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	nahun <sub>oʻoʻt</sub> i İsx Marksî	स्ट मधोअसी स्टाइस स्टिक्स दिविकाल से स्ट क्रिय क्रिस व्हेल माज्य क	กโลกุละสู บุล สิจา คงสักจะสำนาณ MISSIONER (APPEALS), OST & ENTISE, CLUTHER METRO, OST Ratio T), ARGS Course Rule Road, F), ARGS Course Rule Road, F), ARGS Course Rule Road, F), ARGS Course Rule Road, Math. C, Could Savepton Ratio, Rule,	CENTRAL LIS CAL	
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रनि- न	শ্রেষ্ঠ হারা হারীর ধা স কার্ট সেলের কার্ড কার্ট কার্ স্থানায়ন্টসায়টোটো স্থানায়নটাসায়টোটো		94-3-1- 2007-5 DHM ENC4 9 000 JAC 34 2017-18	Сонау 12 ж 17-1 1-200 М	
Ē	<ul> <li>श्वीन भारतेश संख्या(;</li> </ul>	hdush sAlipital Nojh			
		BHV-EXCU	<u>S-000-A PP-036-2019</u>		
	भारत का दिसी का Drive al Contar	31.01.2019	or strand of etfly 2 Deer of issue	11.02.2019	
	· ·	ा आसुल (अपीत्सा, मात साम्बर Sarvash, Princip	नोन दास सोरस/ al Commissioner (Alquesis),8a	ıjkı:I	
•	ास्त्र-२४ / वास-स्ट / 1	กเป็นเล. การ อาร์จาลัส จ	ी सीम अन्सर अन्तर, येथ प्रदेश करन् एक सेन प्रदेश पूज आदेश में सुम्बद्ध : का बर्ड अंदर (का वाह) कर्ड कर्ड कर्ड (मार्ट्स सेन		
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	अवध्य प्राप्त किर्म्स कर्म्स्य कर्म्स्य जन्म सम्बद्धाः कर्म्स्य क्रिस्ट्रिय	त्र वाह को के लेखने किया अन्य के यो १९ व्याप्त कार्यका का Appen	' San a Bàn (nyadà ann an an air). Buile fha Lui Airte Al Dhantairte Air	an Reisian Ar Subach é in Islawar	
Ŀ	तीमन् अल्ब आहम्म सर्वत २०१४ मध्य अस्ति २२४	প্ৰদানৰ প্ৰদান গণ্ট/নাও ভাৱে। নাজ্য প্ৰশিক্ষিয়ালে সম্প্ৰিয়া	પ્રેમના મેટ્ટી પ્રધા કેટ્ટી પ્રમાણ પ્રાથમ આવે. આવેલું આવ્યું છે છે.	ha is a lis autor) was	

Second as Subsection Second & Year-Reality Aspellate Colorest United Second 15 (1919), 1944 - United Second State the Photos Art, 1954 and Space Lawson

- વર્ષો કે દરમાં આવેલા તું જે છે. આ બેલે ઉપરુદ્ધ નિયંત્ર અને આ ગામ પ્રાથમિક અને નીય આવાળીય આવી છે. તે તું તેન્જ આ વધા આ અને વી જેવલા છે અને વાર્ત્ત પ્રાથમિક છે. Ę ghy ann an Genethou Costerior Baerge Separate 1955 (profile a friummatike What, Serie Mar 2, Kuk, Perrara, Mark Setter a filmeo a schellung fractionen og anne di soorta op
- ्रध्य के सामग्रेक 1991 में प्रायं प्रायं के कि से कार्यकों को कि से कि कि सुरुद्धि के उनके प्रायं के कि अभिनेत का कि क किस हो कि दिया के कि जिस हिंदू कि कि प्रायं के अभिकेत के सामग्रे के कि कि कि कि कि कि कि कि दू li I 125 Bill was regulard substant Destants, Access & Screen for Apoplary Traventi (AD-161, an PA Apop The Art Bill was an analysis of an analysis 20 Usar sec. 25 september 2001 as an as an access of an area of pr

ith ्यों की स्वार्थ्य के से अन्द्र असि इस साम के सिंग प्रदेश का सबस्य इस्टीमानिस स्वर्थ हुए से, य करना से का स्वार अर्थ के सामिश्र के साथ के आग रहा कर आग के लिए जाना के यह से बार कि इस्टीमानिस स्वार्थ हुए से का स्वार्थ कि स्वार जाना के समय का स्वार्थ के साथ का प्रदेश के बाद के सिंग जाना के यह से बार कि देश हैं के साथ स्वार्थ के साथ के सा उसके हिस्टीम स्वार्थ के साथ का स्वार्थ के साथ के स्वार्थ के साथ के स्वार्थ के साथ के साथ के साथ के साथ के साथ क साथ कि साथ के साथ क साथ कि साथ के साथ क साथ के साथ कि साथ कि साथ साथ साथ की साथ साथ के साथ के साथ के स

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- Undingsond bitkern at twelvey Service for on the interpretal homework is a petitive for the form of the service of th ıI.

ezing di Sur Io' Beroda. Ibida e surina il priestand finatesi nel Pere, Deno ofer<sup>a</sup> de ll'orfano di ll'orfano della contra di Severa di Da Iogi unato di contra Severa di Da en Baca. Iogi unato di perella unato Dila finanta Caren Gredic Perie I presidenta della di presidenta di da Secti di Caren Gredic Perie I presidenta della contra di presidenta di da contra di contra periori, e con applicaziona della ppecia esti presidenta di contra di contra di da contra di contra periori, e con applicaziona della ppecia esti presidenta di contra di contra di contra di contra periori di da contra di co

<u>;</u>:...

