राप्त के किया के किया है कि कि पाए के किया की की उनकी और और असाय का कुर्की, देखा के किया कुरकार के कार की प्राप्त की का कुछ का किया किया किया है कि प्राप्त प्राप्त की के स्पर्त के स्थान के आप क

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- accession and supplied to the control of the contro 111;

வர்களை விழுவியாக ப்பட Bookings applied for its Commission politicals. செல்கோர் பெருந்த எறிப்பு இரிந்தில் கொல்கி சிரியுக்கள் நடி 50000 நடி 1000 கிரும் கொறியும் முறிய சிரும் சிரியில் செல்கோர்கள் நடித்த சிரியில் சிரியில் கொளிய சிரியில் சிரும் சிரியில் சிரியில் சிரியில் சிரியில் சிரியில் சிரியில் m, 性の (mark to provide and plants and provide and provide and and an experience and and an experience a

11 டிரும், அடிபுதார் கூறு நாடியாகம். மேலும் மாந்திரும் முறு நெடிப்பு படிப்புதார் நாடு இருந்திரும் நிலிய வரில் நிலிய குறிந்திரும். கூறுக்கும் நிறுந்து மாதியில் நிலியாக சென்றைக்கு நிறிக்கு கொறிய நிறிகிறும் கூறு நிறிய குறிய கொளிய நிறிய நிறிய ந Sent di Nederla

လျား၏ မေရာက်ရှိ ကား စားစိုး လို မိုးစေးရေး မိုး မေရိက် မြောက်ရေးမှု မြောက်မှ မေရိက်မိုး၊ မေရာက္ခရာ ျပည်သော မေရိ ကို မေရာက်ရေးရေး ရှိသည့် သင့်သည်။ မေရိက်ရှိသည်။ ရှိသည်။ ဥရုတ် မိုးရှိပြုန်းသည်။ ရှိသည် ရေးသည် ရေးသည် မေရိက်မှာ မေရိက်မှာ မေရိက်မှာ မေရိက် မေရိက် မေရိက် မေရိက ကို မေရိက်ရေး၏ (၁၈ နှစ်နှစ်) မင်းကေရင် တေမကိုမည် များလာသည့် မေရိက်မှာ မေရိက်မှာ မေရိက 11:

 $\langle \cdot, \cdot \rangle$ ्राचे हरूपण प्रस्ता का पुरस्तान किया करना प्रस्ता के सामग्र के भाग का प्रस्तान के पात के किये (जिस्सा कर है, उ अस्तर का प्रमुख्य में एक जिसे में एक किया में अपने के अपने के अपने में 10 कर है और के प्रस्ता कर जाता है है जिस

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লাইড জাইলে টা ইচ্মানিক এই নিজে ইউটে নিজি টা টিল ১০০০ হয়। ইমানি মিল টিল প্ৰতি, ইজা টিল এই সংখ্যা টাইলিক জিলাই নুইচ্ জাইলিক ইচ্মানিক সকলে জাজাৰ, আছিল কোলোল প্ৰথম জনাই কে জ্বানেক লোক কোনে টিল কোনে নিজ টাইলিক জিলাই কালে কু টুটুৰ্বটিনু জনাই জাইলিটিনিক, ইউটে জালাই ১০০০ জাজুৰ্ব বিশ্ববিদ্যালীক কুলিক বিভাগৰে কোনিক জালাই কোনে কোনে আন ইচিল 1.1সূত্ৰী জনস্বাৰ 1.11ৰ 6.200 ক বা 2.000 (2.00) (a.5) বা 3.00 বি 3.00 ক বি 3.00 ক বা 3.00 ক (3.00) (b. 1.00 বি 3.00 বি 3.00 বি 3.00 ক বা 3.00 বি 3.00 বি (3.00 বি 3.00 বি

्कृतीय र क्षेत्रको साथ विक्रिकित कि विक्रित के को उन्धानी माना कि महिए। विक्र करा का कि का कि कि कि कि कि को कि को कि को अपना के कि को कि कि के कि कि को को को कि करा को कि का के करा 1600 को कि मानी की की को कि कि को कि को कि को कि को कि की कि को का को की कि को का के कि को को की कि को को कि क 1600 को को की को को को कि को कि को को कि को को कि को को कि को को को को को को को की की की को को को को को को को 3000 को को कि को को को को को को को कि को को कि को कि कि को को को को को को को को को की को की को को की को की की 100

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प्रतानितिह **काबुक्य मुख्य ध्रा**क्षीरका (1. के मान्यून के के अनुमान कुल को कार करकार की आहे का कियाँ के 650 को मानक क इस की कि प्रतानित की काम के कि 11 and 15 may be and the indep of the politic transmitted by and from a court by complex की कि कि को Market transmitted by the internation of a Court hours 2000 in Supposed. (:)

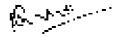
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and all the self-color of the first and the filter series, बिहर करते हजारका भागतह के कि ए और को के कर कर का हम इसका के बुद्धार को कि कि होते हैं के कि को की की की कि का second to the appear and the first of the product of the first the Brancock and the second of the second to the Brancock of the second to the Brancock and the second to the second to the Brancock at the second to the Brancock at the second to the second to the Brancock at the second to the second to the Brancock at the second to the second to the Brancock at the second to the second to the Brancock at the second to t 173

:: ORDER IN APPEAL ::

Me. Baneal Ship Breakers P., id. Piot No.25. Ship Recycling Yard. Along P.O., Mohar, Chavrager 35/002. (hareinafter referred to as "Appellant No.1) and Shir, Rubal Kapporchand Rassal, Director. Wa. Bansel Ship Brakers P. Lia, Piot No.25, Along. Manar, Bhavnagar (horoinafter referred to as "Appellant No.2) filed present appeals against Ordonin-Original No. BRV-EXCUS-000-JC-45/2017-18 identify 2.1.2018 (hereinafter referred to as the impagned order) passed by Joint Commissioner (CGST) and Central Exclae, Beavinggar (horoinal or referred to as the lower adjudicating authority.)

- The brief facts of the case are that Directors.e General of Central Excise time, gence (hereinatter reterred to as PGCFI) issued. Show Cause Notice F.No. DGCCWAZL/S6-289/12-15 dated 2.11.2012 to Appellant No.1 and Appellant No.2 for clandestine plearances of Places / Wasta & Strap of Iron and Steel obtained from Ship Breaking, for undervaluer on of goods preared by them and also for passing on fraudulent Central Credit to various customers, alleging as under the
 - (a) Central Excise outy of Rs.35.55.545/ on clandestinely manufactured and clandestinely deared exceabe goods and Gentral Excise duty of Rs.48,45.335/- on account of undervaluation of goods should not be demanded from Appellant Nn 1 under Section 11A(1) of the Central Excise Actional Central Excise auty.
 - (b) Interest should not be recovered from Appellant Nu.1 under Section ICAA of the Act.
 - (t) Fensity should not be imposed upon Appollant No. 1 sinder Scatter (1AC of the Act read with Rule 25 of the Germal Excise Roles, 2002 (heremetter referred to as "the CER");
 - (c) Penalty of Rs.1,97.146/- should notice imposed on Appellant No.1 under Rule 28 (2) (i) of the CER;
 - (a) Penalty should not be imposed upon Appellant No. 2 under Rule.
 20 of the CER.
- 2.1 The ecove SCN was adjudicated vice the impagned urder confirming demand of CE duty of Rs.34,31,3760 under Section 11A(4) of the Act, interest under Section (1AA) panalty of Rs.84.31,3764 upon Appellant No.1 under Section (1AC) of the Act with option to day 25% penalty, under section 11AC. Imposed penalty of Rs.1,97,1484 under Rule 25(2)(i) of the CFR on Appellant



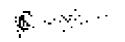
Notes to better the second of the North Con-

No.1, imposed ponelty of Rout 30 0000 large. Note 26(1) of CER, and penalty of Rout,97.146/, under Rule $26.09\,\mathrm{keV}$ (Ref. on Appollarithin 2)

3. Deing aggreved such the stopbaned rivid - Appollect No. 1 and Appollect. No. 2 proforred appeals. *Pare alla*, in the various grounds as uniter:-

