: प्रचान अत्यक्त (अ ^{र्थ} ेन) का कर्तालन, तरनु इने तेला कर के योग्वीय उरणभ होत्राः	
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त्र 👘 महिला भाषेत्र एक समय प्रदेश करते भिन्दुः ।

BHV-EXCUS-000-APP-40-2019

जारी कहने भी पार्वण्ड Date of issue

18.02.2019

रुभार संदीध, प्रधान अञ्चल (क्रमीट्स), राजनीट लगा महिता / विकास संदेश

Passed by Shri Mumor Soncosh, Principal Commissioner (Appedis), Raikot

• अन्य प्रमुख अनुवार प्रमुख अवस्थित का अनुवर्त्त के दिन उत्पाद भूत्वर नामकर, बन्दु उत्त नामकर अपर्क हो मान्य प्रा और मान्य प्रायोगी साम में सुत और में मुलितर का प्रार के Materia combined the second of a successful of Accordance and the conditional Report 7.45% हे सुरियमी, manage/Carteriblean

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- ्रे भी करेना मुख्य कड़ील एकत्र स्वरूपक विवर्णन (कॉर्ग्स्ट आप्री) करीन के दीन करता कुन्द्र बहिलियम का मिले का 201 के आप कर्म कि अध्यक्षित हो कि तो से प्रायं के प्रायं के नीति उसके की का कान्यतिक के दिन करता के का का कि साम दिन के आ श्रेष्ट्र के Complete State के प्रायं के प्रायं के सिंह के साम करते के साम करेंद्र की की साम करना के 201 के समय के इन्द्र की का सुरुष कर क
- ें में कि प्राप्त के संस्थित से ते के दिसे के से प्राप्त के स्थित उत्पादक का एक सेक्राय स्थिति स्वाया (करने को कि से कोई की स्वाय से () - प्राप्त के प्रियोग के के स्वयं को कि !/

¹ Respects Rends of Carty of Residues A second to specify the function for West dates for a flow states, some defaults at the flow states to be passible, more without to

- म्प्रसेत तथी देखतात हो है। इस प्रभाव अन्यत्र के स्वाया प्रया प्रयान प्रतिमेत्र किये। इस प्रभाव के प्रयान के आध पुरादेश हैं मारण अनेता की जात है। हित्ते के अपने के प्रायम के स्वायक के दिया प्रयान के अपने आहे. मार के के प्रयान के प्रयान के प्रयान के अपने के उन्हें के अपने के मारण के प्रयान के प्रति के कि का की का करी कि अध्यक्ष से के बाद के साम के जात के जात के प्रयान के प्रयान के स्वायक के कि प्रयान के कि अपने का के जात के जात क

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(j) अभीनी का राजि के साथ के लोग होते हैं। से वार्थनिय है (2) की राज (201) के स्वान प्रवान प्रायतांगर, 2010 के पिया (1) के बात विश्वाल क्षण होता में साथ के विश्व के से प्रायं के बात किन साथ के निरुद्ध को बनी बचे के राज के साथ के अपने के लिए का स्वान के बात का गए तो के नाम के बात के प्रायं के बात को लिए से बीच (1) के से अपने के साथ के अपने के साथ का स्वीनिय के बात का प्रायं के बाद के बात का प्रायं के बात को दिन साथ की बीच (1) के स्वान के को के साथ के अपने के ताक का स्वान के बात का प्रायं के बाद के बात के प्रायं के बात का का प्रायं के बीच (1) के साथ के स्वान के अपने क साथ का स्वीनिय के बात का प्रायं के बाद के बात का प्रायं के बाद की के साथ के साथ के साथ के साथ के साथ के अपने के साथ के बात के बात के साथ के प्रायं के बाद के प्रायं के बात का प्रायं की की का कि साथ के साथ के साथ के साथ के साथ के कि बात कि साथ के साथ के कि निया का के साथ के साथ का प्रायं के की की का के साथ के साथ के साथ के साथ के साथ के में की की को कि साथ के साथ कि निया कर के साथ के साथ का प्रायं के साथ की कि साथ कि साथ के साथ के साथ के साथ के साथ के कि साथ कि साथ के साथ कि साथ के साथ के साथ के साथ के साथ के साथ की के साथ के की की के की कर के साथ कि साथ के साथ के साथ के साथ की साथ के साथ की साथ के साथ के साथ के साथ के साथ के साथ कि को की की की कि साथ के साथ के साथ के साथ के साथ के साथ की साथ के साथ की के साथ के साथ के साथ कि साथ के साथ कि साथ के साथ के साथ के साथ कि साथ के साथ के साथ के साथ की साथ के साथ की साथ के साथ के साथ के साथ के साथ कि साथ के साथ का साथ के देना के साथ का साथ करना है ता साथ के साथ के साथ के साथ के साथ की साथ के साथ का साथ के दिया का साथ के साथ का साथ करन है ता साथ के साथ का साथ के साथ क

