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ः १**८।५८ ५७ (अर्थन्य) का कार्यायप्**षम् **एवं मेरा प्रत्योत् रेन्द्रो**ग महाप्र भूत्रक्षः COUTHE PRINCIPAL COMMISSIONI (राज्यायसम्बद्धाः क्या स्वत्यास्त्रम् सुरस्कः

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राज्यों 18श्वरण - १७५ (१९)





PERMITTALES

of the contract of access tille No. STEPHIN ZERNEIM रचा चाउन प्र OLC M

13-3-2 Date:

Som-350 XC (S) 40E3E4ND/17-18.

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BHV-EXCUS-000-APP-090-2019

भारिक्षा का जिलाहर -

वर्की परंगे की सामाहर

26.115.2619

Date of Coder:

25,03,2019

Date of issue:

कृतार संतीय हैंगान तालुना।भर्णल्याः राजकीट हारा पारित है।

Passed he KirtiKumar santash, Principal Lorambannen (Apocals), Rajkot.

π नवर भारत्यः स्पृत्यः साह्यः । स्थापुत्रः । स्थापक भाषतः । स्थीन । सः । स्थनः । पेरः । १, ५५५ । १८ ने भारतः या कर्न है । कर्क हर्नोभोशन है सार्क तथा के देवी दर अद्यान देशिक है

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अपोनकको & प्रोनेमार्थे का नाम एवं ५.५. (Name@ALC) ess effice Appeliates & Sessondest ।

MA and Marufpenieges, Breno, 29LIN GHAC Indestria. Leftle, Cillina, Haasnegar.

ৰত সাধ্য (সমাস: বা আগত ৰাজে আমি চিত্ৰি ইয়াৰ সভাৰ মাজেৰৰ সাহে আন গোটোৰতোৰ সম্পূৰ্ণ আনে বাৰা) ৪০ গুৰুৰা ই ৮ মৈতু personage ১৮০৪ চনু মিন উপন্য 15-10,00% চন্ত্ৰ সম্পূৰ্ণ কৰিছে person বিজ্ঞান স্থান সংগ্ৰাম কৰে সংগ্ৰাম গু

्रिया शुक्क हैंदरीय एकानु तक्त महिलाका स्थितिक एका महिलाका के प्राप्त एका कैस्त्रीय एकान तक्त कोर्टिया है, इस है आता 555 के आहि एक इसके तकते हैं कि उन्हें के किस के किस के किस कि महिलाका है हैं के किस है कि किस के किस के किस किस किस कि किस कि अनुकृष्ट के Court, for the A. Sendos Tak Annalism Trial on 1914 (Section 15, 1915) के 1914 है किस के किस कि किस कि किस कि किस के 1915 है के 1915 है कि 1

बाहिका, प्रकारमंत्रीमाणकि क्षणां सामगोसाम का बार्यामाणसम्बद्धां काल प्रमेण उत्तर हिल्हिस है है के कार्या कर का कि पूर्व करिय जोहर के बिकार की कि प्र The standard of Sustains, 15 day & General Taylegal our Tayleral of Marc Baye Kork, RV Sustain, New Yeld In all masses reading to decident as accordingly. : ...

माने क्षेत्रक किन्तु के अपने किन्नु के किन्नु का क्षेत्रक किन्नु कामरे की कारण किन्नु के किन्नु के किन्नु के क कारण प्रकार किन्नु किन्नु का कुलाओं किना का नाम क्षेत्रकार के किन्नु के किन्नु के किन्नु के किन्नु के किन्नु क किन्नु के किन्नु के अपने किन्नु के किन्नु किन्नु के किन्नु के

ारभी र कार भी अन्य के साथ पर्यन काल के निर्म्य कालाव एकार सम्बन्ध होगा वर्षों, 2000, के लिए एक प्रेसिट किस्परित केंग प्रयो कार दिला है। एक दिसी ने दर्द किया सन्तर हिंदू सामा के आ में का पुरुष किया है। एक दिला है। एक दिला है। एक देन आप इसके दिला है। एक दिसी ने दर्द किया ने हिंदू मालों के आ ने का पुरुष किया है। एक दर्द के की भी कराज दिसा के दिला इसकी अभिनेद किया में इसके हैं है देन के अपने किया जाए कर करता है। जा आज के की किया है में उनकार 1000 के की उत्तर है। ियांनील शुक्त का र करना क्षेत्रहा 🥠

Higgs (FIG. 1) On the No. (No. 1) with to like in washings from DOS on providing under this Content of School (School) K Annual Medical Communication of the Communication of the Section of the Communication of th porty correct paths in the large of 16 (1,1) and the four condition of a transfer of Approximation of a supplied by appointed by a Second Science A.