প্ৰথম দৰ্শন উদ্ধৃতিহোৱে উঠিছে। Revigion spythestion to Government of India কৰা নাই মনা উঠিছে বাৰ্বা আৰু বৃষ্টি স্থান কৰা বাবে তথা বাৰু মাই উঠিছে। উঠিছি বিভাগ কৰি মান কৰা মন্ত্ৰ কৰি কৰা জ মান মনা মন্ত্ৰ ভূপ আৰু মান কৰা হয়, কৰা মন্ত্ৰ মাই বিভাগ, পুনৰী মাইজ প্ৰথম সময়, ব্যক্তি কৰা কৰা মাই মাইজে বিভাগ সময় কৰিব। বি י דידוא

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- ale consistence all all the left of a star, see all spinses and the Daries of the to one offers to expected or extrement appoints. Name in boatene same if payments or one of 11 !
- ्रिके प्रतिदेवे से प्रति के प्रति के कि की पुत्री के कि प्रति के प्रति के प्रति के प्रति के प्रति के प्रति का इन्हें कि प्रति के प्रति के प्रति के कि की पुत्री के कि की प्रति के प्रति के प्रति के प्रति के प्रति के कि प्रत के स्वर प्रति के प्रति कि की नहता के 2000 3 की प्रति 22 के प्रति कि की प्रति के प्रति के प्रति के प्रति के प्रत कि हो? 1-1 en ya Kawa wa na gunya waka una ulawa kawa na kasa kasa na kawa kata na kasa na kasa na kasa na kasa na mana na mwaka Mana kasa na mwana kasa na kata Kasa sujewaka waka na kuta 1990 mila na kasa na (4600 mila) 963
- নাৰ বন্ধ আৰম সময়ে সময়ে সময়ে সময়ে সময়ে সময়ে ব্যৱহায়ে, সময়ে বিভাগৰাক্ষণৰ প্ৰথম, উদ্যাহৰ ও উপযুক্ত বিশিষ্ঠিয়ে, তথ প্ৰথম সময়ে সাম বিভাগ সেৱাৰ উপিয়ে বাজে মহাৰ সময়ে সময়ে মৃত্যু বিভাগৰাক্ষণৰ প্ৰথম, উদ্যাহৰ ও উপযুক্ত বিশিষ্ঠিয়ে, তথ প্ৰথম সময়ে সাম বিভাগৰাক্ষী আৰু বাজে মহাৰ সময়ে সময়ে মৃত্যু বিভাগৰাক্ষণৰ প্ৰথম কৰি বিভাগৰাক্ষণ হয়। প্ৰথম সময়ে বাজৰ বিভাগৰাক্ষী আৰু বাজে মহাৰ সময়ে সময়ে মৃত্যু বিভাগৰাক্ষণৰ প্ৰথম কৰি বিভাগৰাক্ষণৰ প্ৰথম বিভাগৰা বিভাগৰাক্ষণৰ বিভাগৰাক্ষী বিভাগ বিভাগৰাক্ষণৰ বিভাগৰাক্ষণৰ বিভাগৰাক্ষণৰ বিভাগৰাক্ষণৰ বিভাগৰাক্ষণৰ বিভাগৰাক্ষণৰ বি 151 The three a relication shall be not be in the term of Factor V. The Science of Control to with the device of the term of term of the term of term of term of the term of term

्य के बना का राजिय है कि सामित कि से प्राप्त की अस्तर ही आपने बालक को <u>कहा कि लोग महत</u>्य का सामित्र के बांध करने 2000 का सुरक्षक विद्या आप प्राप्त के राज्य स्थान के कार भाषा सी साथ औ ्रिये विदेशमा सार्व्यक्षिति सन्द्री सम्प्रे स्वयं स्वयं स्वयं वि सुरिति अस्त्री के विद्युपित करने 1-1