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- परिश्व में के ने 1997 के 1998 में पर कर वादियों के 1997 के दिया के बीगर रहते आपके के प्राप्त करते हैं भारत स्था ज्याने कर कर 1997 के 1997 के 1997 के 1998 के 1997 के 1997 के प्राप्त करने के 1997 के 1997 के 1997 के 1997 के 19 अगर प्राप्त के 1997 के 1998 के 2019 के 1997 के 1998 के 2019 के 1997 क 2019 के 1997 के 2019 के 1997 के ш
- аралан түзү байрар кыргар түрүн алдан арта Аланатта түзүн үүртөн түрүү калары байуу калары байуу. Ойорб түзү бу Калары калары калары түзү калары байуу байта. Таралары байлары байтар байлар түзүндө калары түзүн түзүн байтар жалары тарыхар калары калары калары байлары тү Таралары байлары байлары байлары калары калары түзүн түзүн түзүн түзүн байлары байлары байлары калары калары ба ιų.
- भाग प्रसन्न अभ्य स्वारंभ स्वारंभ सिंह दिवा प्रारंभ के स्वारंभ के स्वारंभ की साथ कि कि विश्वास करें के सिंह अन्यत्वी "South definition of the system Section Metalactic Definition and the 715
- अपिरे से से सुने के अन्य के अन्य का से से का इस्टे बाईस का अभिनेत्र कर काल जिनक करनाजां के इस्तू करकरों। कई से भेज सुन स 20 से 20 कि 20 में 20 में 20 कि 20 कि 10 कि 10 की 10 की 10 कि 10 कि 10 कि 10 कि 10 की सामय की 10 का सामय के लिए इस इस्टे 1.50 nn (n) September (n) dipertitional in a statistic de la version frankright en finnetseure uner fai perudapen tak europ Al en al Sulla Annales sister de Consterney De Sonn of Annahoppaly on in 2005, du duta ppactal material 1095 f Ne Sinanne (Nud) Analo 12
- प्रभाष अञ्चलको को प्रायंत्र प्रायंत्र स्थान के सीती देखी करता के अन्यति में जोतन को दिशी दिने चौतक कम मैंक्वीन के सिंह है, इस अन्यति अन्यति में देने स्वतन की बाजू जोड़का प्रायंत्र भवाव कर में दिने के स्थान के दिने की कार्यता के सिंह के स इसके स्थान के बाद दिने के सीती प्रायंत्र के सामग्री के स्वतंत्र की भवाकों स्थानकों के सिंह के दिने के सीता के दि इसके स 12] - pr enten 2007. En el como por una se el conserva en dura comunitaren estado asiate pero espectado del Caso di Barra Aporeki, Sob 2001 - Recifica mente a sua comuna da Aporta de Savago da como problema se intera como el Madis el com espectado de secono el presentado de una el como de severa finado de secono entendo el opera de la destado de s espectado de processo el presentado de una el como de severa finado de secono entendo el opera de la destado de
- ्रती व्याप्त के स्वता कि स्विति देश दिसों एक अन्य बार कारणा की अनुस माथु र अर्थ सबस कर पर क्या का कि प्रकर्ण के तो से उसके प्रवाद की अनुस माथु र 11 कि प्रकार के प्रकार के से प्रवाद के से प्रकार के स्वता कि उसके अनुसन कर सबस्या कि किया कर साथ कर की स्वतन के 11 कि प्रकरण के स्वतन के से कि प्रकार कर कि कि लिए कि कि कि कि अन्य कर साथ करना कि किया कर की साथ कर की कि अन्य 11 कि प्रकरण के स्वतन के से कि प्रकार कर कि कि लिए की कि उसके अनुसन कर सबस्य कर की साथ कर की साथ कर की साथ कर क 11 कि कि अनुसनिय कर का स्वतन के साथ कर कर कर कर का साथ कर का साथ कर की साथ कर का . C 2
- े है। इस अनुभू कुछ कार प्राप्त के सामका है हो उन्हों के दिसि के साथ के रखने के दिस्ता के प्राप्ति के साथ के देने हुए तियों कि तर के कि से के से कि रखती के देन्द्रीय के प्राप्त के दिसि के आप के लिये के लिया के प्राप्ति के साथ के द कि लिये के राज्य अगराय के साथ के साथ के साथ कि का साथ के साथ के साथ के सिता कि लिये के साथ के आधार के साथ के सा के लिये के राज्य अगराय के साथ के स के लिये के साथ के लिये की साथ के साथ दिस के दिस्ता के साथ μı
- алық ((Саланда алықда А⁴Н Алы, 1995) та медетін ет келен жайтары тараты тараты балғаса қазаға бала жайта жала әсе 200 менен алар алар Салары барры алғаласта (10-ше стануда таратар мәнесесекі таратық айтарық қазақ қазаға баса тарыша жаладыр а Салар бар тара дарықыра қараты қаратар жайтар алғалар жайтар алған қаратарық қазақ қазаға басата қазақ жаладыр а (10)
- প্ৰয়াহনত কৰি বিভাগ বুলা বিভিন্ন সেই বিভাগ কৰিছেল (বিভিন্ন বিভিন্ন বিভাগনী)। প্ৰথম পৰি বাজ প্ৰায় ইংকাৰ নথা দীৰ প্ৰথম দলন বলৈ চেনাই উৎসাপ আৰু প্ৰথম সময় হয়। উদ্ধান হয়। উৎসময়ে দুৰু এজনে চুজ প্ৰায় হয়। উৎসংঘটনা হয়। উৎস্বাদি সমিক প্ৰায় সময়ে উৎসংঘটনা হয়। .17-
- м^н «Ан» « Вар," на убра збёт ала и фобра жала, более или партех, длячил ж обла мареля бёлого авалии. Компоние расской слона I сто. То the Abborne Alexies and State and storic relating to the store watch Jack application in a spectra and америя Isofer и слона в стольком стор и или. :Gr