Appellant No. 1 :-

- (i) The argument order is true speaking and contressoned in soft entrepty the adjuticating authority has not at all death visit an place must in written repty by the appellant not the judgments referred to and relied spon else down completely grazed that the adjudicating pulsionity had not recorded any (i.e. it) or the arguments relied and bus ourserily and mechanically death with the pleas of the appellant, that the adjudicating authority has shown judicial indicating normal abiding by the various judicial parameters are refer upon by the appellant in support of their submissions into appellant, relievable the clear made by them in the map y to \$600 before the lower adjudicating authority.
- (ii) The order has been issued in violation of principal of natural justice in as much as they made a request for cross examination of six transcorters and an accountant of Shri Bharst Shoth. Broken that no penalty is eroposed so all transcorters in the show cause notice which indicates that statements were recorded under threat with regoristion in unfair manner; this they rely upon following case laws in support of the negative:
 - M/S Shalimar Agencies (2000) 200ELT (68 (Trif))
 - M/s. J Changrasekar (1990/48020) 289 (m);
 - MAS TEASTHE Spinops (7000) (** 51) F: Y 000 (T44Del).
 - Ms. Strama Chemica's (2001 (106) = 1,271 (ic. kt/kals)).
- (ii) The charges of elemastric remover are serious charges and carrolibe established on the basis of some registers of three field nature; that span form the registers of the transporters there is no other evidence on record to establish clandestine activities of the appellant that appellant reports submissions made at Para 4 in reply to Shrw Carso Notice, with regard to compare of Rs 28 (7,9824 in Admixtage 1R1.2 to early that by denior proof tes upon the party who contents comellish, that average of weight certaples that which could have been loaded for delivery laken is a presumption; that operational have been loaded for delivery laken is a presumption; that operationalish of certail excise duly portfinite on the basis of motor or the



sope ant No.1 Shri Rubsi K Bansal in his statement cated 9.10.2012 stared that connectnes pucking of trucks also got capabled, it is well-selfued pandicie of tew that charges of clandresine removal are senous charges and cannot be established based on some diance of upvorified nature and they rely on the majority crosp of the Tribuna in the case of tiws. *(ejval Dyostuff hidusbles coorded in 2007 (216)* E.L.; 310 (Tri-Ahmd.) which was stand confirmed by Honfole Gujerat High Court when the appeal field by Revenue stand rejected as reported in 2009 (237) E.L.I. 242 (Guj); that they refer to the submissions made in soperal4 of the proply to show cause notice that the findings recorded at Pana 5.7.1 to 2.7.2 of the impugned order are not legable and no CH duty of Rs 26.17 892; has shown in Annexure TR 1.2 is payable by them.

The disry seizes from San Bharat Shoth during the search is third barry. jar. evidence; that now can appollant explain on dardy on write up by Shri Pharal. Shoth that appellant was aut provided the list of deophored large number of encoded emires and names appearing the pocket distles/ notabooks scized. from the brokers; that brokers have not admitted the facts that the appealant was involved in clarificatine removal of any such goods; that there had to be an evidence regarding illigit purchase of such goods by the buyers. That appealant did not received the amount indicated in orthogodianes as said in cash; that there is no complorative evidence of receipt of cash by the appellant that deposition made by different person in their statements are not recovari; none of the importance confessed the purchase of such guods. That appellant relied upon the Hanfale Supreme Count's deas on in the case of Amba Lai reported as $1980 ext{ F} \equiv 1321 ext{ (SC)}$ in sery that one of error is on investigation and section 108or the Evidence Actiodea not shift the burden of proof from BGCF1 to the appellant, that as regards demand on the basis of investigation in respect of Shr. Vinsd Pagal & Shri Kishor Petal, they relitarate the ligrounds at para 6.2 to 6.5 or the repty submitted before the adjudicating authority.

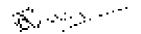
(v) They were not indulged in undervaluation of the exciseble goods as a entioned in Annexure-UV.1 to the SCN. That they reiterated the adomissions at Hera 5.2 to 6.7 of their reply to SCN made before the adjudicating authority. If at it the quotations of Mis Major and Mnor and other agencies are to believed to be actual, then it should be applied to all invoices issued by the appellant that appellant has actually deal goods in given than the rate tirou after by the market research agencies.

Sandy ...

- (vi) The collecty of dely pair and Sources given at the force) gate to the brokers representing the survey of delifety case, and the usuatest of the original production MS Some is received represent by verby another or RTGS. But there is no evidence to show that the cape act 4% abtraction the payments of sold of goods in respect of which attraction of passing of fraudulent. Get sat craft is made, that there is no evidence on regard to show that this appointd was contrived with the carefasser force; in Get Shere Short by issuing asky caying occurrents only, that they left, most enough Seria made rice it are 4.2 to 7.4 of their reply to the SCN meth Solds: the wije-Scatting authority
- (iv) The penalty imposed and or Section (FAC of the Act alliaga is as much as intervious about commission of any prioritis are to be aroved which are absent in the present case and it. Absence of any evidence that excisable goods manufactures by the appalant had in fact seen cleared without proper twoices by them; that no evides delives educat in the show causa motivate establish that they had committed the alleged bots or emissions deliberately a contumaciously or in tag and webtern of provisions of taw or with intervious evade duty; that no constitute or page 256 when there was no case the intention to evade payment of outyland they are is not liable for constitution Goodies (1AC (1) (a) of the Act

<u> App≆lars No. 2:</u>

Appellant Nu. 2 stated that the impugnod order is non speaking and conreasoned one in as much as the spice cating suthurity has not don't with the cless made by them in their written submission as well unightents polymer, by them were son pielely ignored: that he reignate the various pleas made by Γ_{tot} nthis reply to SCN before too as adeating authority, that supellath is a director of the company and not acced to personal continuous congret and thereby the question of any personal consist upon him is not proper, that drove is not evidence on record to show the is volvement of the approach in the goestyn of the outy of was one of the seneholarios; that he religiously the Herricia CESTAT's perision in the case of Keahay Kumar Thasas reported as 20005. (990) ELT 211 (11-Kultala) The appellant was involved in designoe of MS. Plates will out cover of invoices, and hence no penalty is impossible under Rule. 25 (1): That popularly of Rs.1.87,1462- those Rule 26 (2) is place and repossible upon him as appellantined not made degranges mentioned in Δ nnox (ro BS-1.3to the snow cause notice, that appellant relied upon it singuistions made in raply to the SCN before the adjudicating authority.



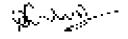
- 5. Personal Hearing in the matter was altered by Shift Madhay N. Vascutariya, Challered Accountant or behalf of both Appellants and he reflerated the grounds of appeals and made writer PH automissions stating as under.
- Enter Appellant No 1 in written PHI ausmissions stated that they reflected the pleas made in their metry to SCN; that case laws relied upon by the accudicating successly are not applicable in this case. that they only upon following judgments in support refereir operention.

Shree Industrias Ltd. - 2010 (251) É.L.T. 1909 (Tri - Ahmd.)
K. Rayngopat - 2002 (142) E.L.T. 128 (Tri.-Greensk)
Varun Dyes & Chemisels (14. Ltd. - 2007 (218) E.L.T. 426 (Tri - Ahmd.)
D.F. Ind. - 2007 (218) E.L.T. 242 (Tri - Onl.)
Poin She industries Liu. - 2007 (218) E.L.T. 257 (Tri.-Ahmd.)
F.C.L. Postski Coro. - 2002 (146) E.L.T. 187 (Tri.-Chennel)
Roma Shyotta Papara Fid. - 2004 (168) E.L.T. 494 (Tri.-Del.)
Molddari iron & Sinot Industries - 2015 (316) E.L.T. 374 (Ctg.)

5.2 Appellant No. 2 in written PH aubmissions stated that they renerate the clears made by them in their reply to SCN. The there is no evidence on record to show that the Director aid anything with meas real against the revenue on he had personal belief that the goods were fiscle for coofiscotion; stall number of task laws were lated before the lower adjudicating authority. That in the absence of any curfiscation of the gonds in the impugaçe order, no paraby under 3 de 26 can be imposed.

FINDINGS

- I find that both Appolants have field appeal after 27 days beyond normal appeal certed of 50 days but within further period of 30 days stating that his consultant was busy attorions statisticy Audit works of the Banks and reply work of notices issued by the Income (as department, Since both appeals have been filled within further period of 50 days. I condone colay in filling of appeals by the Appeals and proceed to decide both appeals on merca.
- 7.1 I have carefully gone through the tacts of the case, the impugned order and written as wet as oral submissions made by the Appellants. The issues to be decided in those appeals are as under 15.
- (a) Whether Appellant No.1 has blandastically manufactured and desired invalved excepted quode allocating CE duty of Rs.84,31.3787 and whether it should be recovered from them along with interest or not.