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- મું મુખ્ય છે. એકો સ્થાપ "મારે કે તે તે છે છે. આ આ પણ બનાવ્યા પ્રયાણ માન્ય પ્રાપ્ય છે. દેશ માન્ય મું મુખ્ય છે. એકો સ્થાપમાં મુખ્ય થયા અને આ બીન પ્રાપ્ય થયા પ્રાપ્ય થયા માન્ય છે. તે પ્રાપ્ય થયા મુખ્ય છે. તે તે તે તે પ્ આ માન્ય માન્ય પ્રાપ્ય થયા માન્ય પ્રાપ્ય છે. આ ગામ આ ગામ આ ગામ આ ગામ આ ગામ આ ગામ ગામ ગામ બાદ આ ગામ થયા ગામ ગામ આ આ માન્ય માન્ય પ્રાપ્ય છે. આ આ ગામ આ માન્ય માન્ય આ ગામ આ આ માન્ય આ ગામમાં બાળ માન્ય આ ગામ આ આ માન્ય આ ગામમાં બાળ ગામમાં ગામમાં ગામ આ μ.
- बरागीमहित्य कामावस सम्बद्धां सेन्द्र २०४४, क करन्त्रा , वे अनुसार पर आवस का सामन अवस २८५११ स. ५ आ २०१८७२ स्थे स साम दिवेद राग माग वागर : цĽ
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- (4) A first of a first of a first of the side of the side of the second second sector for the side of the second s second sec r. :

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# 3: ORDER-IN-APPEAU ()

M/S. Sujarat solutifial Development Correspondent Curatash (hereinafter) referred to as "Appeliant") filed appeal No. V2/518/6V3/2017 against Drozowin-Onginal No. BHV-EXCUS-002-JC-29-2017-18 Cate: 47.51.2017 [nereinatuer] referred to as fimplighted recent, based by the Jt. Commissioner, CCST & Central Extise: Bhowneger, (province) referred to the "lower adjudicating autherity").

2. The brief facts of the case are that the Appellant, a Govenment of Gajarar undertaines, was established under the Sujarat industrial Development. ALU, 1952. The Aspellion-Iwas registered with Servers Lax having registration No. AANCG8037D5D005 under the category of tReating of thanovable. Property, Service) in respect of industrial restate located at Groagada.

2.1 he Audit of the Appellant (evented-that they were generating incomes, from various operations and booking these incomes under different. Heads lake Nur Agriculture Conversion Changes, Transfer Edge and Infrastructure Upgradation Fund which were casable and the Appellant was liable to phy-Shrvion Tax under the exteriory of "Rentring of Immovable Property Service". It was also puserved by the Audit that the Appellant was receiving consideration in the total of Nuclei illustion penalty and Misc. Recovery, Recovery, Which were liable to service tax under the category of "Basiness Auxidiary Service". However, The Appendiant was not attachanging Service Tax on these incomes.

Show Cause Nation No. VIST/15-17/Austin/IIUSCN/06/17 Instea 17.3.2017 2.2 was issued by the Apdl. Commissioner, Control Excise, Audit 14, Rajket, for the period from Octoper, 2011 to Marco, 2016, catting the Appedent to show cause as to why Service Tax of Rs. 23,06,4007 - under "Business Auxiliary Service" and Rs. 76,35,3607- in respect of "Renting of Temovable Property Service" should not be demanded and recovered from them under Section 73(1) of the Finance Act. 1994 (hereica/tet referred to us "Act"), elong with interest under Section 75 of the Act and why penalty under Sections 76.77 and 78 of the Act should not be imposed on them.

The above Show Cause Notice was adjudicated by the Joint. 2.3 Commissioner, USSI and Excise, Phaynagar vice the impugned order which confirmed Service 12x demand of fis. 23.06,4007- Under Flushess Auxwary. Service' and Rs. 76,35,3607- in respect of 'Renting of Immovable Property. Service1 and ordered for 15 recovery under Section 73(1) of the Act along with ratemas under Section 75 of the Act and imposed penalty of Rs. 99,41,7607.

Sector Page 3 of 15

under Secular 78 with the set (1, ..., 1) is the large of the set (2/(1)) and section (2/(2)) is the set (1, ..., 1)

Selve and the second 3\_ an Argin Ind Arg professor appeal on variable growth a m that die Abhalen in t subject in contain the Calendo Regustrial Development with 200 of the work of a Westweld of the burnese of socializing ordering works and the curnese of and industrial esteid it constituting concernial dentre miconnection with the solution of the solution o areas in Guiarat Kressi wiley in no webb by Lanke as Linx, zones . : • and new industry including the second s willing industries have electric to this sector accepting gase is development. rade taxe also a kowards and a space of

(iii) That Section Groups and the sub-sub-sub-sub-sub-sub-sub-section department. by the Appellon: Which should ge in a constance so set & and observe ostablisha and mened available its own account of the Dark standard of the Darke of tack**itating the**  $_{\rm c}$  . From  $\rm e$  -sector of the way of location sciencest we confirm : To Cristian Structures to preasi and leans to reduce for the second i spinner da erebbenments with ampertak bet selve wet to a , and in the state of the state of the second and such structures as which which coveletares). The Section of the section of the section of the section of water sepply virking the sector of the sector of the sector of the sector. responsibility of Reality AR, if the well in strategy of the strategy AR. The Appellance inclume and exclusion of the second strategy with the and collects. Ampellast incurs even in and these within any collects maintena de Cologos Nuel De Los 193

(iii) The Asterikasis is seen in The Field of the induce poet of transfer of the field is got the and the transfer to the transfer also be detected as the set is seen in the set of the

socialies the conditions as stated under the definition of the value category. Further, as per definition of <sup>4</sup>nervice' contained in section 658(44) of the Act, transfer of title in immediable property by way of star, gift or in any other manner to excluded from the lawy of service tax. Hence, they are not Rable to pay service tax on 'Transfer Reef collected by them during the period October, 2011 to warch, 2016.