CORDER-IN-APPEAL ::

Mas Shee Bileanwar Shand Upyog Khecht Sankah Mariki Lib, Kodhan (rensingflor referred to as "Appellant") A to Appost Nu. V2/524/BVR/2017 equinat Order in Original Na. 5/AC/CG57/BVR-3/DIV/2017-18 pates 14,12:2017 (herzingflor referred to as "impoghed order") passed by the Asit. Commissioner, Control Goods & Service Tax. Shevhagar-II, Bhowhagar Commissionerate (hersingflor referred to as "lower adjudicating anthonity").

2. The brief Fants of the case are shat the Appellant was boiding Satvice Tax Registration No. AAAAB0936H51002 tudder the categories of "Transport of Sharks by Road Service" and "Legal Service". The audit of the records of the Appellant revealed shall the Appellant frict remote incume of R6. 15.84.0957- or account of renting of Godowns, Shupping Centre and Transfer (eesidaring the period 2014-15 to 2010-16 but had not baid Service Tax of R6. 75,6847-. The Audit furteen reserved that the Appellant had not paid Service Tax of R6. 7,04,7797- or "Legal Service" during the period from January, 2013 to Warch, 2016, its reshrient of service.

2.1 Show Cause Notice No. Audit 11/Cricle-V/S17AC-4/2017-48 dated 29.6.2217 was issued to the Appenliant colling them to show cause as to why Service Tex of Hs. 2.80.1627- should not be recovered from them under Section 73(1) of the Floance Acc, 1994 (hereinafter referred to as "Acc") along with interest under Section 75 and also proposing imposition of behalty under Sections 76,77 and 78 of the Acc.