ৰক্ষীন্ত ক্ৰান্ত্ৰিক জ কৈছে। এইছে প্ৰতিবিদ্যু ১৯০টা প্ৰান্ত (১০০) মান্ত্ৰিক ব্যৱস্থা, ৮৮০, জ কিছে ১৮০ছ ছুল নাইছিল 151 ार पर प्राप्त के किया है की दे पहिल्ला एक प्राप्त होता धर्मह के मिन्न करने की गरी है। उसकी सेह साद के क्ला कर (असी के कर होते. असार के किया कि अधिक के के असके के एक कि किया है उन्हों के दूर मिनी कुलाव के किया की कर का कर करीय का कर का असी असारिक के बीजियों का कर के के असके के एक कि किया है उन्हों के दूर मिनी कुलाव के किया की कर का कर करीय है के उस ----

The Appear and an authorized (2) of George Education Finance Act (2004) to the Appearance Original Market and a square of the control of the Firm 175 to preciónal ancer falle 9)", of mell'entre Tables, 1701, em Staff to expendence, dy elkody ou Usakova abbaila. and introduction that he central copyright unductions compared to be encounted 10012, and a_{ij} and a_{ij} and a_{ij} and a_{ij} Construction of the part and effect to be a selected for Vector remains the arrivance of the problem of the Al Parties 'yan mananan'i North na mata sersening builte. Neben 20**,10,000** are sa University and Araba and Araba and Araba Na Halland, na commandita buda rapsan na sellam ana sasah bah, and na Na Hallanda and sa giri selalah danan si Na Yingah Ariba Sasah Baba alimpia sasah sasah dan patangah bahasa dan 11 Araba Araba sasah dan garapatan dina ba $p_{i,j,j}$ is $p_{i,j}$ and $p_{i,j}$. Figure $X: \mathbb{R}^{n-1}$

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हिंद प्रशिष्ट (1974 के आहा (वर्ष के कारणाया (2) वर्ष (2) के असी को से से साम कारणाया कि कारणी, 1995 के आहे (2) के कारणाया (2) वर्ष (2) के असी कारणाया के असी कारणाया के कारणाय के कारणाया के कारणाया के कारणाया के कारणाया के कारणाया के कारणाय के कारणाया के कारणाया

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्या के अन्य किसी शहर के प्रतिकेश के एक जान का कारणांचा प्रतिक के किसी अर्थ के किसी के अपने कुछ कि के उत्तर प्र तो प्रतिक के प्रकार के प्रतिक के उत्तर प्रतिक के 1. Cura of results of the Control of the Mark of the Control of the State of the Control o ш

मार्थ करणा १८५ मा २००१ वर्षी । वि.स. संस्कृतिकार प्रतिकार के अनुभाव के एक विकास करणा त्या है। १ सा १९६० को goods में प्रारम्भित १००६ वि.स. १००० वर्षा मार्थ के प्रतिकार के प्रतिकार का स्वतास का स्वतास का समस : [

பு (Annotation of the Annotation of the Annota 171

ு வருக்கு விறு இரு பிறு வருக்கு விறுக்கு விறுக்கு விறுக்கு வருக்கு 30 Angles.
The first party of the control of the first party of the first product of the first party of the fir