- (b) Whether parally of Swist 51,8764 (nder Section of AC) of the Act readwith Rule 25 of the CER and printing of Rull 97 (48)4 (under Rule (4)(2) (i) of the CER should be imposed on Apprehant Social 27,750
- (c) Whether pensity of Raik 39,0604 is derivate 26(t) on the CFR and pensity of Rs 1,97,146% under 3.55, 25 (t) is of the CFR about the imposed upon Appellant No. 2 ontot
-) find that puring ecomysts are scarred as a Terential 648 (485/8595 of various prover, transported etc., 2000er recovered increminating thosp while like. e aries ingleisgoke, fl.es, (opsa dapers etc. 1 Spå from statements of brokere del Shri Bharai Shedri and Ehrl V. rosi K Pater and the erores recorded to the notational staries, min received paring search that the manufacture and degrances of excisable goods, raimbly. Places, and Scraps. letc. to buyers were made against cash transactions. Bothe these brokers, coptained for excess used In these private records and the branswittens recorded in the recovered. norchooks, digries, etc. The Director of Appollant No.1 Title. Appellant No.2; in: his statements dated 9/10/2012 and pixed [2.11.2012] accepted that all touchs. came in their factory premised and the potally of which word found to be major in . this private inconts of prake's were in respect of sales of the excisable goods. manufactured and cleared by Apparent No. 1. Shit Bharet Shetal and Shit Whodi K 78iel and accountant of Simi Charat Shellr in their respective, supprients: dockinemo the codes and also explained argued details of sales gertaining to Appellant No.1; that Diarles / notebooks recovered during switch norts not details indicating quantity labdress, date, commission, etc. and the same base. been decoded during the course of Investigation and detailed in the imprement Show Cause Notice. Sistements of hanspowers and records of Gligerat Maritime. Board which tracked movement of trijcks were also compourated.
- 8.1. Appelant No. 1, *infortatio* ignoranced, that the charge or obsides the conceal of goods involving CE outy of Rei29,17,892/ (7) entitles) could not be continued on the basis of records recovered from third parties without carrying out investigation at buyers and pross-examination transporters independent accountants. I find that the lower adjudicating authority has from Para 3.0.2 (a) Para 3.10 6 & Para 3.12 to Para 0.15 of the impugned once may recorded findings in this regard. The abstract of Para 3.12, and 0.13 is reproduced as under the

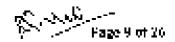
2020 8 of 25

^{*3.12 -} If is also worth po<u>rtog that an persons with square D</u>GCD have current out arvestigation have retracted they areterizate if northers, the testionary of the engine in the payore measure of this kinds Patel cannot be descree and the true; deposed

Livillations of the control of the statement of the statements of various process is the first of the statements of various persons recorded by 1950-1 committee the transactions confidenced in private records existed from 200 values exist.

3.13 Accordingly I am compoind to believe that the fills have-ations reinting to soler of extraorial grants by Mrs. HAPL influded in distinct settled from 5nn Phond Share Share Share Share Include the Mrs. Hall are proved sufficiently (, therefore, find and that they there exists a partition to Mrs. 1991, recorded in second distinct and are not talked with they sales that are appoint of standardise constants in as much as authoritists of seited distinct base have been natural beyond doubt by applicational statements as well as personable environce / monds and statements of various persons.

- 6.2 a and instant case the intrinsiting records seized during isvestigation. have been duly correporated by the smkths, the transpuriers langacias, accountant of Shri Blurei Sketh. Breker and the records of Gujarat Maritimo. Board, I sisc (and that the records seized during investigation are not related to only long manufacturer but many manufacturers involving specific persons. associated in dealings of such modificativities and hence, such evidence can follow de brushed asigna treating them, las third party dyidences whereas these sign common records involving more than one manufacturer and preserved by proxers, transporters etc. It is relevant to Note that Gujaral Maritimo Board is a state government body and renerce are maintained by them for at purposes and such records are menutable. It is also relevant to note that the records have been consect by the Circolnr of Appollant No.1 (i.e. Appellant No.2) and veracity of preneath and recorded in those records have been confirmed by him in this statement detect 2.112002 in as much as 440 entries of transactions were on reports, but of sotal 511 entries recorded, leaving 71 clearances without perment or dury
- Find that clandestine clears rose of the excepable goods in respect of 41 entires are established. Appellant No.1 sought cross examination of nansporters, accountants and others without apecrying as to now such cross-examination will help them to arrive at different conduction. I would like no tely upon judgment of the Horible Madras High Court in the case of Mas. Lawn Textle Mills Pvt. Ltd. repended as 2016-TIOI-1924-Hor/ble GESTAT-MAR-CX wherein it has been held as onder.
 - "35. The above leak will utearly show that the allegation is one of alardestine centural. It may be true that the burden of paging sugh an allegation is on the Geostiner! However, plandsatine removal with an intention to exact parameter of that is oneans once to a secrets measure and not as an open fracescrion for the appointment to improviously detect the sughe. Therefore, in page of claridastine removal, where semecies involved there may be cases where these theoretics if the several actions will not be available. However, based on the selection removal and the appearance is give to proved the same legic establishing explanation for the same than the observable of standastine removal has to be held to be proved. In other words, the



17

standard and dedres of prod.) Americal Sequence in more cases, his time be the same took other regres of environment of definitions of clarations. Americal (Employed Subplies)

- **8.3.1** •• , **therefore**, have no possession to m_i ricks demand of Central Excise duty of 23.17,9924 to be parally Ayreans at No.1.
- 8.4 If no semand of CE duty of Rs 6.82,5167 (CS MT) has been a circulation the basis of entries found in Circ. No. 8/4 description the second-residence of Shri Vinod Patel on 30 03,2048, the details permaised in the said Diary mentions, amongst other details ideas full diestances, quantity, rate, also tumber of Appellant No. 1 said lot to 10% from where the said classics inelegrances were made.
- 8.4.1. If find thet explanation given by the Director of the Appoint No.1 to his statement pated 2.11.20% is $m_0/2$ to by the counter four syntatic or Peru 8.2.4.5 of the SCN without each security:
 - 18.2.4.5. The decosition by Shif Buber Bankel, that the decrease as spowered: in the diary AM of Sun visco Parel is live proposed set of \$3 MT of properly. for which hypologi No 1969, dated 29 19 2000 for 19 880, 411 and house No. 1145 dated 11,91,2010 for 30 029 Mill, replied by Mill, Runio Areal, local poliappoint to be correct to as muce as the aleasoner secure in the said diany unemade on 21,72,2509 Chrongh Shri Whod Parol, however it, the above recinvolves, people were autholig diserted on 29,12,2009 and 14,01,2010 areany. Direct means that sale is not made through any order. What the accessment charge arrestly by BRFL, bowiths details of the same belt have been referred. in the plany of Shift which Patel. The further explanation of Shift Bullet Hartasi. dalad 2.13.2017 is also har tenable any transpellion of non-termina scrapthrough the broker involves alige commission, payable to the broker and any mustality securit can assume any his secure in the answer consistent into high illustrated ross to this profer which could not be seceptable to turn. Francisco, θ institatis appears that Stri Rubel Bathsi has not decoved both and that it expenses that 35 MT of 50 Screp was meeted by BSFL MixOv through Sim-Msod (Aspell)
- 8.4.2 If find that appellant has not contested above counter focisionary point of time. Hence, authenticity and versorily of the dianea and private records have been established and concludated in the include case. Statements of Director of Appellant No 1(ib) Appellant No.2) and statements of transceners, croke subagedias have established authenticity of the unanxounted transactions. The indecapable informace that can be drawn from the transactions recorded will, party-wise details in the recovered Diary is stall the diary is germinal and not imaginary or rough data as or Estimates, so has been attempted to be made out by Appellant No.1.
- 8.5 Requiring duty of Reid 55,0307 (192.39 MT) in the charge of dandestina remove on the basis of diary no A/13. Appellant No.1, www.aid.

ir ∰gyddio \$1, 1997 Fager (Dorled contended that it the charge of clandesline removal could not be confirmed on the basis of records recovered from the third parties without carrying out investigation at ouyers end, without recording instatements of drives or vehicle owners. If no real Appellant No.2, in reply to Question No.18 to Question 23 in his statement defect \$ 0.10,2012 has stated as undon-

*(Q-18) You are being shown the Parichhama dated 30.3.2013 drawn in the storidant's combusiness premises of Shri Disust Street and three distres total acceptant, transaction made by or through Shri Rheet Shoths are mentioned in Johanel transper which were decoded and explained by Shri Marish Parel an employee of Shri Bharst Sheth during the investigation by DiSCE. Such details model transactions media by our company theory Shri Bharst Sheth You are deing shown one degence. 167 (which refers to 2.1.2009) of diany not A/13. The entry expesses in their reads as under

25 S-10 18000 R (77) 10.140

commong of the above only reads as 25 is plot coulder of Alang Let your company, 5 to is variety taken of zeras usities, 18000 is rate per MT, Hillerica to Hugatia Stock Rolling Miles, 10.140 is the weight of pouce observe. So you agree with the above explanation given by Shiri Manish Pater with the written the above details in the well-discovered details in the well-discovered.