2.7 The Show Cause Notice was adjudicated virie the imposition order which continued domand of Service Tax of Rs. 75.864/- under TRenting of Immovable Property Service' and Rs. 7,04.278/- ander "Legal Service' under Section 70(1) and ordered fail its recovery along with interest under Section 75 of the Act and Imposed cenality of Rs. 2.83.162/- Under Section 78 of the Act and Rs. 10.(007- under Section 77 of the Act.

3. Joing aggreeved with the impuened order, the Aspellant has preferred appeal, ister-silia, or the following grounds:

(i) The adjudicating astrophy has erred in holding that the Appellant was liable to pay service tax on the rental income carried on account of renting of Godowns to Gujarat State Warehousing Curporation Ltd which were used for storage and warehousing of grounds nuts burchased by them: that as per the rent agreement. Godowns used for storage and warehousing of ground hot by the Gujarat State Warehousing Corporation and submitted copy of cent

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agreement. The edge dicade is call, three for a full-to the generative structure but warehousing left agreed time integrate. First, and approximation of structure topy yield for the soft (integrate time) are not table to gravite top one top yield for the soft (integrate time) are not table to service top one top and the soft of the soft of the soft of agreed top produce and integrate top yield for the soft of the soft of agreed top yield for the soft of the

(ii) Their total tabletis oncreases (1901-00 view Rs. 1,73,8260-1 and in 2013-14 was Ss. 1,41,800/1 and out of in 1, on 2 for view of Re. 13,91,2007-15 2018-15, Rs. 17,49,4957-1 was demined 5 and relation of polary stand for warehousing of agriculture produce and relative manehousing for 3,91,42,3057-1 carned from relating of shooping Centre and relative for the 0 time Bread view state of Rs. 1,42,3057-1 carned from the State of Rs. 10,120 and hence for 10 carbon of the 0 time Bread view state from the 1,000 and 1,000 an

(iii) The demand of 55, 2,0 k/2/4 of regal service by throking extended period of the iteaconds (tags), as prove service neutral. If the Appellant has to bey service the difference in any of casis, they are evalued to avail Cenval credit and hence the period she she werks as revenue neutral as not in the case of Jay Yuhshin QM. 2000 (1911), 2014. The Henibic Suprema Court in the case of Nationada Cherostrup, Court ecological indication for invoking target cannot allege suppression of facts of the case of the supercester of factors of facts of the solution for invoking target cannot allege suppression of facts of the solution is cherostrup revenue neutral as

(iv) The transactions receiving these lists ware meaning in their ports of accounts and balance sheet which is (9) for the variaus (overnment exercise) sheet is a acc00 optimer. The tempolarit names be according to the suppressing facts on her? (a suppressing facts on her?) in superconduct sheet is 2003 (361) ELT 340 and Whiteka: OR Engines Ltd. (2004;178) 7.7, 993. Thus, invocation of extended period of multiplicing is Regis.

(v) The adjudicating summing has more imposing penalty under Section 78 of the Art, The Apptitudt had not electropic service tax Pability because during relevant time there was been fide to consider that they were not liable to service tax. Hous, there were you due in a constitute statement in statement or penalty could have used anyosed of them.

4. Forsonal Ecopies were time in the case on 1.11.2018, 75.51.2018 to 25.12.2018 and day communication side PH devices nated 10.10.7018, select 77.11.7018 is called 3.12.2018 in oweker. To one approximation behalf on the

Page ∔ of lin

Appeliant on any of the given datas or any riste litereafter. I take up the optical for decision on the basis of available records and their Appeal Memoraadum as they have been given sufficient poppitum ties to represent them case.

4.1 The Department vide lotter F.Nn. V/1-6/CG51/DIV/2014-15 datade 22.6.2018 rettarates the Childings of the implighed order

Аз<u>п¢†ляк</u>:-

5. Nave careruly gone through the facts of the case, the indugred order, the Appeal Mamoranoum of the Appellant and written at prossions made by the Department. The issue to be decided in the present case is whether the Appellant is viable to pay Service Tax index the category of "Renting of Immavable Property Service" on the cost for under eached by them and also upden the category of "Legal Service" as recipient of service or not.