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The Appellant develops therastructure like roads, sustained water supply,  $100^{\circ}$ drainage etc. within the industrial areas or colores which is their primary. responsibility in view of Section 37(1) of GID Act. For any estate developed under GID Act, 55% of the contribution is made by the State Government and batance 50% contribution is made in the rando of 60:40 u.e. 60% is contributed by the Appedant and 10% is contributed by industrial association. The contribution towards development of the estate as collected by the Appellant is tornied as "Infrastructure Upgradation Func". Pust development of the estate, the Appellant recovers total fund contributed by them and industrial association. from the plat allotteds and transfers 40% of the fund to respective industrial association. The Appellant is discharging service tax on their 606 contribution. w.e.t. 01.07.2010 under service category of "Renting of Immovable Property. service', However, they are not liable to pay service tax on 40% of contribution. since the same is not retained by them but passed on to respective incustrial. association and also shown as liability in their financial statement. Since there is no provision of service, service tax demand under the service category of irrenting of immovable property servicel is not sustainable.

(v) The Appeliant acquires land from the state government and converts agricultural land into non-agricultural purpose is order to downloat industrial estate and makes payment of Non Agricultural charges to the State Revenue copartment and recovers the same from the about statutes. The Appeliant is bischarging service tax wiell. Ch.07.2012 i.e. after introduction of negative list As there was no specific entry prior to fattriduction of negative list, the Appeliant had not discharged vervice tax on the same. The impligued order has confirmed service tax demand under the category of "Borting of Immovable Property service" without giving logical reaso log as to how the same of the same of the same the category.

(vi) The Appellant is charging principly in clouholders in case of non-utilization infiguration dusiness activity within stigulated period which is tended as nonlutilization penalty'. As the smound collected is to the nature of fines / principles

and not warded and the second s Service".

(vis) - Notworstone September 1, which is a second considered on the heing a governmented operation of the providence Conflict Matter Child 7,007 Zigar Samuli to entry Site. My of Class. . . . . in access no. 2003012-51 dated 25.06.2012. which is more as

"39. Services by wighter in the line of the original may activity to relation to any function entrained - to a state where models 745. W of the Constitution.\*

As defined as a second of the state of the services provided by government. authority on inflation waiters if available priorited to standorship under article 243W of the Colorisation and the second second system for the term fgovernmente, aufositivit to the loss it classe 200 of the restituation sume. The Appellant his been priphilided up the Legislatum of State of Gutarati under the Eujarat bottoksic. Tex club card, 2011, 232 and performs law functions in accordance with the provide exercises up ate Act and the Rules made therei nden. The Wepe farving that is the performantal auxhority and performs. various functions what have a counter to know all ipally under Arciale 243W of the Curst cution and Schedold C. Charther Contribution. These Reisen be said that any activity performant by interview to the the purpose for which, apprillant lies been established, including out examption from service tax. under entry 39 of the wega submitter. Notification No. 25/2012 ST cated 20.06.2012 and hence service has plant one he tryisule and relied upon. Judgement of Bonney Bigh Count states 1, Jose of MRC reported as 7018 (9). G.S. (11, 372 (Snorth)

(v(d) Singe the Appellant is net table in any Service (fax confirmed in the Impagned order, its interest subvelue at 6th Section volof the Act.

The impligator provinces classic deviation invoking extended period of fixi protection under Section 75. Langer parity of structure can be invoked only recase where there is fraud, collector, wildlik pisstatement, scopless on of facts, on contravention of provision of any Exclosible which for integers, available payment. of cuty'. The enus to prove the chore was be internated evade payment of ducy is upon the department which fies not been discharged. The Appellant was established under the provisions of Gujarra Japuscial Act, 1562 for performing. statutory functions. The Appellant boing a government body could not have a malafide intention for non-payment of service tax. Selianne is blaced on the fellowing judgments:

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- (a) CCE v. Bhashi Petroloum Engoration (1d. (2016) 344 F T 657).
- (b) Karnataka State Tuurian Dev. Coron (197, 5, 251 /2013) 21 STR 51.
- (c) Waharashta: Stella Scell Contification Agently V. COCCE (2015) 37 STR 655. (Trill-Mumbal)

 (c) Gujaral Naronacos Valley First Silvers & Chem. Url. vl. CCF (2015) 37 STR 796 (Trite Ahmen)

4. Personal Hearing in the matter was attended by Shifi Devang Ga)Jan. Chartered Accountant and Sari Segar Wakacia, Assistant of the Appellant who reiterated the grounds of appends and submitted that GIDC has been dreated by an Act based by Bujaret State Legislaturer that GIDC is a "Government outputity" and heared mega exemption notification applies to it; that the issue has already been decided by the Hunfble sign Court of Mumbai in the case of CCF, Nashik Vs MIDC and this case law is applicable; On query as to how MIDC is similar to GIDC is various aspects as divided by the Honfble lingh Court, ne submitted that he will make additional submissions within a formight.