ende et all transfer de la compart formation, et al compart de la compa 3.0

கட்டிகள் இதி தாசிற்ற கணிறித்த குணிக்கும் இது பிரிய பாரு முற்ற விற்ற விற்ற கணிறி கூற பிறிய இரில் கூற விற்றிற்ற அள்ளையாற்று இளின்று சிற்று வரியின்ற விள்ளால் காள் பிறிய இரியில் பிறிய கொள்ள விற்று பிறியின்று விற்று விற்று இர சியில் பாரிய பிறுவது மூழ் பிறிய பிறியும் பிறியின்றில் இரியில் இரியில் அளியின்று பிறியின்றில் அழுத்தில் இரியில் கூற்றுக்கு பிறியில் விறியும் இரியின்றில் பிறியில் கோள் காறுவருக்கு கூற்றுக்கு இரியில் பிறியின்றில் இரியின்றில் இது பிறியில் அளியில் அளியின்றில் பிறியில் கோள் காறுவருக்கு கூறுக்கு இரியில் பிறியின்றில் இரியின்றில் இரியில் அரியில் இரியில் இரிய ر انج

ৰামৰ প্ৰিকাশৰ ক্ষেত্ৰ কৰিছিল। ২০০, বিষয়ে বিষয়ে বুলি বিষয়ে এই বিষয়ে কৰিব কৰিব বিষয়ে ইউই ইবছ বা কৰে কৰ প্ৰত্যুক্ত কৰে সূজ্য বিশিষ্ট কৰিব বিষয়ে কৰিব কৰে জন্ম বহু কৰা কৰে আন্তৰ্গত কৰিব আন্তৰ্গত কৰে ১. these visual sectors প্ৰত্যুক্ত কৰিব কৰে সূত্ৰি ১. বিষয়ে কৰিব কৰে জন্ম বহু কৰা বিষয়ে ১. the Country Audi, ২০০ চন্দ্ৰ কৰে ১. কৰা ১ 仄

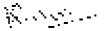
নীয়ে বুলা কৈটি । কুমাৰ কৰা নিৰ্মাণ স্মৃতিকৈ কৰা তিন্তৰ কৰিটা কিবাৰেলী, প্ৰায়ে কাৰ্যিৰ বৃহ কৰে গ্ৰহিণ কৰেই চী কুমিৰিট কৰে প্ৰথম কৰাই চি আলোচন কৰিব চিনা কৰা কৈ কিবাৰেলৈ কৰিব কৰেই কৰে প্ৰথম কৰেই কৰে যাবে বিষয়েল্য , চিনাক Missale and state of the first second of the 24

ह्यु नक्षणीय कार्यकार का आहेर करियर कर ने महीर १००० कियुत केंग्राहित कार्य है है हिए अकियर दिसारीय देशाया । Magazine क्षेत्र का मी स्वाहन के स्टू :31 த்து நடிக்க கண்டன் அதில் கொள்கள் கண்டக்கள் கண்டக்கள் கூறிகள் கிகிய கணிக்க படிகள் இன்ற இன்ற இன்ற இண்டு இண்டு இணைத்தை நடிக்கள் இன்று அளின்ற நடிக்கள் இது படிகள் நடிகள் நடிகள் நடிகள் நடிக்கள் இன்று நடிக்கு நடிக்கள் இன்ற நடிக்கள் செயிகள் கூற அது அளின்ற அது படுகள் நடிக்கள் நடிக்கள் நடிகள் கண்டுகள் நடிக்கள்

:: ORDER IN APPEAL ::

Mis Alul Mendachner Plc. No. 293/9 G 700 Industrial Estate, Dhitra. Bhavhager (nereinable) rejerted to as the rappellantly has meditals appeal against OIO No. 56 to 55/Excesof Bernard 17-18 dated 16 3 2018 issued by the Assister Commissioner. Commit GST Division Ehromagan 1. Otherwagan thereinarter referred to as the lower adjudicating authority.