- A-18. If Level game (brough the above self) aranes and above ordry. I have game through the exprenedian given by Manish Potel and Lagran that goods appear tobuless of front my with as stated by Manish Petel.
- Q.16. When the common of obeye entry contagred to the involves issued by your contagny during the respective period, no involve is found issued for the 20003 decreal as ver above entry. What is your explanation?
- A-13 If have compared the above entry with the involve date of my unit available, who your office and I state that no tarcole appears to be based for the above samplescence.
- 1) 20 You are heing abowsh snoe page Nito 168 (which refers to data) 3.8 (1909) of nivry on Art's The entry appears in stere reads as impact-

3909/10/25).

Decording of the above entiry reads as 3909/10. The amount millen by two decords points somethy reads as Es.3.90,9104 is paid to plot moniter 25 of ethy i.e. you company. On your agree with the social systemation given by 55% mented Hotel woo has intered the above depote in the sectionary.

- A 20 Since the meter pertains to very eld person I do not remember it is possible. That sold amount could have been para to me.
- Q.21 You are heing shown one page no.23 (which refers to date 4.12.2009) of dary no. Art 5. The entry appears in there reads as under -

25 (351-16403 Graha), SRJ GJW 7760 18,880

Decoding of the above entry reads as 25 is plot number of Alsoy Le. Your company, 58 is valually test or some plotes. 1949 is cares por M.I. Gurrey reters to Grinci, Steel Pur Lid, Julia. SHJ reters to SHJ Hody Short pitte. 16.889 is the weight of goods desired. This bean explained by Shri Maddal Patel that such entry reters to the transactions in which 18.980 M.I. of 8/9 is plates were cleared to Gurran Pises P. Fid In the name of 8R I Really Sheet P. Int. Indoors No. 835 detects 12.2003 is received by your company to SHJ Really Sheet P. Ling for 18.860 M. Tons. Do you

Page 11 9726

and the second of the second o

ngree with the square confunction $gi = a_i^{-1}$. On then so that if we have written the above details in the confunction f_i^{-1}

puper that the respect of guarant computers is the limit to perfect the court involved through broken, we prepare the involvent one permanent buyon or given by the broken in a responsibility of containing self-ine psymbol more than the byte. We do not have knownedge whence the graids are religiously to not buyon contained at the book broken of our broken of the problem.

Of 22 Like vise all the transmissional whiles its year has plants on the orbital die group deepers by your company, the payment received by your company of discretion of goods its grants that delivered is one party and transmissional water education enotities party hyperon company. Acresses 2001 1 American DC1.2, and homeome 531.3 are proported on the beat of the definition much increasions in above times proported in acceptable of 2000s1 by Sha Branch Shall and the engisees Plants to Thomas for through the each end opens.

A 32. Three seem of the above A throughout, agree that He see the exists overstood in the armies recovered from Shorts shall and the exists 6000 guest by Marist. Patel and Buest Shept the orthon manifested in the above someones are mission.

Q.23. The appear introduct to observe a physicist as morthanic in American \mathbb{Z}^{2} - \mathbb{A}^{4} were compared with the large localities littles by your company or your group company but no investors sould be four J is seed for the clearances measured in the above around J. Piezee explay:

4-35 hdo not have any excremation.

8.5 also find that Spri Wanisi bhai Hlininst ai Pete Accountan of Accellant.

No.3, Shri Rharal Sileth in his statistic mydered $97.7\,2010\,$ has stated as under the

- 10)unius - Vitto nee written tibe delete mordinned in record AVII. Av8 and AVII of the - Panchnesse deleti 30,2,2010?

Arrest The materity of the despits manner on monors M7. And of the Panchisana detail $30.5\,2010$ near hoot satisfy to in my own bands, this series the frequency of Shallocard Shorts.

Gree 5 Ans∵

Gue, $\theta \in \mathbb{R}$ Repercising the record at $\theta B \in \mathbb{R}$ is $\theta B \in \mathbb{R}$ or the Horotenian autodition 39.03,2070 pieces explain details southered therein.

I hadher state that the diary mercioned at Sr. No. 7018 contains the nessia of the transaction correct out by Shri Biteral Shell, in respect of supply of Ship emaking Economic Technology Rolling Mills, providing of Certifal Economic Ship emaking the Induction Function and No. 199 (1990) from 01.7000 for 31.12.2009.

The said Dieux area contains the deteits of cash provide resource from yarlous Rolling Mill gods / person of the Halling Mills / angeties on account of supply of Saig Brogning gazap alterdatively without cover of Control Exercity values account of the supply of the su

Further, both the aforesaid district also contain the details of pash money given to the valous ship threaking unit of Alang / Tostys / persons or the concerned ship breaking units from whom the materials was derivered clandesitively without Central Excise Involves to the various Holling fall times of Citienal and Maharashtra. Sometime, aach money was also given to the industrial Europea units to supply or Central Excise transcent after an employ or Central Excise transcent of the conserved ship breaking unit after accluding the amount of Taxes (Central Excise + VAT) and our commission.

thereneer, noth the sold distress use contains the details of consus expensions incomed by Shri Bharat Shelli and his family members via payment of mobile links.

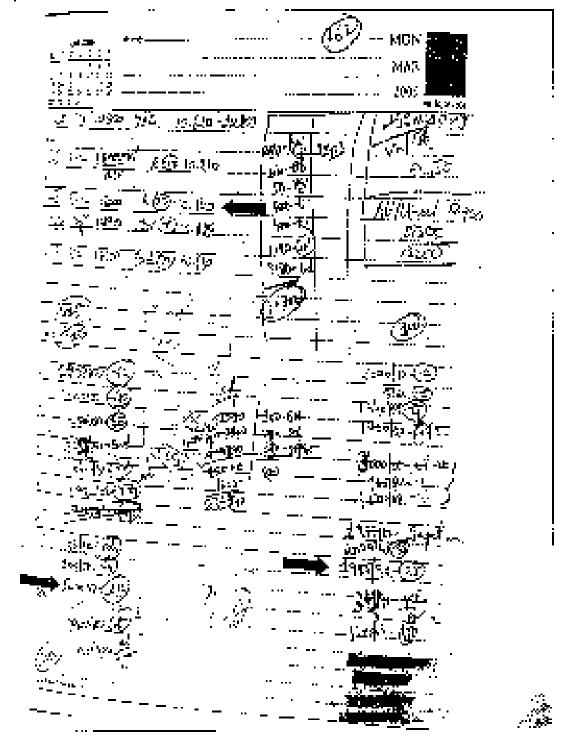
 $\mathbb{Q}_{p,n}^{N_{\mathbf{k}}}(x,s,s,y_{n},s,z^{n+1})$

electrolly tills, patrol expanses, household expenditions etc. Built the sald diarest elso contain the details of monthly salery given to me

Labo state hist both the ago dished contain the details of commission executed in cash min the Rolling Mill and for supply of ship breaking scripe and team industrial Fundace units for supply of involves only, the I further state that character of the onlines patient to the about minoral of scrip by the slip (packets through Shardhaer Shart).

[Emphasis supplied]

8.7 If filt find find that the idetails of dainy are explained at Page No. 54 to 55 of the impusined show cause notice with the aid of iscanned copy of pages of diary at WPS*. Copy of page on i71 of the diary available at page 54 of the SCN is reproduced Selow.



