

10. The Board of Directors of the Corporation shall have the right to...
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APPENDIX IN APPELLATE

The below mentioned appeals have been filed by the appellants in the court after exercise of the appellate jurisdiction conferred on the court by the Trade Tax Act, 1931 (Original Part II) (Section 14A) of 1931 vide Section 14-B (1931) and further referred to as the impugned order passed by the Assistant Commissioner, Central GST Division, Bangalore, Karnataka regarding the following appeals by the appellants respectively:

Sl. No.	Appellant No.	Appellate No.	Name of the Appellant
1	1723/1931/2018-19	Appellate No.1	M/s. Shivam Iron Industries Pvt. Ltd. (SIVAM), Bangalore Karnataka. <u>Registered Office: 1st Floor, 1st Stage, 1st Cross, Stage 1, Bangalore-560027</u>
2	1724/1931/2018-19	Appellate No.2	Sri. Shalikaiah K. S. (Sri. Shalikaiah K. S. K. S.)

The officers of the Central Excise Division, Government of Karnataka conducted an authorized search of the premises of SIVAM on 26.06.2018. Against the said search, the officers of SIVAM have submitted the following facts and Appellate No.1 and Appellate No.2 respectively including of Sri. Vipu Rajal Lakshmi, registered No. 123 and the name of Appellate No.1.

1. The State Cause Notice No. 102/2018 (Dent) (C) (1) dated 26.06.2018 was issued to Appellate No.1 for recovery of Central Excise duty of Rs.10,00,000/- under the proviso to Section 14A(1) of the Central Excise Act, 1944 (hereinafter referred to as the Act), along with interest. Appellate No.1 has filed the petition for writ of certiorari (Writ) (1) of the Act read with Rule 25 of the Constitution of India, 2002 (hereinafter referred to as the Rules), proposing persons (person) under Rule 25(1) of the Rules upon Appellate No.1 and Sri. Vipu Rajal Lakshmi and Sri. Shalikaiah K. S. (Sri. Shalikaiah K. S. K. S.), Power of Attorney holder of Appellate No.1. The said State Cause Notice was adjudicated on the merits and judicially reviewed by the impugned order, in which the Central Excise duty of Rs. 10,00,000/- was recovered on the basis of Section 14A(1) along with interest under Section 14A(2) of the Act and penalty of Rs. 10,00,000/- was imposed under Section 14A(3) of the Act and Rs. 10,00,000/- (Rs. 25%) of the State upon Appellate No.1 with interest of Rs. 10,00,000/- under Section 14A(3) of the Act. The Petitioner (SIVAM) has

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knowledge of the parties. The IRS's reclassification of the conversion is sustained because the conversion is not covered by the 401(c) plan. The court is in no better position to prove that the conversion played a vital role in the success of Central because the parties have not established that the conversion was a necessary element of the successful realization of unaccounted for income.

6) Appellant's 1041 tax return submitted that separate annuity gains be included in income of the taxpayer does not have a separate legal effect. The separate reporting of the annuity is not a separate reporting of the annuity. The fact that the separate reporting of the annuity is not a separate reporting of the annuity does not have a separate legal effect. The fact that the separate reporting of the annuity is not a separate reporting of the annuity does not have a separate legal effect. The fact that the separate reporting of the annuity is not a separate reporting of the annuity does not have a separate legal effect.

7) Appellant's 1041 tax return is not liable for penalty under the provisions of 26 U.S.C. 6651 of the Code because the IRS has not suppressed any disclosure of the nature or goods and not covered by the said quantity of exchange goods. The IRS's failure to disclose the nature or goods and not covered by the said quantity of exchange goods is not a failure to disclose the nature or goods and not covered by the said quantity of exchange goods. The IRS's failure to disclose the nature or goods and not covered by the said quantity of exchange goods is not a failure to disclose the nature or goods and not covered by the said quantity of exchange goods.