- The brief facis of the pasts are that Audit revealed that the agreeant ted wrongly classified the tinew excisable goods insmely. "Zymegold Plus Grandes" under Tariffiltem 31010069 attracting Neurant of duty lift was also posiced from the ER-h rest in that the appellant has storted to mention their final product. 17ymogola Bius Grantiee' as fAnims or Vegatable Fertilizers whether thinst mixed regarded of charmoally treated; Heltinzers, produced by the mixing or onomiss, treatment of animal or vegetable products" under Certifal Excise Tailiff illom 51010059, assessing to ML, rate of duty from May 2010 and trayable. The audit todas Prái the process and end use were almost similad lo litter other. products for Plant Growth Regulator manufactured by the appellant and densemis peodura should be under the espagory of Plant Growth Begulator under Chabler No 38 of the Central Exrise Tariff Act, 1985 attracting Central Expired duty. A semble of the said product ite. "Zymegold "flus Grendles" was drawn on 23-02-2010 in presence of the authorized representative of the capallant and the same was sent to the Chemical Exercise. Customs House. Karteta un-24 02 2010, laking with manufacturing process and date a of impure, for the purpose of teating to arove at a proper dissillication.
- 2.1 On the tasks of test each reported vide letter Filtor KCLM2ICent Fx (2000-10 dates 17.00 2010 of the Chamical Examiner, Cosporer Hutse Kandla, Snow Cause Notices were sated to the appellant, proposing to classify "Zwingold Plas Granules" order Taris tem 28089240 attracting Central Excise duty. The matter was remanded back by the Horibac CESTAT vide Order called 23.8.2012 with a direction to provide a popy of Test Result dated 1.7.7014 to the Appellant. This idemand in sub-exquent Schist were also coor tiged appealant creferred Appeal, which was decided by the then Commissioner (Appeals) remanding the matter back to the adjusticing authority.
- 2.2 or the remains proceedings the domaind was continued by the adjudicating authority. However, in the Appear proceedings, the matter was



remained granting commission for cross-attachment on at the Ottemical Examinor by the Appoint. The Hamibe CESTAT violations and pattern 1,5,2014, in the matter of OIA BVR EXCUS-(*)(#APP 176-13-14 date; 50 1 2014 take remaind the mattern to the lower adjudgeing subsorty for cross examination of the Chemical Examinor. The Joint Commissioner C. Excise and Service Tax decised at: 21 SCNs powering the period from March, 2010 to Jude, 2016 violation No. BHV-EXCUS-GOO JC 42 to 62-2030-17 dated 03.03.2017. The Appellast again professed Appeal, witch was decided by Commissioner (Aspeal) violation OIA No. BHV-EXCUS-COURAPH-(08-2018) violations 25.4.2018

3. The Appellant filed this proson Appell against the impugned order confirming identises of Rs 50.37,540+ 168.27 50,0894 (HRs.97,2554 if Rs 21,63,7874) in the adjudication of 3 SCNs dated 27.7.2016 idead 8.5.2017 ander socion 11 A of the Autalong will interest and traceling centility of Rs 50,37,640+1Rs.27,66.5984 (HRs.97,250+ HRs.21,63,7874) (under Schrich 11/AC of the Activity of Rs 250+ HRs.97,256+ under provisurity Section 11/AC of the Activity provisurity provisurity of Rs 50,37,640+ Act. The appellant again field sopeoil, intervalid to the plowing grounds

(i) the incorporationder is pad in law as it has been passed beyong the ecode of Same Caust Notices traemitor as the cold basis for choose in cassification is the opinion of the Giren call Evaluation as contained in the two test reputs beterf 17.03.2010 and 03.07.2011 that the product Zymegolis Pina docal not merci. bissetteetien up a Fee izer alongwith a bigad statement but supported by gavi evidence that the product Zymegala Plus does not contain $M \in [0,\infty]$ the ergughed order has continued unargo in classification by relying or tille debigs. as consumed in the terronment registration certificate one the equilibrary displayed on the website of the Georgi Agrovet Limited to come to a post-using that the product Zymogotd Plus is not a Fer Size, the impagnod order has been passed beyond the septic of the Show Sause Notices as it refer on Rule 30 of the interpretation Rules to Lord Blatting product Zyroggic Plus is place table as Plant Crowll. Regulator upder Tariff Heading 38039346 and Bons per most dessification as a forthizer under Terlit Heading 01010099 when the Show Sause Natios do not refer and vely on the lattraprotation itules for grange in darsy lices on the implyined emerinas been passed contactly to the sotilarliaw as isia dawa ay the Horible Supreme Court in the case of Mis Tayy Engineering. Initials reported in 2008 (201) ELT 313 (80); that the lower adjunctating authority white a Sub-cating the Show Cause Notice instage of examining the