8.7.5. Trensaction explained and discussed list page not 95 of the SCN reads as under

Page 10 of 26

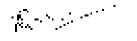
CONTRACTOR CONTRACTOR

 $x_{\rm eff}=\eta_{\rm eff}$, the constraint of the school of the specific states of the specific states and the specific states and the specific states are specifically as the specific states and the specific states are specifically as the specific s $_{0.001}$ decaphered by the shoped sage of Shir Bh see Short to discussed in the larg to the project The approvide in the above rough scales a could of different Track of a previously of samed by a right on ship interior to various doubty follow $g_{tot} a_{tot} g_{tot} S$ will filtered Sheth. The $g_{tot} g_{tot} a_{tot}$ its entities on the m d page. The m a right gide is the companion part of the manuactions peaks by Σm_0 from the first of (0.012.2009) for this requires, for $(0.289.79^{\pm 128} \times 10.18080 \times (NT/) \ 10.1407 \ dent/c)$ g as by . If of Aberty's gg which the states that is likely which recising f is \mathbb{R}^2 ggpt., 5-16 mendene i morete du oiza ŝia i af M, 5 mestsaran hiela to 1 $\sim 3.0000^\circ$ is maximum at $m^2 = 6$ denotes rate of ~ 5 day ρ . Herefore at ~ 6 dusing way three to there open requires to make pay, and to the read by karning of their, with is greativeted which, effers to VC. Regards Small Ref. (0.0228 , to where years were with the their text in \mathcal{I}_{n} AD is index where is proved a terms i.e. Note that For the value of 11 Hard 10 2 m value of which integers of the country with the polarisation is matrix with This entire transmitted as parable on in some contains into DSS. . Pro No. 25. A age. Buchinger and 10 to 2 Arthor serve of size to 10 St of 18,0000 per VIII to Mis 182 year 30% Research 4665, no 0740,2009 Service Size Boson Stylet. The payment in respect of the said transcelled, was so by reduce the as dexity the recipient $k_{\rm th}$ and will unit $\mathcal{Q}_{\rm th}$ and its anti-number - as shown sequently page are explained in the second of the second for lower idea with , there exist aways the entry ϵ asked with a rank up, the support $(R(\delta))^{\alpha}$. Thus in the ergonally of Ref/h6.6994 restricts by Stati Photos and From Signals Sold Setting Matrix of the order of the set of t man ea with 1-25% has ^{pa}ge**d**例如 [75]²⁰ refuse 20,420 em - 1,5356 (952 - 1,555)) ger gradi Nobel - 39 No

8.7.2 If find that details of Drary mentioned at Sr. No. A/13 to the Ponthishama dated 55.03.2510 have been explained in exhaustive manner in answer to disstinct No. 4 by 8 pr. Vanischiral Himmotial Palet, Accounted of Sh. Bharat Shelli (Show cause notice page 63) in his standment dated 12.04.2010.

9.5 I also find that in his statement dated 4.6.2011. Shi Mar shihaji Himmetal Patoi. Accountant of Appallant No.3, has explained as since:

*Que. 15 Please peruse Armeone — 554738 (Paris) to Paris 16, emonroo on the basis or details available in solves dury meased as "Aris". Fleese (p) through the



Fage 1 : cl 26

serve elong which he relevant details available in the said serged diary and offer pour comments. Also put voic cated signature on the said announce.

(Emphaela Supplied)

Elia I and that Shri Bharaschal Manharbhai Seit,Broker in his statement dated 4,9,001 I has confirmed that Shri Maniah Patel was his paid amplityee/Accountant, who has maintained the diaries. Relevant contion of the statement season as under

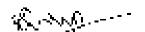
-Quarti-Henso state that under whose instrictions 5oxi idental Palei. Accounted non-maintained the selbed disnes anomals the delaits of business marketions cannot out by you?

Ass.5. I stale that I am warring as prover and dealing with scrap obtained name creeking of ships by the ships emploing usins should be Alangti Sonya. <u>Ship Manson (Selet use) makusi</u>ped_the chares under my instructions only as he is my paid <u>employee. He has paint</u>ained_the said seized djares as_per my directions & insmichans onto.

(Emphasts supplied)

7.10 I find that dreatur and owner of the records have explained the dianocs; no clostanocs, payment transactions and all other relevant details. On i going through their explanation regarding the seized private records. (diarits/northodiks) offered by Appellant No.2 I find that the diandeether diearances of the exciscate goods stand established in respect of 192.39 VT. (Annext reli- E.5.1.1) to the Show Cause Notice; and confession by crestor and owner of the records remain unchallenged. It also find that investigation with repare to each flow was also extended to Angadias and the same is i discussed. at pages 190 to 115 clime Show Cause Notice. I find that Para 5.1.22.2 (cage) 100) shows summary of payment mediated through "K.Ralar" which includes: various entry in the Diany of A/15. Alect partners of various engedies in their respective statements admitted the rounsfer of each frem various removing and 6. pprox Shi Bhart Sheth and to various ship preakers. Contoution of Appollant No.1. that the investigation has got (negliged with the buyers of the occast chartgranting of press-examination etc. are nothing but desperate attempt to find fault. enty with a view enter up in clandesline clearances of the exclassio (1000s. I, therent to, uphoto contains of Control Evolution duty of Rs. $2.85,030\, L$

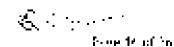
Appellant No.1 has argued that demand of duty cannot be confirmed on the bests of charies and records recovered from the third panels and noncollidering discussed committed on the basis of third pany decurrents is not sustainable. In



this regard. Find that the process installation as the probats recorded in the well as Ploit gransactions of Appalities for the subject many remains fund relocated in the private records talked $w(t_0, u_0)$ by to the action y_0 issued by Appellom 20.1. has, matifulness of grands/arms of Alsia. It is a private contains relativeted from the premists of trokers during a section desiry established. Further, but i prokers have admitted to have wild ignorial belonging to Approximation in Webbut. OE invoices. It also that the late galiers has boot conquited in 196 pagis of Aphexines prepared deling (1995) against based on private (and distributing results) recovered during searches as it is out at the provisions of iwo a tikers and all vital inks involved in the case, its "probars, Director langadiss, and manapoliers etc. neve animograped the evidences gethorod buring investigation and therefore demand cannot be said to be based on third party evicences only. The ther rick that multiplicity of party and compheration of evidences, talet hagare the convepof third party and the levidences of crandostino conceval in the case tave both gathered by the investigating officers from history diabes and therefore, it crows: be called third party condenses but sufficient complorative and supporting evidences, lagsinet Appellants, I, thorrdord, hold this! Bliegation of illigations manufacture and department of the appearable goods involving CF duty of Re 35,85,541A (Rs 26,17,922AH Rs 0,62,516A -Rs.2.85,030/) as computed to Annexure Tr. 1. Annexuse MK.1 and Annexure \$5-1; into the Show Capso Norton sugtained against Appellant No.), who observe goods will call Cardia- Excise. involves and without payment of Gentral Excise Guty. Title determines worker but on the basis of incriminating documents seized during scorobes a lithe premises. of brokers, transporters, angecias, etc. and as per respective statements which have decichered and explained is details the modus operand. Doth the brokers knew these facts, and writtee were made accordingly in their private months. which have also been complicative by parisporters, accountant. GMD records ote.

9.1 I find that the statements recorded during course of investigation are substantial piece of evidences, duly condocrated. Which I have not been refracted at any stage by the statement makers and therefore, as per the cell edegal position sanctity of the same cannot be underwined by cald arguments only. I further find that the authorizing of the records across them the premises of Appellant No. 1 and both process have been duly condocrated at discline with the records of Appellant No.1. The Horibbs CESTAT in the rase of Lawr Textite Mills Pyt Ltd. reported as 2019- 100L-1924-FC-MAD-CX has held as under the

20. The above facts will office, show that the allegation is one of the lession removed. If may be interested the burden of the application an elegation is on that the burden of the application and elegation is on that the properties of the elegation is every constitution of the application of the

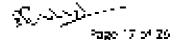


Disputation to injunctionally datest the name. Therefore, or base of classificational, where accreases involved there may be bases where pixels incompetitive evidence will not be evaluable. However, pased on non-strong mannes of the Department is able to game take estimate the case of classifier removal and the contest to place to give any promise exprension for the sense, then the allegation of classifier removal has to be need to be contest, in other words, the classifier and degree of proof equiph is regulated to such contesting removal.