8) Appellant's 1041 tax return is not liable for penalty under the provisions of 26 U.S.C. 6651 of the Code because the IRS has not suppressed any disclosure of the nature or goods and not covered by the said quantity of exchange goods. The IRS's failure to disclose the nature or goods and not covered by the said quantity of exchange goods is not a failure to disclose the nature or goods and not covered by the said quantity of exchange goods. The IRS's failure to disclose the nature or goods and not covered by the said quantity of exchange goods is not a failure to disclose the nature or goods and not covered by the said quantity of exchange goods.

9) Appellant's 1041 tax return is not liable for penalty under the provisions of 26 U.S.C. 6651 of the Code because the IRS has not suppressed any disclosure of the nature or goods and not covered by the said quantity of exchange goods. The IRS's failure to disclose the nature or goods and not covered by the said quantity of exchange goods is not a failure to disclose the nature or goods and not covered by the said quantity of exchange goods. The IRS's failure to disclose the nature or goods and not covered by the said quantity of exchange goods is not a failure to disclose the nature or goods and not covered by the said quantity of exchange goods.

Amesbury v. Commissioner, 1997-1 CB 253 (1997) 458921
 Estate of Deane, 2007-1 CB 253 (2007) 470, 471 (2007)
 Estate of Deane, 2007-1 CB 253 (2007) 470, 471 (2007)
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 Estate of Deane, 2007-1 CB 253 (2007) 470, 471 (2007)
 Estate of Deane, 2007-1 CB 253 (2007) 470, 471 (2007)

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5.2. Appellant No. 2 in her verbal written submission stated that the order calculating quantum has not received findings on the quantum being raised by the appellant, before it is set aside for the reasons mentioned in the order itself is set aside, separate penalty cannot be imposed on the quantum of that part that pertains to the quantum, separate penalty. But including penalty on firm is imposing penalty on quantum that imposition of penalty on quantum also in the firm means quantum is a condition of penalty also.

Findings:

5.1. I have carefully gone through the facts of the case, the proceedings and evidence as well as oral submissions made by the Appellant. I have also taken into account whether the appellant was in the face of the law, suffering damage and imposing penalty on quantum is a condition of law.

5.2. I find that Appellant No. 1 has deposited 10% of the interest and Appellant No. 2 has deposited 7.5% of penalty imposed on firm. Hence, the condition under Section 23B of the Act has been met and firm cannot be liable on both aspects.

5.3. I have found as laid Appellate Bench order is good and valid as the days of both parties were on all days ending but the condition was not met. Various appellate authorities of Bench during the course of law of the year 2018 are also mentioning judicial orders for the benefit of Tax Department. Since the Appellant have deposited interest and firm is liable for 30 days as mentioned in Section 23B of the Act. I have also set aside finding regarding and proceed to decide both aspects together.

5.4. I find that the officers of Central Tax and Excise department also searched the premises of Appellant No. 1 and seized for 11 cartons of goods and recovered 11 cartons of goods including various notebooks etc. I also find that the statement of Sh. Himanshu Singh, a partner was recorded by confining him with his recovered goods etc. The seized cartons in the notebooks etc. were not properly searched and recorded which revealed that cartons and cartons were seized of CTE Benlihand start by appellant No. 1 to various steps by that year

(Signature) Date: 12/08/2018

(Signature)
 (Date)

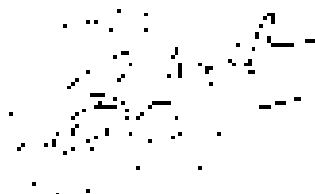
statement is without CD invoice and will not register. On 09 July 2017, Shri. Chintamani Jaganath, Advocate for appellant, and the learned counsel for respondent, submitted their respective affidavits were decided with this report.

2. In the grounds of appeal, it is submitted that the appellant's affidavits are opposing the original order that granted the certificate as made by the CD. In view of the impugned order, the appellant's pleading authority has filed the defence submitted on 13.07.2017 to the effect of the impugned order and this was discussed in a separate order dated 18.07.2017 with regard to the facts of the impugned order. Thus, the question is not raised in the two appeals & accordingly they are barred.