4.1 The Appollant vice letter dated 17.1.1.2018 submitted additional submissions as underc

(1) The oppellant reproduced various provisions of Gujarat Industrial Development Act, 1962 and Maharashtra industrial Development Act, 1961 and submitted that object and functions of the Gujarat Industrial Development Corporation are same as that of Maharashtra Industrial Development Corporation and furnished copies of GID Act, 1962 and MID Act, 1961.

(ii) That the Appellant is performing statutory structions as per G. .D. Act, 1967 and G. .D. Rules, 1963 and various charges collected by G. .D.C. from olots holders are compulsory levy which are collected to discharge statutory functions in terms of Section 10 of the GLLS. Act, 1982 and relied upon decision or the Honfole Bombay High Court passed in the case of CCE Nasik Vs M/s M.I.D.C.- 2019 (9) G.S.T.L. 372 (Boml) and preaded that appellant is nut trable to pay service tax or charges collected by sheril.

(iii) Relied upon Observin-Original no. AHW-EXCUS-COM-D11-18-19 dated 28.09.2018 passed by the Commissioner, CGST & Contral Excise, Ahmedahad South to their own case who drooped the Service Tax domand for the period post 1.7.2012 by relying upon entry no. 39 of the Mega Exemption notification No. 2572012 bated 20.06.2012, considering GLD.C. as a grocramental authority. Aixa relied upon Order-in-Original no. RAJ-EXCUS-COD-COM 04-17-98 safet 25, 10.//018 passes by the Commissioner, CGST, Rajkot in their own case.

4.7 The Appellant vide email dated 10.1%, 2018 submitted ropy of Order No.  $\Lambda/124/872019$  cared 00.10.2018 based by the Honible CaSSAT. Abmedzbad in

Chein dwir Gister, Ettindigistik in die Krizik im die 131de 2015 den werden beführt sichen of Cheine Bawbern diese onderen Chein in die Szüsspiel Geborenville bewigt with description of see Sciences 11.

# Findings:

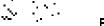
5. If have casefully setsed to the US of the task the impogned process, The lapoisal means and task of the state of the estimations made by the Appellants. The laste to the task of the task of the appellant in table to pay Service Tax under the categorith of her class of the showable Processy ServiceF and "Business Applicant School of the

6. This that the Appelies 1 was established under the Gujaras Industrial Development Act, 1962 for Stirl burts with survey or testy establishment and angeometric fit coveries in the association industrial estates in Gujarat and for establishing contractoristic store in other click with the establishment and organisation of such radiation of the cover in the Cojorat industrial Development Acts, 1962 prescribes investoriation of the cover of the Cojorat industrial Development Junction

FIG. The derivation of derivation of the source of a

- (i) groups by the conversion of the two transmission of the stabilishman, growthe and development of matrixed in the conversion of the basis
- (ii) in particular, and wides, group down to the property of strategy (0) to -
  - (a) establish and stanget industrial using a prevent of the Up the Sloter Geogramma;
  - (a) accession interstrip) is the subcourd of the fact forestrip set on the product and and a solution accessible for an interstations of using all increasions.
  - (c) develop sale can be can accord on the farve Covertment for the mights of the filtering in the states of control of non-inclusive centres therein.
  - (d) Assist Reserved y by number of their intervention into such access or cruss.
  - rdn) undertakte polycaus, kon onder 2005, ordesetter och is end som markiel establishmenna värblikkan surecturer, stell farfalletis es mag bei usokskop för hen atalong astori statistic group, atal de solgtmat :
  - (e) promote to game a source of the state schemes or works, either jointly with other comparest because the state of source with the end of local extensions, of source spectral having a further may at the process line which the Corporation is established and all matters becausted (Eccavel)."

7. I find that the lower organizating subbority has confirmed Service Tax demand on the incomes booked by the Appellant under the Heads of Non-Agriculture Conversion Charges, Tamaica Seconand TriasCourses Upgradation Tune during the Deriod Botokey, 2010 vs. Marcha 2016 under the ballegory of



Page 5 of 10

Renting of Immovable Property Service', i find that Section 65(90a) of the Addi defines 'Renting of Immovable (housefy) as to define

"(90s) "conting officences do prenerty" and researching, for by tessing, froms ag or other similar arrangements of immovable property for use in the course or References of pusiness or commerce but does not induce —

() Lenting of immovable property by a religious body at to a religious body, at (i) repting of immovable momenty to an educational body, impacing Soil of knowledge of lessons on any subject or field, other than a commercial training or costump centre."