- 31. As anticod above, the excessee has not denied any of the allegations, which were purifical, except for anticle and fitting represent in the narrower had sufficient expects to assisting making proceeding proceeded the transping Director to say an while making the retrieval. There was no arrows! made by the assessment to allegation of producing the variety and give a statement and producing resource. The allegation of parallel involving has not been dispressed in the making known to the Thas we find that the Adjudgesting Authority, the Appellate Authority on well as the Tribunal concurred on facts and each of them has given independent masses for their conclusion.
- 52. Thus, in the science of any perversity in the finding, the Court cannol interface with the taning finding recorded by the sufficiency as well as the Tribunal, as the scipe of me appeal before his Court under Sestion 35 S of the Central Excise Air is to mende of a supercontrol question of law the find there is no question of law month loss a supercontrol question of law arising for consideration in the instead were. Thus, the superciped by the assessment dismissed."

[Emphasia supplies]

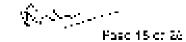
- 9.2 On il Rucal Bansat, Director of Adpellant No. 1 has In his statementa dated 5 19 2012 and dated 2 19 2012 on being confirmed with documentary and lottler componenting evidences admitted that diaries of brokers were showing transactions of Appellant No. 1 have not been retracted at any stage and hence, have sufficient evidenticity value. The combined effect of all such oral and accumentary componative evidences establishes that Central Excise duty evasion has indeed also place. I find that all these are violated hard evidences and are sufficient converted base against the appellants. In this regard, their upon the case on of the Hombis GESTAT in the case of On Prakash Agarwal reported as 2017 (\$46) ELT 125 (Tri-De) wherein it has been held as under the
 - 5. I make that in both the proceedings always literatural set of leafe were involved. The allegation was that coron on swatches collected train the Suppreted offe, precognities receipt and faither manufacture of duringly fierra by the spiralisht was account to be exclamed, Admillepty, the case is not only based an me marenal evidence collected from the supplier's end and also as contractively <u>by the respectation persons or the supplier's each</u>. The receipt and use of the succe enaportunities now materials for nation manufacture has appearance seen admittion by the appearant and due duty short parallels also hash discharged during the comise of investigation itself. The appellants great emphases on non-evaluability of the further complemation by way of details of hanged money receipt ato in the present case, the awdeness balledge name Де ддоріїн (у дів із cate qorica) and cannot be disputed. The private resords of <u> Bis suppliers bever been corroborated and ambited for the correctness of their </u> contacts by the parents who were in charge of the superior's units. When such evidence was brought before the purther of the appollant's unit, he categorically Annimen interniturated degrands of dubable terms. However, the did not name the <u>havers to where such perducts were asked in such aduation, it is strange toat the </u> <u>ugandrasi sum lakori a pida l'hat ron department ses not established me detatis at</u>



businessing <u>inquation of the interior underly acquain business. The entering</u> for regards apparatured by the properties of the entering in the entering in the entering in the entering of the entering that the entering in the entering entering in the entering entering in the entering The supply of processing the continuous for the property $(x,y) \mapsto (x,y) \mapsto (x,$ the acceptantly form to small or maken in a reciberation by the detaile for the experiencing one or the superioristic, time to their Life and select of arganitrational after <u>Admittable cond of the private sounds of the Materialis good name recently the following pages have recently to their entities in the condense before the</u> Tributest, the appearance is positive a believed assertion met the sectionary to the names of the appellust firm is got whatle V beneat case laws relied upon by real appoints are not of any support in the prosent case. In the passes the deby ungoppunied magniferium into audenor of cools case are to se apprecially incondusion. <u>As mised amonal, the third purity's records at the souther's son as</u> gamen by the correct in plante and father tryintonates by the continue connot be discounted org. Lie that voying as nother avidances line transportation and revelo<u>r of money 548,550 (Near Antero</u>). <u>Dr. g</u>i olanosatino munidasta e Jer<u>o</u>i <u>uraginative, each stone of optimizing current by exhabitation, and resursion</u> (2): general continuous of the grounds of educational Medical Scholars in the 1997 grant. තාරක ව තිබේ අත අනුගතන සිට විධ්යාමාන සහව වීම කිරවර්වුම මෙදුවියට වල අති විශාව anthority, Asportlingth, the Popsie's sie distriseen.

"Ta prosis supplied):

- it is settled law that in passes of clanules the removal. Set Decartmer's is not required to prove outy evalued with mathematical procision. My this view is only supposed by judgments of the honele Sugneme Coort in the bases of Sari Sheat Sumanine imported as 4980 (13) CET 1331 (SC) & Aviic Textiles 3, If Livingsoned as 2008 (235) ALI (SV (SC)).
- The statements, it not retracted, are legal and valid evidences in the cycle of law and have so be considered as Condbridive evidences as held by the Horible Supreme Court in the cess of Narcan J. Sukhawani seconds as 1999 (83) EUI 253 (80) and the Nardan Reich High Court in the case of Rekosh Kumer Carg resoned as 2536 (331; ELT 251 NCPDeth Think that Statements admitting dearances of goods without payment of Dentrol Excise duty and without issuing invoices are incurpately and specific and net retracted and hence as tilescale as held in the orise of Mie Richard Abrasives Ltd. reported as 2017 (343) ELT 836 (Tri. Det.). Relevant portion of the order reads as under:
 - 1944. On strictal consideration of the facts and circumstances as current above. I find that the statement of lucestar is the basis for the research. The statement is included to appears. The Olivertal desiry schooled that the documents/private records recovers to by the officers contained usited of procurement of rain materials as well as degrance of finished people with and willhook payment of duty. This fact is further strengthened by the inverses would by the seventee on which outs stands and covered by the inverses would by the bulb of the chartes well as danded as it is degrated of goods covered by the inverses. Supplete in the private notebooks which are not severed by the inverses. Suppletes in the private notebooks which are not severed by the inverses. Suppletes in the private holds only address as has been find by the Acad Court in the case of Systems & Components For the (supple). The arbitrary however the facts presented in case individual case are required to be served and examined independently. The degratement is the pass has smoothed and examined independently. The degratement is the pass has smoothed and examined independently. The degratement is the pass has smoothed and



<u>normalizational statement of the Director which is also supported by the Englished animal in the private reports.</u> There is no averaged the extension has been laken under jurges.

45. In NOW of the toregoing, I find that the Commissioner (Appears) has \$197. In 1980(), the Visio that there is not anough awdence of chaptering revowal of goods. Even though the archamont of Juny Senjey Keytivel, who is said to be the author of the povertiments recovered has not been revolved, it should admitted by She Teknival, Director should the built of the contents of the poverties. Consequently, I find no consent to deadlow his piece of evidence."

[Emphasis supplica]

It is so rely on the decision in the case of W/s. Haryana Steel & Alloys the reported as 2097 (355) ELT 451 (Tru-Del.) wherein it has been held that private potebooks (diaries) seized from the possession of appellant's employed at the Pinc of against showing entries for accounted as well as unaccounted goods which have been explained in detail and a solused by GM of the factory celly with revolutes / gate pass is trustworthy; that statement of employee running unto soveral pages and containing detends knowledge to be considered rehable. It also tray on the decision in the case of M/s. Ramphandra Réxins Pvt. Indicate not be 3014 (302) EFT A6T (S.C.) wherein aim at view has been taken by the Honiste Supreme Court.

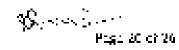
and find considered vision that the admitted fasts need not be proved as I as been nettility the Homble CESTAT in the cases of Alex Inclusores recorded as 2008 (200) FLT 10073 (Tri-lgampha), and I M/s. Diving Solutions recorded as 2008 (206) FLT 3005 (Tri-lgampha), Ilenials CESTAT in the case of M/s. Karon Fings, Works reported as 2004 (166) FLT, 273 (Tri-Det) has a soluted that Admission/Confession is a substantial piece of evidence, which can be used against the maker. Therefore, the Appellantis reliance on various case aware not applicable in light of the positive evidences available in this case as discussed above and in the impugned order. Homble CESTAT in the case of M/s. NiR Sconge Pitts reported as 2015 (328) FLT 453 (Tri-Det) has also held that when prepared asset of probability was against the Appellanti deeding or no second montal recorded from buyers, no excess clockricity consumption found, no taw material paramase found unabbourted and no input-output ratio prescribed by access of not asset.

In view of above, I find that the computations raised by the appellant Nu. 1 are or no their to them and the Department has addition sufficient dust and documentary complicative exidences to demonstrate that the Appollants were engaged in clansosting remove of the goods I, Inerefore, find that the

& Note -

por firm at the result of Coproductions of f_1 to CSSS (56,64) f_2 (6.17,952) in Rs. 6.82 5199. HRs 2.85,7599 for f_3 in Section at Capacita Courses goods, by the lower expressing our right, in smooth Against a PAST.