3. The learned court, according to the statement of Shri. Balaji Hanumanthappa, Taxer of Appellate Board of Appellant No. 1, verbally stated that the documents recovered during the investigation and statement of Shri. Hanumanthappa (Page 03 of 04) were taken into the possession of the appellant. The learned court in its judgment dated 25.05.2017 summarily stated the medicines supplied by Appellant No. 1 relating to sale and treatment of the finished goods and gave detailed observations and held that it is going through the facts and statements given by Shri. Hanumanthappa N. Jaganath (Deponent Shri. Balaji Hanumanthappa, Taxer of Appellate Board of Appellant No. 1) and the same are details recorded as seized documents and the same premises of Shri. Hanumanthappa Jaganath concerning the goods sold through Shri. Jaganath. The facts and circumstances, references and statements of the dealer and respondents have been discussed in a separate order dated 18.07.2017 in the impugned order.

4. In the facts, the allocating authority from Para 10 to Para 16 has discussed the details of seized documents and also stated that the investigation and the sample copies of the same have been produced to the court and discussed in Para 34 and 35 of the impugned order with this report.

Yours faithfully,



64. Detailed copies of Financial budgets maintained by 21 AF Branches against 2001 IS report are as follows:-

Sl. No.	Branch Name	2001 Budget		Actual
		Expenditure	Income	
1	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
2	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
3	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
4	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
5	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
6	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
7	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
8	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
9	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
10	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
11	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
12	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
13	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
14	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
15	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
16	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
17	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
18	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
19	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
20	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
21	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
22	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
23	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
24	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
25	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
26	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
27	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
28	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
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33	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
34	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
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38	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
39	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
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47	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
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49	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
50	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
51	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
52	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
53	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
54	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
55	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
56	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
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79	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
80	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
81	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
82	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
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94	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
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96	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
97	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
98	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
99	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00
100	21 AF BANGALORE	1,00,000.00	1,00,000.00	1,00,000.00

65. The purchase of 5000 of the 30 N embryos one of the units of 20,000 of that amount of Rs. 1,09,000 of the goose purchased at Rs. 2011 by 21 AF Bangalore. The amount expenditure on 2 has been recorded at 11/11/2011 and the purchase of 5000 of 20,000 and amount of Rs. 1,09,000 has been recorded in Bangalore on 11/11/2011.

66. The purchase and transportation of embryos are also recorded by the Bangalore office of 21 AF recorded in various documents by the



10. The statement of Purified Power or Attorney holder stating the
 11. author's signature concerning factual knowledge has in this case been
 12. as he was visited while in a detention session in the case of Mr.
 13. Hernandez. (Case No. 101) reported as 2014(002)H-191(001).
 14. A preliminary hearing has been held by the Puerto Superior Court.

15. The name of the contractor who has the detailed book need to be
 16. under the name of the Puerto Superior Court. In the case of Mr. Jose
 17. Alvarez reported as 2009(020)H-19373(Tr-Murillo) and Mr. David
 18. Salas reported as 2008 (2)001 (190)(Tr. Gibran) (Case No.
 19. 101) in the case of Mr. Hernandez. Books reported as 2009(005)
 20. HLT390(Tr. Del) has also the Administration Commission is a
 21. substantial part of evidence which can be used against the matter.
 22. Therefore, the Appellate Division in various cases have been
 23. approached in the light of the evidence available in this case as
 24. discussed above and in the attached cases. (Harris 2) (Harris 3) in the
 25. case of Mr. Rodriguez H. reported as 2010(028) HLT390(Tr. Del) has
 26. also had the same evidence of possibility was against the
 27. request of possession of the elements needed from buyers of the case.