7.1 find from records that betail descriptions of above mentioned income. Heads are as under:

### Non Agriculture Conversion charges:

The Appellant acqueros agricultural lead from the State Government and converts into non agricultural purpose in order to develop industrial estate and makes payment of Non Agricultural charges to the State Revenue department and recovers the same from the plot allottops.

- (ii) Transfer fees: The Algeblant has collected 'Transfer Fee' for the corpose of transfer of title in land / electrom one allottee to another allottee.
- (if) Intrestructure Upgradation charges;

The Appellant develops infrastructure like reads, water supply, thainage ore, within the industrial areas or estates in view of Section 37(1) of GD act. For any estate developed under GD act, 50% of the readtibusion is made by the State Government and balance 50% contribution is made in the ratio of 60(40,1.e., 60% is contributed by the Appellant, and 40% is contributed by Industrial association which is tended as 'Intrastructure Upgradation Fund'. Pust development of the restrict, the Appellant recovers total fund contributed by the association from the place state transfers 40% of the fund to respective industrial association. The Appellant admittedly discoarging service tax on their (40% of lemmovable Property service' has contested service tax demand on 40% of contributed property service' has contested service tax demand on 40% of

7.2 Hind that the Appellant has non-valued the confirmation of domand under the category of 'Renting of Immovable Protonty Service' on the grounds that the appellant, being a governmental authority, is chigade for exemption Wielf. 01.7.2012 bursuant to ontry No. 35 of Mega Examption Notificiation No. 25/2012 51 dation 20.06.2012, which supulates that any services provated by government

Section Sector

authority in relations (in gradient .. .. the Maniplashie ander entitle . II. . 243W of the Caust 1.436 . . The lower line easy tax, that they are asvered by the top of the sec that Sata etc carles "Utense 2(s) of ..... the notification of version in the second introbitation is under lagistature or State of Gujand onder the first the -- Consequence Art, 1962 and performs its local total while council size in the bines of coloradia the Au, and the Rules made three, reactions and the end made by them are same as entrusted to a manifely end of the manifely of the Constitution and Schedule XI of the Constitution was a gravitable of price exemption from service tax. under entry 30 of the weath structure of catterning. 25/2012-ST cated 20.6.2012 and tabled upon 3 by crisished uponary high Course passed in case of MODE reported as 2017 (51/010) at 1372 (44). (1)

8. In find that Notific size work 3/2/11 of dated 20:06-2012, inter *alia*, exempts pertain services from the second control hap and SUND 39 of the said institication reads as chosen.

130 Servers is a barrier and and the subgraf and activity on sources to any function enclosed in a country offic updat article CAN W of the Construction?

8.1 I find that the case is a writeents: Authority Pasiteen defined under Notification No. 25/2012 ST \$2000 20 06-20. A write reads as under:

(q)"governmental subox of stocks a bound of submitted is on any other body estimates the set of the contrast of goals of the way of equily of stoch of by Covernment and set up by an Algorithman of a Save Legislature roldsmy out any function enterplay of the track variantics and realized 243 World the Constant of "

8.2 Further, the definition of flict inter (governmental currently" has been amended when I, 33-D1-2014, kine risk Statict, 96, 6272014-57 pated 30-01-2014, which reads as anser:

usu "governmental puthorapy" in was as puthorapy or a board or any other. Body:

 (i) Set up by an Activity endowing a set state space and pre-(ii) Established by Convertment.

with 2006 of more participation by wey of straty to be dealed, to many editable function entrusted to summing the solution of the Constitutions?

8.3 If find that the Appetizion's a comparation set up by an Act of State Logislature of Government of Gujanu. As our strictly provisions of the Gujarat industrial Development, Aux, 1962, since Government of Gujarat has full control over it. Therefore, these constat be why doubt that the Appellant is a governmental authority: dowernor (1064 that exemption under SUNo.39, under Notification No. 23/2012 ST do od 20-06-2013 us available only to the services unovided by a governmental evolution on teleforite and function entrusted to a

municipality under Article 249W of the Constitution. The functions entrusted to a Municipality have been prescribed under To softh Schedule under Article 243W of the Constitution, Which reads as under:

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- "TWELL LTSCHEDULE(ARick 243W)
- 1. Other plant og i se uderg te eat plenning.
- Regulation of land use and construction of buildings.
- 5. Naming for contentie and social daycoproces.
- Recentlini est
- 5. Water supply for domestic, industrial and commercial purposes.
- 5. Public health, canitation consumptions and solid wasid management.
- V. on a sacara si
- 8. Orban forestry, protection of the evy teameur and promotion of coological.
- върских
- Nofeguardary, the attacks a second second second y<sub>1</sub>, including the Earth/capped and menally recorded.
- 10. Stem unproventional size appreciation.
- 11. Ut has powerty a leviar and
- Provision of labor amenibies and facilities such as parts, gordens, obsygnous s.
- 13. Promotion of with toly educations, such assuming aspects.
- Burials and fourial grounds; committees for matrices grounds and weather enconstructions.
- 15. Calife pounds, prevention of chiefly to an work.
- V and statistics including: registration of births and decline.
- Public comparings in changing growing long, packing long, public stops and public comparisoners.
- 18. Roy dation of statighter nonses and temetics."