- gig. If is natural consections; the water material demand of NS, SUBSHALL is required to be paid along with his refuse. Section 19AA, or the Act I, therefore, upbeto the recognise probable order of Parasile of
- find that this is a page or distributed transfer or the goods which has been established, ingradiant in Stanton (IAP) of the Act are some as the Hor bia CESTAT in the case of CFS, Substantin A horizontal India Pillad, reported as 2016 (338). Dut. (1476-17) = Page) and Ronde, the impagated of CET bas correctly imposed denally equal to rown of Ps. Substantial Appellant No. 1. The lower actualities ingredient (359) authority they also greated option of resource penalty (§25.3) of duty evaded as per law, however, the same has not been availed by Appellant No. 1. The No. 1 within S0 days of receipts by the imprigated option and hence possibly can be reduced now.
- Regarding confirmation of demand of pulsy of Rs.13 45,8254 on the ground of process sustain. Asperant ival insuranced that salper Section 4 of the Anti-original provisiting at the state and place of removal is relevant for the curpose of assessment of duty and the transaction value charged by Appellant in different customers for assessment pulseurs read be appeared unless proclip and the sole consideration of where beyons and solers are related to each other that the rate of the solad sind pictures polarized by the bleaking of or die stip varies from about the solad coperating upon the making of it; that there is no evidence with regard to realization in excess of inverse prices. That prices disculated by the market research agencies picture acceptable as transaction value for the sale effected by them:
- 10.1 The lower asjudicating authority has confirmed the charge of uncorvaluation intensitie, giving through as under-
 - 13.15 The Bibow Cetres Notice stepped evesting of Certific Excise duin by way of understandation of the groods obtained out of personal up of steppe in a and in dispute that various Personal Agencies ordinate the price construction of the isolars of demand and supply and there is no reason that prices occurring of the south agencies are undestinated by the following that even Stop Breakers: Emberodyngma also supposite to such madral research agencies to own or loss of providing prices so as to enseig them to so) from goods or mountain rate. It is also not in dispute that the re-rollable prices ranging from size from (1.4 Aritical Stop Anguery and the majority of respective players are not 12 mm size. In order to



substantials this dispated the OCOD conductant requiry with regards contacting through the probability of the conductant through the probability of the conductant through the probability of the conductant through the conductant t

3.15 Op comparison of the price combined in the invideer of Mis BSFL were as well the prices arounded by Mis. Major 3. Missel, it was also revealed that he many concentral immercial value declared by the Miss BSFL were for less than the industry value providing in the thanker during the respective penals. The supplications have, for per declaring the consel aims / thinkyees of MS Places decree to their, under reliced MS Recipitable Places so as to enable them to reclare any control of the reliced many reliced to the historian and colors for differential value, over any reliced the declared manifest value. The declared manifest value by your of unaccondited pasts amongs.

is view of the above, I agree whiche contention of the $M(\Omega H)$ but when varietion to pilos la coviena considering victoria rectors ille payment forma. Country & Country or maligoods, estation with disjury, demand and supply plustian, therefore. 30% afforense in price is considerable one. As slated above, Emikora / Snije Dreakora / Buyera lake the reference of the turce builded by Merket. research egennies like Mis. Major and Misor. <u>It plenetime, And and bold that t</u>h<u>ord</u> is no reason to doubt that once quoted by the Major and Minor is actual one yananga ar (+4 2%) i.e. rates of Flatos and Sarus 2% legaci than the rate of Max. Major and Major to considerable. I, therefore, fish earlier with the view adopted by DISCENTIAL daily short peid on account of venetion of once more than 2% 3 on encount of undervaluation of the goods and rightly recoverable from Mis BSFL. Framer if also find that a large mamber able breaking traits, dealers from Aleng and brokers were member of Mis Stept rates, and ware racetwog day to day updates on the early price rates of stip problems materials thorough AUS elects. and emake It is also revealed that Mr. Steamer were adopting the most scientific and appropriate analysis of the data gathered by them. The Ship Creakers were fully aware of the rates of the samp generated form ship browing. 50% intentionally tendensature the poods with intentitie evade payment of Central ⇔ one my. Thus Mrs. 6575 has undervaiued their excisable goods who intent to exact payment of Control House duty and thus based on the celouistica done en DisCell I find that idda ISSH have availed Carpsi Profes digly of etc. 72.45, 5.354 J

10.2 I find that the denians of Re.48,45 535° has been confirmed on the ground that the Appellant has shown description of the excessible goods in relevant invoices as tWaste and Science from and Steel" or "then & Steel" etc. and the impugued order has affirmed the valuation as per rates assertained from the reputed agency for valuation of such goods during investigation, asserted that valuation of goods has been arrived at after soluntific and yais of the data released by that Committee, an institution empowered by Ministry of Steel Govt of India and market research agencies i.e. M/s Major & Minor and M/s Streetate. Asper ant has not disputed the said analysis, however contested that no excess payment over and above invoiced ordes was received by them. I find that Director of the Appellant No.1 Shri Rubal Bansal, (Appellant No.2) in his systement cated & 20.2012 has admitted that they did ont mortion the thickness of the class in the Invoices. Relevant Q.35 and its answer read as upden

Barring

A 30 During the content of the content of the market of the properties of the business of the discount of the spirit of \$2.50 are disconsisted in the third of the business of the planes on the first of the content of

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Section 4 of the Act cannot be rejected only than reversions. When Action and North is involved in discretifies discretized only that they are specified only the graph quality of the groots in the involved and discretifies discretized and discretized both being Rhenor Machadhai Speiling ready conducting the time of page transactions with Various Biokers / Shroffs / Angadiator; and therefore of the view that appealant failed in establish the grade and quality of the grades discretized in 1967/ inc. Ower process adopted by them and there is the improprised order legal and process and therefore is the improprised order legal and process therefore, I uphoto sometiments of CE duty of Pas.49,45,8354 along with interest and oqual process Section 2010 of Pas.49,45,8354 along with interest and oqual process Section 2010 of Pas.49,45,8354 along with interest

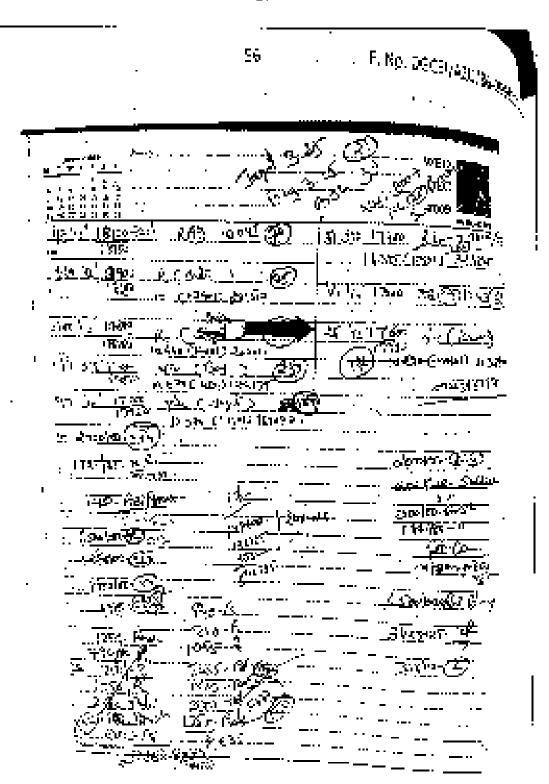
10.3 Regarding imposition of prinally eyes to Carvat Credit of Rs 1,07,1464 (index Rule 26(2)(i) of CCR on Appellant Roll for wrongly passing on Convey credit of Rs 1,97,1464. Appellant Roll contented that sale of RS screen was made by them exificatory gate and oblively record was given of Convey guite to line proker representing loayer. Appellant No.3 also submitted that it is consignified the goods is subsequently a vorted in is not itheir responsibility as they had hardles over delinery of the goods to subsequently a vorted in is not itheir responsibility.

10.4 Para 3.14.1 of the applyphotic order has held as under t

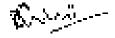
If 14.7. From the interrution (Limbble I), saled disting no.7. It and 15 to the Announce A to the parabhasing arrest 30.8.201 grown in the publises previous of Shi Bharai Street. Intervious 28.1.0 was prepared chowing the charmons makes by SSPs to rolling ritils through Shi Bharai Sheth and because arise makes for the corresponding dispersioned in the name of furnace and contact and conson of headsight Canada Crook splight originally gallygangly the goods. As one summand BS 1.3, 1 find that in 10 makes (80x,899) has disperse the goods to retiry mile and issued Certific Excise involves to furnace and anotherway paged on headsplant Consol Crook Amount to Es.1,97,1464 to said furnace uses as contact in the soil Amount.