validacy of the information refers Upon a the SCN, has partical out his own investigation and relied on information which is and the part of SCN. That the adjudicating authority can not improvise the aflegations made in the Show Cause Notice, that the Adjudicating Authority has borne to a conclusion that the Department has discharged life caus cast on the orange in classification called for and researched information / cast which is not part of the Show Cause Notice via idetails in the trademark application and on the website of Godre, Agrove Clinited that the change in classification is based on the website of Godre, Agrove Clinited that the change in classification is based on the website apparation is profile that the setted law that Chemist cannot up he on classification but has to provide the technical specifications; that the chemist examination is the cross examination has stated that lesting was cone with a view to determine the classification of the product

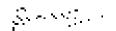
- (ii) That she (Jesasmont has not discharged the chus bast on it for changing the place like ion from "Terlilizer" under Toriff Entry 31040089 to "Plant Growth Regulator". Sanh Entry 38028840; that the place location as learned by the assessment has to be accepted and called only hold in the following case laws:
 - it; Hiddustan Ferodo EM > 88 EET 18,
 - /iii Coigate Palmolwe in 1980 ±LT 268,
 - (iii) Novecopre Bubber 1983 Full 1985.
 - (iv) Bornday Pairits & Albed Produceris 2 I ELT 363.
- That Show Cause Notices do not plyg any cogest reasons for the processor change in dissemblation but merely refer up the live test reports detecting 17:02-2010, and 01:07:2015, thus the feel report dated 17:00:2010 dates not provide early technical case to a rived at an analysis of the sample out it merely. states that the sample has been examined in right of the Central Exciso Central Act 1985, HSN, Laboratory bridgings and lestings and further states that the sumple constitutional people is required for destination under land. Hesding 31010099, that the report of 01.07 2011 merely states that the product does not contain any of the three basic fortilizer a emects which is the mandatory. sequirement to be covered under the deliration of helt/lizer that both the test regons do not specify the nature of test which has been carried out on the eample, that both the test reports do not specify the methods adopted for narrying our sportoyt tear the Gross Examination of the Chestical Examiner. conducted on 30 07 2014 algority brings on second the fact that the test reports were issued based, on (400% which was in Sally issued by the chemist and after discussion between the Chemical Examinor and the chemist, the test recose.



ware instruct that there is no report of the charact available. Itsif the Chamiss. Examine: Or G.P. She maintained provided any details of the melhode used for resting.

- Tips (mongraph and ander fails to appreciate that they product "Zymegora Hlus" sala forfiliter. Bud Terblize, is any material organic or porganic polluci or synthetic of not supplies one or more of the chemical elements required for clark. paya(ay) partis and its function of ferrities is to provide one or more of the obemical elements, lequired to "plant development, that a plant growth regulator is organic." comparant other than number a when in small emotions promotes imposs or quality 3 imes y mod3 imes y plant, growth land, acts likelya imes y by imes y commats to fortifizons ythat their product "Zymogold Plus" is no null-cause from seaweed ext acts whos is of organic and vegetable origin comprises of proteins, amino acids and earbohydrates which are made up of plact number a chiests; that "Zymegolo" Plus" supplies essential munera elements to the plants just as fertilizer provides. outpast elements for plant; that test roport squed by Mis. Wireproom Laboratory. P. Eld shows that their product contains, various mutrients including N,P,K and since it is made from serviced alerts there may be traced of naturally observing plant grawth regulators which cannot be removed; that any expania fartilizati derived from plants like farm valid medure will contain agree traces of naturally ecounting plant growth requirable trial like into terms under discords report of independent laboratory on factually incorrect basis that sest reports are but characterized; that they mever accorded the test reserts deted 1/2.2010 and 1.4.2% if little the demand is confirmed on the basis of merely rewind up the aught pojections without any independent application of mind; that the impugned order acces not deel with all the contentions and case laws used by the Appellact jesupport of the submission,
- (vii) That it is settled law that whon focts have been discosed suppression with intention to evace only can not be addicated as held in the cash laws. (i) And is Nishikava [166 FLT 144] (ii) P.R. Roting Wills 249 ±L1 232 salponfuned by the Supreme Countropotte: in 260 ±L A34, (iii) Majob Ubyog I as [147 F. T 88] (iv) CCE Vs. Vice: Organic Inds. (Traudal) 223 EL1 244
- (VIII)—the Appellant fulfiller suith its this as no duty is cayable for the reasons shared above penalty is not impossable; that there is no appression of facts with impossor to it valid is all explained above, penalty is not impossable under Section 114C of the Apt and the same beise, aside, that the discute between the