2.4 I find from the above list of functions entrasted to a Monicipality, that the services of "Renting of Immovable Respondy Service" is not covered under Tweltth Schodule under Article 243W of the Constitution whereas conversion of agriculture and into non agriculture and transfer of land from one allottee to another ailothee is being cone by them on behalf of State performing statutory. function as at Shi No. 2 of 32<sup>13</sup> Schedule. I find that intrastructure Upgradation Charge is collected for development of information within industrial. area/estate which is also statutory function in terms or Section 13 of the Cujarati Industrial Development Act, 1962 and noveled by St. No. 3 of 12<sup>9</sup> Schrould and tence, the Appellant is eligible for exemption from payment of Service Tax on Non Agriculture Converseer Charges, Transfer Fors and initiatiouture. upgradation Charge w.e.1, 1.7.2012. The Appellant has voluntarily paid pervice. Tax at applicable cost on 60% contribution marke by them wherful 1.7.2040 and has contested Service Tax demand only on 40% of contribution transferred to i respective industrial Associations. They can get benefit only what has been rhalimson by them in these proceedings. I, therefore, set asize cemanal confirmed vide the impugnet order on above charges for the period line. 1.7.2012 to wareh, 2016 and penalties imposed on the Appellants in this regard.

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Regarding sample in the main primus from Platober, 2011 to Q. 30.6.2017, the April Lore form the second state of the symplectic gradients gradients as pre-G.LC. Adapt?62 and L. C. Likes 1111 And stations charges collected by the Appetiant free states of end of the readility which are collected by them to discussed and the second a or factor (2 of the GLD). Act, 1962, grad reliest ellow or solid or this with the Bothbay High Coort passed in the case of CCC Residues from the state of the ASUL 1972 (Bowly and plraned) that appellant is not usble to pair in order or a conformation coorges updetted. by the T .

The Appellang box religion of the program way of the franciske Burbbay High 9.i Court im the cost of Control and a Court Excise, Result Vs Maharashtra, Industrial Development Contests of reports investigates (4) G 5.7.1. 372 (Borns), wherein the Bohlble Stati Strain Stational

au12, We have obtaining reference in Germanical in the MID Act which provides that the function of the  $\beta$  (CPC by Let  $[A]_{i}$  ) to a up to destrial space with a convolution of the  $\beta$  (CPC by the of MEDC is not indeed only by establishing industrial way to a station of the provincings of factory sheds to inclusional loop loops of the former of obligation of the MIDC is and to have go each indicated indicates a provided in Station. Jorgsford, A factor statuting configuration of the MLRC to provide machine ns. defined in the second state of the second state of the states of the sta maintain amerikisk is, its houses, i soon a soin as loads, water supply, street, ligning, the range are it may be fine for the availables file when a he honorm was made are port of the star large transmission of the Mit X, ander MiD Act, Acstated metion, the compression experience service services metions. There was he data juri providing the operation and the including maintenents. monogement and strategic Astronomical Steadard Land 18th December. 2006. For providing manufactors the plot between the subvective is solving are get collected by SGDC are executed in the white of comprising large which is used by M.D.C. and the set is states y obligations update Section 19. With a man even in the Greichik. Original, Basic is in the long of fact (corrical that the service particulation in the twevice has was cought to be levied was not ⊆other once of status agricality device

3. Therefore, we find not the interview when by the Appelland Tabunal No. substant of question of low use suffi

#### (Emphesis supplied).

The Hardiske CES Mill, Afrondahad vide Final Order No. A/124/9/2018. 9.7 cated 80.40.2019 passed by the to sobellary's own cross, wherein it has been Feld that.

fit We have contain y contridered she subtransions and they built the sides and. no rand the records, we find that dorigs to the forget to compare so in the light of the judgment of the field of Preparety Pight Court in the case of Marshallow Endustries: Development Corporation (Super), as well self in moniforder reported. m 2008 (2) TAB 1798 and MAN (2013) IN COMMAN Membri respectively. and in processes of other tissuest mate Editors to Development Cooperation Infi-20-8 (S) TMI 367-CHSU4 <sup>C</sup> fizzy de bil Torriew ad <u>dis above laderna de Unit</u>a is no taxability <u>on Manton ex.</u> Charges on scred by Sup<u>e Industrial</u>

- Second Second Regenzations

Development C<u>erperation From the activation part respons</u>. Accordingly, the incognist order is an basic Agenetics in each Spin

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# (Emphasis supplied)

9.3 In view of above judgement of the Honible High Court and Order of the CESTAT. I hold that the Appellant is not liable to pay Service Tax on Not Agriculture Conversion Charge's and Transfer Rees during the Benod from Optober, 2011 to 30.6.2012. The deniand confirmed for beyment of Service Tax on 40% or Intrastructure Upgradation Charge is a solution of the period. I, therefore, set as de Service Tax demand confirmed for these for the period from October, 2011 to 30.6.2012 also, which have been challenged by the Appellant in these appeal proceedings including on the issue of service tax paid by the Appellant on 60% of Infravous use Upgradation Charge.