10.6 If find that st Para 3.1.2 (b) at Page 55/58 of the Show datas Notice, illustrative transaction has been exclained with the help of Scannod irruge of page no. 21 of idlary "A/13" is surving transaction cated 9.19.20(6) in a said transaction as decoded during the investigation reveals that I would have exertished in the name of a boyer to whom physical delivery of the goods had not been made. Helevant portion of the Show Carrier Notice is reproduced as under

K. Santa



10.8 . Details of above entry in the diary are reflected at Sr. No. 8 of Annexure BS 1.3 to SC1, and are explained in the SCN as below.



raggeral normal for a factor of the

The second loss episode in a read monapolous in Statute and a first interest which update but wide to the access paper to two the disk out explanation. The warm monapole with accessive 125 No. 1760 NO. Statute grounding unit to the equation of the monapole of the entire party of the entire party of exalting unit to the explication for the relationship of the entire party of the entire party of the entire party of the entire party of the entire state of the explication for the foreign of the entire of the entire of the entire of the entire entire entire entire entire the entire entire

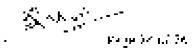
Since we continued the formation of the first process of the District continued by the weight of the process of the process of the District continued by the analysis of the process of the District Continued by the analysis of the process of the District Continued by the analysis of the process of the District Continued by the Analysis of the District Continued by the District Continued by the Analysis of the District Continued by the District Continued by

Fig. 6.1 The disclosures made during the increaligation are not in dispute and Appellant No.1 is only confessing this appear forly on the ground that he was not responsible for ensuring believely of the goods to the present in the name of whom. CE levelce made I find that the expedient has rot produced any evidence to show that delivery of the goods was made to the buyon at the time of dearance and bende this contention related by appears is devoid of netitine.

10.7 In view of acover, find that the department has sufficiently discussible onus of proving that Cenvat credit of Rs 1,07,1464 has been present on without accompanying goods. It therefore, uphole in position of penalty of Hs 1,37,1464 under Rule 26(2) of the CER or Appellant No.

11 I find that Shri Repail Bansa: Appellant No.2, in his statement dated 2.11.2012 in answer to question No.2 has standfullmit at as under:

A.2 Normally, we ledent tracks for our consignment sale to Mand: Gurierusch. For real I tedent two to three tracks per day environsely for goods to un haraparted to Mand-Gurindgath, in case of sale firmings braker, it in braker who indents for the



^{12.2} Do vao confirm that indept δ_{N} took to lower the scrap man year and, in places with transposes only effective sole does in transposes.

Pooch and Lagrage that he variety indicate for track party effor the deat is finalized. .*

- 11.1 I find that Ghr Bubal Bansal, Appollant No.2 in his statement dated 9.10.2012 in answer to question 21 has also stated that he did not ensure converved the goods to the person as shown in invoice. Relevant portion of the statement is reproduced below.
 - **Q.21** You are enting shown and page no.20 (which refers to date 4.12.2999) of date in ANS. The entry experience in more received as under .-
 - 25 | 3/81 | 16 100 OSWOA), SIRU GUMATANO 14 864

Decoding of the above entry reads as 25 k, plot number of Aliang 16. Your company, 5/2 is runely (size of screp piales, 16/60 is rates per MT, Giblina) refers to Shortal Steel Pot Ltd. Jaine, SRJ refers to 5RJ Feety Steel a Ltd., 16/66 is the weight of quods treated. I have been explained by 50h Menter Parel that own entry return to the treatestons in which 16/890 MH or 3/8. places word control to Grinni Area! Hill Alianthe name or IARD Heady Steel Hills. Invarian No. 526 dishole.12,2009 is passion by past company to SRJ Pasty Steel Hill Invarian No. 520 MH ones well are specifically in the above explanation given by \$6.0 Munich Parel who has written the above details in the solid name?

A-21. So, in respect of above endry, I state that whenever any deals finalities through inciden, we prepare the lovolbe in the risine of buyer as given by the incident is responsibility of broker to get the payment from said byer. We do not have increasing whether the goods are derivered to the boyer mentioned to not accord note offer buyer.

11.2 It find that Rule 28(1) & 28(2) of the CFR reads as under \sim

- 1 Fluid 25 Highsity for contain offences +
- (1)—(1) Any detaun who assumes cossession oil or is in any why connermed of horispoints, remarking they saling to provide ingles or on any other connermed or the any other connermed with any explanities grows which we knows or has reason to selicite are liable to conficuation under the Act or those case, and be liable to a penalty neil exceeding like duily on each power or two thousand highest whichever is greater.
- 12) Any p<u>odian, who issues -</u> -
- 10. AR CXCOS (CCL) <u>(hydros political) deli</u>pery of the quade specified therein or state. At mining purch to politics (c)
- (4) <u>600 giver</u> downwest or abord in making graph <u>accommon</u>, on the basis of which the user of each invoice or decoment is likely to raise or has taken any likelights benefit under the rist or the rules made there under the obtaining of OHMVA1 ment under the OBMVAT Credit Rules, 2004 or refund, shall be liable in a possity on exceeding the emotion of short henefit or five increased supersont whichever is greater.

'Emphasis supplied]

11.3 The delais of various private records and statements of transporters, brokers accomptent, e.g. and conclusating records resumed have been duly affirmed by him in his statement dated 9.15.2012 and dated 2.11.2012, and Fara 3.30 and Para 3.31 of the imprigned trider specifically detail them, he is the person concerned, who dealt

\$\dag{\chi_{\subset}} \sum_{\subset} \subset \frac{1}{2} \subset \subset \subset \subset \frac{1}{2} \subset \subset \subset \subset \frac{1}{2} \subset \subs

with such exciseing growth or 2 one resson for rational in all or plants, were lisble to confiscation. The tests of the owns are from the twestable establishment Adulasians No.2. was actively involved to bind the head profession of partial and relative to washing wi indigible. One validated Lieszt sector, and is finited to per any 2009. Held ${\mathcal D}_{i}$ of the CER I therefore, held that the order is not sufficient of Research 200 models. Rule 26(1) and penalty of Reinjan 1689-1170 in 5 (6) 20, 21 (1) be have both built is bortest and р орег.

In view of my above from group case, the following order to 12

. 1. 図は日間 --

- Luphold rapid total of domard of Ps. 54,31, 2781, 2606. Section 114 along ii. with interest under Sessor 39AA of the Ast and each uphold imposition of censity of Rs. 64-01-9764 unriqui@et655 - 1.60 of the localend penary of Re.1.97-1486 caded Rule 25(2)fold the CER to Apparato No. 1.
- Luppoki irapos ponikć ponacy of Rold 59.0006 , under Pule 18(1) of the SER. and penalty of Radi.97 (1484), note: Rule 29(2)(9) or the CERC on appealant No. 2.

By R.P.A.D.

M/s. Bar sal Ship Didakers Piliki	िर्मा विश्वन्य (शेष्याः नगिः - । १६)
Plot No.25, Ship recycling Yard.	ग्लीस भागत् जिल्ला विश्वस्थानीचा क्षणि
Alang, P.O. Markir	१०विशः - भीन्त्रभागः २
Blatt- Bhavanagar	क्षित्रस्य - १ क्षणार
Stri Rubet Kapporonand Bansal	की अवश्यक पुरुषेत् कर्तरः
Director	शहरेक्टरः
M/s Bansal Ship Breskere 5 Liú,	नेतर्स स्पत्रः देशर देशर ५० ह
Plot No 25, Ship Boodystog Vars,	रक्षणे से २४ किंग संस्थानिक गाउँ
Alang, P.C. Mana:	उक्षण - प्रोप्तः १९७४
Dist - Bhavnagar	किंग्स्य - १९७६मा

Сору (а :-

- 1) The Ed. Chief Commissioner, PCSUP Central Excise. Antiredated Zone, Attiredatable for his kind (afoguer on
- 7) The Commissioner, CGST & Central Excise | Bravinggar Commissionarate, Phayragan for internation and necessary policin.
- 3: The Asst. Commissioner, CGST & Central Excise, Division III. Heavings from higher i∕ fecessary action . ii∕4: Guard File