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Appellant and the Department pertains to classification and it is a marter of interpretation assign and tende suppression of table with interlight to evade dury named to attributed to the Appellant; that therefore, no pensity under Section 11AC of the Aquis impossible upon them.

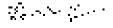
- 4. Personal hearing in sho matter was fixed on 19 12.2018 which was expourted to 9.1.2018 upon Appellant's request wide letter dated 17.12.2019 however, appellant oid not attend on 9.1.2019. Appellant also not availed the opportunity of personal hearing fixed on 31 1.2019 and again on 19.2.2019 and they submitted written submission dated 19.2.2019 with request to decide the matter on the grounds of Appeal as mentioned in Appeal Memorandam and on the basis of their written submissions dated 19.2.2019.
- 4.1 The Appearant has not availed opportunities of personal rearing granted to him and hence. I pyropod to decide the appeal on the basis of the grounds of appeal and on the basis of audities one made by the Appellant and on the basis of available records.

FINDINGS

- 5. If have carefully gone through the facts of the case, the impugned order and the grounds of appear and submissions made by the Appelant. The issue to be peopled in this sopeal is whether manufactured goods "Zymegold! "It is in by the Appellant merit classification under Tariff item 31010069 or under Tariff item 38063040 of the First Schedule to Central Excise I and.
- 5. It is the appellant's contention that the Test report by the Chemical Exeminer is not acceptable to them. I find that the sample drawn was in prescript of authorized signatory and the Chemical Exeminer (Grace-I), Kandia vide Tetter cated 1.7.2011 has beinged as enter

This premed from the laboratory findings that sample <u>does not center any one of the three basic femizing atoment</u> which is a managery requirement to be covered in the definition of fertilizer. Moreover, the sample also does not exhibit that state and composition of any rational vegetable origin to order to be covered unday the 5H-31.01 of Ch-31.01 HSN explanatory notes.

this the sample is devoid or all the metes necessary for it to covered under the charter. On, Contrary to it, norty has itself partition that the schled all the charters self-like subtracts which substantiate the facts that the sample is close to the nature of a cure chemical product used as Dient Correct Regulator thereby governing under the SH 33 68 of HSN explanatory notes.



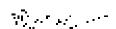
- Sit of Ted that the obtained examinar in its report dated 17.3.2015 has categoritally stated that 5 includy conceived of inorganic materials and does not indicate the properties required to the goods, classified upper St. 0.10.10939 of CETA. Thus facts remains that the sample drawn in presence of the Acpe and old not contain three basic fertilizing elements and 3.50 do not to the vegetable engin. Find that the appoillant has not brought out on records any contradiction to the contents of the sample reported in the above test records even after Cross Examination granted to them. Third that the Chambeal Examiner during the Gross Examination, in looply to Q.No.4. This stated that the Sample was tested for presence of NPK and other ingredients and an reply to Question No.5 stated that the testing material was as periodical Standard (S).
- 5.2 If find that the very purpose of asmole drawn and sent to separtain whether it normality from pasic forbilizing elements of not, liwinerous the Appellant observing technical ground and did not greter ment, also find that it ast report obtained by the Appellant on his own from a private laboratory is not valid at all
- although the first that the Appelant has himself stated that the product is named "Zymegold Plus Grantises" which a part of the records and hence incorporating densits of marketing of this product to ascertain the facts of the passe cannot be field to be beyond the apope of the SCN. There is no ber for the department looking all relevant facts to incorporate white adjudicating the case. I that that the lower adjudicating suthently das discussed the social use of the product and thus tested are incorporate whereas version on the product when establishes that the product sinching but then Growth Regulators and Bio slimukint as can be seen from Fars 20 to 20 of the (moughed order. The adjudicating authority has also recorded that the product "Godre" Zymegolo Plus Granules" are not registered in the category of "Fort izon" in their frade mass certificate. The appellant has not adduced any expense unaltenging this facts recorded in the impulsed order and hence not indispute therefore, the tacks or recorde are as under-
- (i) The sample provided presents; of representative goes not contain 3 basic fertilizing elements;
- (it) the product is not being sold for use as fertilizer
- (iii) Trade mark confidence is the product is not registered in the nategory of lifettizer.
- (iv) the product is abid under the pateriory of Tlent Growth Regulator and Biotetim big.