5. If find that the lower adjudicating authority has confirmed service tax certain of Rs. 75,8844, on the rent income samed by the Appellant, during the period from 2011-15 and 2015-16. The Appellant has contested that out of total cent income of Rs. 13,91,8007- earned in the ystat 2014-15, Rs. 12,49,4957- west samed by ranting of Goddwins to Gujarat State Warehousing Corputation Ltd. for storage, and warehousing of gound muts, that activity of watchousing of agriculture predice has been specifically exempted from payment of service Lax in terms of State(or 66D(d)(v) of the Activity, 1,7,2012, and hence they are not Fable to service tax.

6.1 I find it parament to examine the provisions of Section 66D relating to agriculture tandates which are reproduced as under:

(SEVELON 66D, Negative Using seconds) - the negative risk and local prime in the following services, noneigned

- (the very idea relating to agriculture or starks that if produce by way of
- (i) specified in a operations directly related to production of any agroadment produce including cultivation; thereare, threshing, plant protection or leating.
- (it) supported them laborate
- (60) provide a set of an appreciational farm including scaling, provide optimation including scaling, provide any transformer of the set of a static distribution operations which controls the observer, characteristics of appreciation product of a provide the observer, characteristics of appreciation product of a provide the observer, characteristics of appreciation.
- (a) then no on leasing of aggre machinery or smeart, land with or sollable a structure indicential class as:

Sec. 84

(v) icze og okazy okraj po okraj po okraj po okraj gradu (v). <u>Destes</u>n

(32) Z₁, 1, 400 ProsPhysics 1997 (1997).

(with start start in young Age and that for the start with one become three definitions of nervices, provided the start start with a subscript of for start and contrasts of agricultural providers.

6.2 Indictively Appearent was given increased for sent to Cojarat State Warehousing Corporation (at 6.4 sterate of Stated Potentials of the appearant entered between the Appearance and Gogs of State Warehousing Corporation 11d submitted by the Appearance is in growthesis releasing to equicational produce by way of storage of warehevers; are condicts which negative last in terms of subclause (v) of Section (600,4). If is divide the Godowe was given on rent by the Appellant for scorage of Gravers routs for reported as 2017 (4) G571 346(The Date Date in the case of Krish Oper Appelli Section reported as 2017 (4) G571 346(The Date), wherein (5) has been test appendix.

(10) However, we note that with the form distribution of Niegative List Regime of Transfort would 1-7 2012, the appendix is shown we as accorded about the task tighting the provisions of faction diffusions helped as a

690. The expansion is a subgroup of the following some estimately a

- (d) set fees relating to agreed use or get, phasel geoduction was of s
- (2) agriculturel operations directly related to product of any anticenteral produce incending, culture item baseletting it maying about product or to study.
- (ii) supply of their labeter.

...

- (iii) processes carried belt an as associative, there and used song tension, control, the version, drying, a same again minimized way drying. furrigating, curring, versiong, evaluation, cooling or buck packables and the like operations which could take the new atom or pathogeness of spin the off size the new atom or pathogeness.
- (is) conting to locately of agree much bely on special and switch without a located and destablishing use.
- (v) loading, calculing, packing, sucrage or warehousing of agricultural producer
- agricultural ordension services:
- (vit) services by any Agricultural Produce Marketing Committee or Board or survices provided by a commission agent for sale or purchase of agricultural products.

11 It is clear that the appellimetal being an Agricultural Produce Marketing Committee is exclusive from the tax he why in terms of the ensure accurate st

Page 5 (4, 1)

Services relative to springhted produce by way of storage of wardbousing site in the negative list. The scope of negative list rate of on scattmend by the Boord in the Education Children and VS-7-2011, Sara 4 4.0 of the still funde states as we own:

4.4.5 Would leaving of vacantized with grant tomation strenge stort mean", for against fund predivatible coveration the negative list?

mest in terms of the specified services relating to synchitude (leasing) of vacual vervices (and with or without structure incidental to its use? is control in the objective list. Therefore, if vacuat late, has a structure list storage shed or a green house for here it, when a confidence in its use for opticalize then its lease would be covered under negative list entry.