10. If And that the lower adjudicating aethority has confirmed Service Tax nemand under "Business Austriary Service" on Income booked under the Heads thon Utilization Penalty' and 'Misc, Receipt/Recovery', i find it is pertinent to examine the Indefinition of 'Dusmiss Auxiliary Service' under Section 65(19) of the Act during the period, which was as under:

"(19) "business attailing subjuct" momenting subjuct of 091 00 to [14]

- arometrical or marketing or sale of goods produced on provided by on polonging to the client, or
  - (a) promotion or manazing of service provided by the clients of
  - (all) any contomer core service provided on behalf of the clients of
  - (iv) processes of goods or services, which are inputs for the office, or
  - (v) production or processing of goods for, or on behalf of dividival; [-
- (vi) provide of solvice on behalf of the client; or
- (vir) a service in order to anothing to any activity specified in subpleases (in to (vi)), such as billing, issue or collection of recovery of energies, psymetry, mointenance of anothers and reconstrucrecovery monogement evaluation or development of prospective contenter or vender, public relation services, management or subarctice.

and includes stave or or commission agent, but does not include sity, serving that amounts to remutative stresso-olde goods.<sup>9</sup>

10.1 If find from the memory available that "Non-Utilisation Renality" has been represented by the Appellant from the plot all others, if work had not been started by the allottees on the allotteed plots within stipp'ated time. Thus, it is in form of penality for not utilisted the abottee plots by the allottees of ner the versa and condition of the allotteent of the plots and this is not for any statistical functions being performed on to be performed by the Appellant as per 12<sup>11</sup> schedule under Article 243W of the Constitution as detailed in Para 8.0 of this order and report Gauge for the second second of the function o

10.2 Regarding service of the firmed of the monitolized vid ander the Head Miss. Receipt/Receiver," in the firme of the monitolized bills as on of increase bills as on of increase bills as on of the monitolized on the first service of the second of the the booked under the first line of the provide of the transfer of the second of the the the Appellant booked (not the control of the bills of the property, nonversion of two stats into one flott of the transfer of the bills as of the transfer of the submission of two stats into one flott of the transfer of the bills are able to be a solution, premium collected at the time of pine station when the decrease of the bills are able to be able to be able to be able plan for approval station when the state of the bills are the top for the submission of plan for approval state of the state of the bills are the top for the submission of plan for approval state of the state of the bills of the top for the submission of "Business Application of the state of the bills of the specific the state of the top application of the motion of the state of the bill of the specific the specific to be been as provided the state of the bills of the specific the specific to be specific to be able of the state of the bills of the specific the specific the specific to be specific the control of the state of the bill of the specific the specific to be been as the top of the specific time of the state of the specific the specific the specific to be specific top of the specific time of the specific the specific time of the constitution ond on the above weld progenite the time of the specific time.

10.3 In view or read (0.1) and (0.2) can forward of Service Tex den and of FSL 23.05(4007-  $\approx$  orderin. Since, thereas,  $k_{\rm eff}$  suils. One expectant is required to may this betrade along with 2160-3160 polacely rates, formgine period, order Section 75 of Tip Ac2

11. I find that the issues of the Ampriland and a set in the Ampriland and a termination of law and hence, insidenaity is not possible on the Ampriland and a set ion 78 of the Automotic Section 78 of the Automation of the Bayastran System Ltd., reported as 2017 (2001 EUF 208 (SC), wherein in it has been hold that.

<sup>10</sup>) Encode as for example if recorded period of traintrion is concerned, we have gone through the scheme of the Contraintrion and are oblighed period. The has rightly held, but intercorded period of thinkated as per the provider of Section (TAP), of the Contraintripe Act. 1944, would be applied on the given excernation.

6. However, we are of the opicion for approach like the true of energy of the problem for any second sec

7. In the diversal transmission of the propert opposition of lowed in part by susmitting the Contralication of 0.077 to 0.071 pixel mass  $\tau$  on 10-3-2003.

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ग्रेल्स आफुन्स (अपील्स)

11.1 Lassonabilish environment Passes up the Ponible COSTAT, New Dollaran commany of Para Consistency Services Unit reported as 2018(18) GSTL 478 (TruDou) duty command by the Han ble Section of Caustian reported at 2018(18) GSTL 0127(SC) reprior hold that populity is non-independent dispute relates to interpretation of statute and when the issue Costant is compacting and in the nature of the login when the Section of vertices can believe.

11.2 In view of speed, Unauf the new new risking-read vide the integrand. When are set as Mr.

\*2. अमीतवली एकस था। मी भई आतेग का सिथ्दाः अध्येषण प्लेक जे लिया जाता है।

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To, Cujarat Industrial Denektostedu Corporation GaDU - Disacters Cop. Prst Official Sekkostolaş Junagadı.

<u>Copy 54.</u>--

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