5.4 If no that the distriction between feet lizer and subject growth regulatorical only be betermined on the basis of its composition and its use. It is on record that the product in dispute coes not contain they one of the fertiking dismonts, namely, nitrogen, prospherus or potassium in its composition. As per Chapter Note 8 of Chapter 31 read with CBEC Circular No. 1022/10/2016-CX dated 6.4.2016, for desertication under Chapter 31, at least one of the elements should be essential constituent of the facilities. CBEC chapter dated 6.4.2016, such at Para 4 also readgrize use of the product in addition to elements y composition. The relevant potent of the Circular reproduced below for case of reference.

4 For the purpose of classification of any product as faither leftitizers, chapter note 6 of Chapter 21 is relevant which workers that the remnastive faithflats i sopties only to <u>product of a kind used as faithfrats and contain as an essential containing of the alements introjent of aspectus or potassium. It is quite alear that for any product to meet classification when CH-H 3166 as other reptitizers, the croduct array have bringen or prospende or orders with a recent combination as an essential obstativent provincing the essential character to the product. The committal orders as a discontinuate provincing the essential character to the product. The committal orders as a discontinuate provincing the essential character to the product. The committal orders are provincing to elements or proposed as microorders are provincing to the classification or provincing to the classification or provincing the contains and provincing the classification of th</u>

- 6.5 The fact as discussed above, so not recognize the product as fertilizer and the disself-cation decides in the impugated order is after examination of operation aspect i.e. no fertilizes element exist in the product as we! as trace practice followed by the Principal manufacturer, from therefore of the considered view that Apparant feiled to justify their distributes that the produce manufactured by operation of Sectional as discussed hereinshove.
- 7. Affind that the monicle Supreme Count in the case of M/s Kantataks Agro-Chemicals reported as 2009 (227) ELT 12 (SC) after define adaptive our our aspects that product not containing threat forfillizing agont can not be considered as to trizer to hold that the product casculation that case was iP and Growth Regulator, and not fother Hodi zori as Marmod by the Appellam in that case. Relevant portion of the juggment reaca as under-



 $^{10}{
m 25}$. In the shock cause nucley, no ellegation was made by $27\pm$ Department with the impregned product(s) is a distinct elemical compound. Therefore, the only question is whether the impagned product(x) contains releagen as an tessential correliants. According to the assessed, the enterghal propaglist is a relative of various inorganic. substances whose essential consilicent is ultragen which names it is ferülüzer. II is ilitiz pour rahab erises für considération, v.c. Whether 5,91%. of nitragen found to exist in the happyned pronunts would make it is: [44](ger in this concertion, the structural about the whole in the contact of the content of the PBHs are organic statements, order their nurvers. As arimbated to routerly within pley a major role in the point growth as a which. Platter p(x) is respictive true. POEs an earlichable M of x K to the impurpated product(s) manuscented by the essence, PGR course. Incretere, the prigance to the learned in luncities presents of more 0.31% of although would make the 1995 at the impligated product classificitie as licrear. forticeens in OBH 2005-80, to earlieble covertably the impagreed product is PGR, hiswayar, assessee comencis that the impagned cricinol(s) is a criticate of venous integrable authorisations and therefore of the for the Adjunited by Authority in gallino composition and and six whence 0.31%of amagen would furwart PGR into author fiding under Cit 91.65. Whenly's with addition of 0.21% of charges, the PGR becomes larber for little $m^2 \approx 0.8712105.00$ or the specified which needs to be a carried by the Adjudicating Authority as it is the base of the Department that the assesses has added obtoped upplies a praterior so hist the imprigned product(z) splitting de stessible (i.e.) in the factorization where t (i.e.) 3 (05 t0).