For hor, on APMCs, the gallet clarified as below or

1.1. F What see the services referred to in the negative fisr entry permitting to regriculture. Produce Metheting Committee or Roard?

Applications. Provide Markening Committees in Boards are set up under a State 1 available propose of regulating the sets kering of agriculture meshage Such thatkeding committees or boards have been set up in most of the States and provide a variety of school services for facilities like sheds, weter, take the analysis of agricultural graduae by movision of facilities and smearing the marketing of agricultural graduae by movision of facilities and smearing the marketing of agricultural graduae by movision of facilities and smearing the backs, weter, take the contractors of agriculture produce is the state and smearing of agricultural graduae for marketing the marketing of a science factor and show the number is appet produce APMCs collect market feet, licence feet, renet, etc. Services provided by such Astronaum Freetice Marketing. Committee of by such as regulating the linkle to try eighted to a griculture or agricultural moduae will be linkle to try eighted a spectrum of an agricultural moduae will be linkle to try eighted allog of boys on cherrypage.

12 Accordingly, we have that the simulants are not table to Service Tax on retains of introduced groperty used for storage of agricultural produce in the market area. In this connection, we refer to theras 161 and 162 of the Bouget Society of the Horizon Musical we have been been used for an 101 and 162 of the Bouget Society of the Horizon Musical we have been been been used for the storage of the Bouget Society of the Society of the storage of the Bouget Society of the storage of the Bouget Society of the Bouget Society of the Soc

16). The proportion molecules is the negative first compare all services one dod by the flavorandom of fact numberifies, except a few specified services where they compete with private sector, the Let also involves or school and school e basins, recognized education at higher levels and approved vacational education, recognized education in higher levels and and emuscricit, services and a long part of public transportation including taken with recognized education including taken with recognized education including to be transported education.

(3) Agriculture and annual leasts or by on ay a very important place in surlives. Practically all acts tak required for calrivation. Inceding, production, on a complete incoketing rap to the stage the product to solution the originary markets are covered by the liss.

13. If is necessarial two practically all services required for onliver and much is predect processing or marketing up to the stage the preduce is sold in the primery markets are covered by the list jet the present case, we <u>pate that we</u> are given in with the shops and lead given on on or they on ore in the primer market areas, where agreembars (produce are brough) for seven the primer algorithms, the shops godown, that is now of for browness of notifice composition and texpression are brough the market of notifice are primers in the primers (market area) are let out with reference to compare produce, then stors and market areas, the primers to compare produce, then stors are brought are let out with reference to compare produce, then stors are brought are been all the course of arguments, the b taxioned for the endernment of the control of the set displayed displayed Science Science See University with the control of the control of the set inter-spectra control of establishments Ske heated provide the set. In Science best are displaying Science Tex on the set.

4. We have examined to the other through these regarized in a long with vertices clarific stores investigation of the foregroup of the second strain of the

(c) In view of the above profiber, we first the appulates are not dalue to Service flag on the period also 4-2-3 (1)?

jamenesis supplied;

a view of above, i hold then the Appelliash is not hable to pay Service Tax. 6.3 on the real factors of Rs. 12, 47,4557, esting for reading of Gedown during the year 2014-15. Remaining models of Tail 6,42,50574 carried from routing of shooping Centre and transfer tees during the year 2014-16 is not covered within negative list and consequency deute to service tax. However, - Find that said taxable focume of 6s. 1,42.005771 is written to take die complian limit of Ro. 10. tac as their total taxable income to provides your your 2013-14 was Rs. 1.41,800/and honze, the Appollant is eligible for RS exemption of Rs. 10 lau in the year. 2014-15 in terms of Natification No. 70/9012-5 - dated 2016-2012 and consequently texable months of 8s. 1.47,3757- for the year 2014-15 % also not tisble to service tex. I also find that the Appellant had connect means of Re-1,92,830/Fiduring the year 2015 14 which is size within exemption limit of Re. 10. lad and convequently not Cable to service tax. ., therefore, set astor entire demand of Rs. 75.28474 confirmed ascer "Renting of Immovable Property. Servers' and also nonsequencipensatios imposed on the Appellant in this regard.