28. In view of above facts it is that the convictions ruled by the two
 29. appellants are of the top to bottom and the Department are not
 30. correct and are not a necessary consequence of the evidence in this case
 31. and the Appellate were engaged in conducting review of the case in
 32. that case, held that conviction of defendant of Central Excise duty of
 33. \$1,000,000 by the over-qualifying authority is correct, legal and
 34. proper.

35. It is held to be correct that the conviction is not a necessary
 36. consequence of the evidence in this case and the Appellate were
 37. engaged in conducting review of the case in that case, held that
 38. conviction of defendant of Central Excise duty of \$1,000,000 by the
 39. over-qualifying authority is correct, legal and proper.

40. It is held to be correct that the conviction is not a necessary
 41. consequence of the evidence in this case and the Appellate were
 42. engaged in conducting review of the case in that case, held that
 43. conviction of defendant of Central Excise duty of \$1,000,000 by the
 44. over-qualifying authority is correct, legal and proper.

45. It is held to be correct that the conviction is not a necessary
 46. consequence of the evidence in this case and the Appellate were
 47. engaged in conducting review of the case in that case, held that
 48. conviction of defendant of Central Excise duty of \$1,000,000 by the
 49. over-qualifying authority is correct, legal and proper.

10/24/2011

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Masashha: agent, Power of Attorney holder and admitted facts stated and confessions of bandhana clearance made by Shri Satish Mahanta Tapan and also confessed that he was locking after payments in each Appellant. no.2 very active partner of the Appellant No.1 in the business concerned, who dealt with such excisable goods and had reason to believe that the goods were liable to confiscation. The facts of the case and records available establish that Appellant No.2 was actively involved in clandestine removal of the goods and hence he is liable to penalty under Rule 28(i) of the Rules. I therefore, find that imposition of penalty of Rs.2,00,000/- under Rule 28(i) of the Rules upon Appellant No.2 is correct and proper.

11. In view of above, I uphold the impugned order and reject the Appeals filed by Appellant No. 1 and Appellant No. 2.

12. अपीलकर्ताओं द्वारा दूरी की नए तथ्यों का निपटारा करनेका उद्देश्य सिद्ध नहीं है।

12. The appeals filed by the Appellants stand disposed off in above terms.


कुमार सुरेश
स्थान: मुंबई (महाराष्ट्र)

By R.P.A.G.

1	M/s. Shreeji Steel Industries Plot No 308/1/1, Shree Ahmedabad Road, GIDC-4, AT, Ghanshi, -384240 Taluka Siro	मसौ श्रीजी स्टील इंडस्ट्रीज प्लॉट नं. 308/1/1, श्री अहमदाबाद रोड, गिडको-4, अ.त. गंशिवली-384240 तालुका सिरा
2	Shri Vipul Hecia Jacari Partner, M/s. Sunaji Steel Industries, Plot No 308/1/1, Shree Ahmedabad Road, GIDC 4, AT, Ghanshi, -384240 Taluka, Siro	श्री विपुल हेचिया जकारि पार्टनर मसौ श्रीजी स्टील इंडस्ट्रीज प्लॉट नं. 308/1/1, श्री अहमदाबाद रोड, गिडको-4, अ.त. गंशिवली-384240 तालुका सिरा



सिद्ध

- 1) कृषि मन्त्रालय, नया दिल्ली द्वारा जारी की गई सूची में सूचीबद्ध कृषि यंत्रों का नाम, मॉडल, ब्रांड का नाम, आदि सूचीबद्ध है।
- 2) कृषि मन्त्रालय द्वारा जारी की गई सूची में सूचीबद्ध कृषि यंत्रों का नाम, मॉडल, ब्रांड का नाम, आदि सूचीबद्ध है।
- 3) कृषि मन्त्रालय द्वारा जारी की गई सूची में सूचीबद्ध कृषि यंत्रों का नाम, मॉडल, ब्रांड का नाम, आदि सूचीबद्ध है।
- 4) कृषि मन्त्रालय



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