- The Model CESTAT in remand proceedings, in the case of M/s Kamstka Agro Chemicals agree, recorded as 2012 (281) Et 1 607(Tri-Bang) also rook note of the fact that the appellant was not marketing the goods as fertilizers while holding the bass against the Appellant. The Homble High Coult of Kamstaka while uphuking the cross of the Homble CESTAT also held than without assential presence of fertilizing element (i.e. 0.31 % of Nitrogen in that case) production had be noted designed as "finitible."
- Fig. 1 further find that the Horible C±STAT In the case of M/s. KPR Ferblizers Ltd recorded as 2014(310) TLT 600 (Tri-Bang) in Misc Order has considered the Coordinal Examineds report and the Horible Supreme Court's judgment in the case of Mrs. Karnataka Agro Chen Reals, suprement he discurded.

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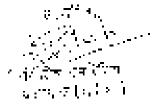
... From the extraorer of para 25 made content from his seen that Horitis Exprense Court cleany observed that HGR do not contain (6, P or K. According to the Chemical Eventuality records by the secretar according to the records and not disputed by the Records, intercontains contain the contains appearants contain the Records to according to the appearants contain the Record to prime facility the recorders in the made not in prime facility the recorders there made not in prime facility the recorders to discuss the value and stay against recovery granted runing the contents of supposit."

7.3 If also his tratifie Horible CESTAT in the case of Mis. Unique Formald P. Ltd. reported as 1897/12; EL 182 (informal) has held that the vegetable based



product was classificate under Seb hogolog 380800 on the basis of its use and applicability and not rejected the classification under Chapter Heading 51.01. applied by the ApplePant.

- $_{
 m i}$ find that this is a periodical demand and this fact has not been disputed. in the impugned order and honce, suppression of facts by the Appellant can libe. alleged as nettliby the Horble Supreme Court in the case of Mrs. Nizem Sugar, Factory reported as 2006 (197) EL: 466 (80). I, therefore, hold that the allogation, of suppression of facts atoms not established in this nase and thus no pessify is imposable on the Appellant under Section 11AC of the $A\dot{lpha}$. Accordingly, I set eade the cenalty imposed under Section 11AC of the Act, in: the impagned order.
- In plew of above it hold that appear filed by the Appellant speak not 9. sustain on morit to classify the product under Tariff illem 31010099 and accordingly. I uphold the impagned order confirming semand of Rs. 50,37,5400-(Rs 27.55,596) + Rs.97 255/ - Rs.21,63 787/.) . lowever, ipenalty of Rs. 50,37 6407 under Section 1.1AC of the Aut is set aside and appear is aboved to this axcent.
- अप्रोतकाला दुवारा प्रजे की गई अप्रीत का निवस्तात अपरोक्त तरीने 💸 किया जाता है।
- 9.1. The appeal field by the appellant stands produced off in about forms.



- प्रदेश अध्यक्ष(अपीक्त)

<u>पंजीकत द्रक काए</u>

M/6. Alul Menufaciunors.

Prot No. 251/3.

GIUC industrial Estate.

Chitre

Bhavnagan

भेगरी हातून व मुहन्दरस्य ।

म्बॉट राज्य क्या

की अनु है की इन्द्रसङ्कीका एम्स्टेट

ાંગેના -કા.≾ જ્યા

- °आनं सदय आयुक्त, केन्द्रीय वस्तु गाँ होता यह एवं कन्द्रों 5.4% र्_{टिक}् ्यसम्बद्धाः अस्मद्दाराद्यस्य जानकारो हत्।
- आयुर्धा केव्हीय बस्त् एवं जेल बर एवं केन्द्रीय स्टब्स्ट्र शुक्रक, आवत्रकार आयुन्दालय, भावन्य रावने जानश्यक कार्यकारी हेला
- महायक आयुर्वेद कन्त्रीय पतन एवं होता कर राष्ट्रभा, इतिनगर १९, ३ विनगर स्थे आहे. (भाराप्रायक के जिल्हा हेल्

ार्थ कारत

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