7. If find that the lower acjudicolong bothomity bas confirmed stryice tax domand of Rs. 2,04,2767- indica the category of "Legal Smyloe" availed by the Appeliant as recipient of service i on reverse charge mechanism. I read that recipient of legal service is name lisble to day service tax in terms of Role 2(d)(D) of the Service Tax Rules, 1994, which reads as under:

— — το productions _{ent}ernal and enternative services (0). (i) — an a folial r i sunduct

(ii) a firm of advocutes or or individual physicse other than a contraction to real of the contract.

to any business entry biassed in the taxable territory, he mainless of $y_{\rm ext}$ are $x_{\rm eff}$

Section 11

11 I find that the Appellant has not disputed about fluggl kervice' availed by them on their lightlicy under reverse choice basis but contested on the acounds. that T the Appellant had prid service tax on reverse through dasis, they would Lave been eligible to avait Cenvat credit and hence, entire exercise is revenue. neutral. I find that this argument very strange and purely hypothetical in nature. masmuch as grant of Cenvet credit artises only if Service Tax is lipsid 1 When the liability to pay service tax has been fustered on the recipient of service in terms. of Rule 2(d)(D) of the Service Tax Rules, 1954 by specified services, the Appollant cannot escape from Cability to pay service cax on reverse charge. mechanism only on the ground that entire exercise is revenue neutral. It such a plear is accepted then the provisions contained in Rule 2(c) (5/d would become recurdant and othese and no one would pay Service Tax. When provinging and promodures are presented by Act/Rules, then the same shucld be performed in that inaniminally and not otherwise. I vely on the Order caused by the Roninka CESTAT, New Delhi in one case of Avis Floctcontes Avi, Ltd. reported as 2003. (U7) FULT, 571 (10) -L2), where 'n it has been held trat.

*S. In the light of the sover fording acrosses allow us on the question referred to us, we hold that invittence on doon to the sole copy payment of duty on the hypervise possesses on Relax is not a cosmicality to be complied with for availing Madwitheredin. On-cossilier mode by the appellant authorize that instatutes to implicate copy of invokes is purely a procedual reconstruction against Ryles so established by Rules, it should be no quarter more is against Ryles so established by Rules, it should be no quarter more is performed in a market prescripted by Rules, it should be no quarter to deat instance itsuel and not otherwise. A combined reading of the provisions construction of the destruction of the state of the state of the provisions construction of the destruction of the state of the state of the state of the output of the destruction of the destruction (he involves that is)

(Emphasis supplied)

7.2 In view or above. I hold that the Appellant cannot escape from viability to bay service tax on legal services sveiled by them, as recipient of service, in terms of Rule 2(d)(D) of the Service Tax Rules, 1994. I. therefore, uphold service tax demand of 75, 2,04,2787-.

a. The Appeliant has contested invocation of extended period of Unitation on the ground that the transactions were recorded in their books of accounts and balance short, which were filed with values Government agencies and hence, there was no suppression of facts on their part. I find that information reflected in books of accounts and balance short have never been submitted by the Appellant along with their telter/Refurn to the junsticitional Service Tax.

for the

authorities and the Explorence of the second of the books of comparisons and balance sheet of any assesses unless the two of the travel brought so the probability assesses to be a two propagation of persistent the travel brought of the propagation of persistent the travel brought of the Appellant. Had there been noted for all two probability of the probability of service tax by the Appellant, would have been considered to be a two persons to the Appellant. Had there been noted to all two probability of the probability of the persons to the Appellant. Had there been noted to all two probability of the persons to the Appellant. Had there been noted to all two probability of the persons to the Appellant would have been appeared to a second to be probability of the persons to the probability of the persons to the Appellant second to be probability of the persons to the the probability of the persons to the persons to

P8.5 For Advocate bas been at pairs to robit out that there was no seen files intention on the part of the approximative inside it is contraded. This they want to be the improvement of the same notice for sweet the out without the same of g is an encode for a weet the outprovement of the same notice for sweet it. Advocate her contraded there wended period of time would not be investigated into the same of the same of the same of the trade of the same of t

6.6 The facts came to light only which dot department conducted certains of the annual reports, possion current as the largest of the state of the rest of the largest of the rest of the largest of the rest of

(Erechasis supplies)

<u>9. †</u> The Aphelian: has contended that they had not discharged service tax. Jability as at the relevant thre there was bore fide impression that they were not liable to service text that there were genuind and hone find reasons for Takune and hence no penality is in costone by them under Section 78. I find that ane can have bond fide point? Such to not know of Bunfold High Court /CESTAT. bolding that service tax was not payable on any instructions / Circular issued by C3 C on the subject matrix: however, the appellant has not given any reason / . justification as to wry they were nothing such period in am of the armsdated. view that for use on the part of the appelland of non-paying service has on legal. service as recipient of service was not caused by any bona ride behaf as the Appellant is trying if to make now but this is a clear case of evasion of service. tax. Since suppression of facts has been field to be applicable in this case, penalty under Section 72 of the Acths manaatory. The Han'ble Apax Court in the gase of Rajasthan Sonning 5. Weaving Wills reputed as 2009 (238) S.L.T. B (S.C.). has held that once there are trightdients for invoking extended denot of limitation for demand of duty, imposition of penalty under Section 11AC is mandatory. The ratio of the said jurgmont applies to the facts of the present case. I, therefore, uphoto the penalty imposed on the Appellant update Sermon.

Regenciation - Regenciation

78 of the ALL However, independent of pendag equal to Service Lex is not context, tegal and proper and therefore of provise to Service View Act, penalty w568 of Service Lex evaded listicity impossible as the transactions have been reflected in the books of account of the Acpediant. Therefore, theduce senalty to Rs. 1,02,1367- under Service To 20 the Act.

8.2 The Implighed order has imposed provider Rs. 10.0007- under Section 77 of the Art for noil filling current ST-3 returns. I field that the Appellant had not discharged Service Tax on flegal Service' bring recipient of convide. 1, these late, upbeld penalty of Rs. 10,0007- under Section 77 of the Act.

9. In view of spove, highed continuation of demand of Rs. 2,04,278/upder "Legal Service" but well acide semicod of Rs. 75,6817- confirmed under "Rending of Termovable Property Service" and reader penalty to Rs. 1,02,1397unde: Section 78 of Gre Act and Cahold penalty of Rs. 10,0007- under Section 77 of the Act.

9.1 — अनेकरणी टवारा करी की गई आगे ने का दियसका उपस्थान्त तरीके से जिला जाता है।

9.1 The appeal filed by the *n*opellant is discover, off as a toke, i

्रम् २५ २५ २४४९२ - २४४२ (कुटार सत्तोष) anger. Stat ાવ્ય – આચુજરા (ગાર્ને લંઘ) tryn ar ei Nei Saithe (s.f.) <u> ∏r R.⊇.4.C.</u> Τp. wiks Shree Biles (war Khand Udyog Xhedub Larikor) waalón Ubi, Kosseer. Get Southeast District . फ़ी. औ विसेश्वर सांह उद्युवन खेवल सम्पर्ध स्थली लेख ori järlin. ीतेल्ला किंस जॉ**न**⊽ी વાંદોલીમાં ક भयका सुम्ह आणुक्त, अन्तु अन सेवा कर एवं अन्द्रीय अन्यव शुक्ल, युवर्व में क्षेत्र, अन्नमधारम्य २३ - अस्तर्वे सन्त आगुक्स तरक रते शेव, ४, २३ फिन्होंच प्रकाद गुण्ड, २७०- ३४ अधुकेस वय प्राप्तकार कः आवश्यम् भाष्यकी हेम 3) सहारतम आहुरूम, बस्तु १८ विधा पर अन्यत्र ५४ १२ २१ व्या पूरंत आवश्यक कर्यवाही

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 $\partial_{ij}^{2}=D_{ij}^{2}=\frac{1}{2}(\frac{1}{2})^{2}$