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94.57.2064

<u> Երբ</u>երին մեն է

भी कुमल संतर्भ, प्रधान आयुक्ता (अयोजस), कामकेट द्वार असित है

Passed by Shri Kumar Samuan, Phropal Commissioner (Approals). Bakot

अस्य पार्युकारी संस्कृत अस्य कार्युकारी सुराधक सम्यूचन, राज्यंका सुराध पुरुष की कार्यकार प्रदेश की कार्युकारी रोहर के हुई आसताने के अभिक्षाना कार्यों कार्याची किया है भी दूर आदेश में पहिन्दी है। rabber en inflations personnes o Chaused by Medicard according to according to according to the European Contra ag kwalani ng lai 12000 12000 n

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ენიციი იგისაქისა, 2-72 მ ჩვეთ ექლიციაცნი და მარაიც, ი- მამწის.

্য হাজিবোৰাল বাংলাগ্ৰন হ'ত হৈছি ইমিনিটিলৈ আৰু মাজুকুলৰ ইনাকী নালীকাৰা থাকা যে আৰু বাংলাক বাংলাক। Autopasse - Oggisk সামান্ত্ৰ বিশ্ব Copers (August Ind.) কিবীৰা ৰাজ্যৰত হৈ উল্লেখ্য আৰু প্ৰচাৰত বাংলাক হৈছিল।

- ன்ற நேரை அளும் நடிப்படுக்கும் இயற்ற அளின்ற சார்கள்கள் இடுக்கும். இரு நார்க முறை இடுக்கு 1944 இரு எல்ல இவற்ற செய்த 256 அ. 1969 இருக்கு உள்ள இடுக்கு நிறிய கானிறை அதன்று செய்ததார். இழுத்த இருக்குக் அளில் விருகிய பெண்டிய அருக்கள் இரு படுக்கு இத்த பிருக்கு இவற்று இது அதன்று செய்ததார். poj Florence Art. 1980 at epiperal des las
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१९५४ - जराती ५० के सहर १९६० - ६, ८० को के विकास है है अब दू अगाव १९९८ जिल्लाका अध्या के नेतान र के समय समेरिय होता गा। াকৰ ১৯০ জনত। নামৰ চাইটালৰ বাবে ৰাজ্য । জনা নামান ৰামাকে মানাৰ মাধ্য আৰু এনেই বুৰুত ৰহা বীনা এই লাজ্য নামান কৰা कुर्वता करण प्राप्त का नक्ष्य कार काम काम का उने करण का प्राप्त के देखा 70 मार आहे. के देखा है की दक्षण 1,000 का दी, 5, 000 के दी ्र इसके 10,000 अपने का को तीन प्रकाशक का होते प्रकार करा। जि.सिंग कुन्द का स्वयंगा, भागीत अनेविक समाम किया का शका के सकता है। ကြီးများရ မေးမြေမြေမြေမြေမြေများ မေးမြေများမှာ ရှိ မွေမြေများမှုရေး မြေများ မေးမြေများမှာ မေးများမှာ မေးမြေမျာ ং ৬০০ এই নাল (ইং ৩০০ ছেটের নামিটির নামিটিবরম বা ২০০০ চা চেইচ সোলে এইন। এই নামন বা টের ফাইলে-এই বা না ১৯০৬ চনৰ আ KSiBi do suecido ∫os

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ரம் பணியிர்கள் விள்ள பெரும் கள்ளமே சிரிக்க முதல் வருண்டு குறிரும் நிரிக்கு கொண்டு 1994 இடும். அரு இரு இரிந்தி परकर । को पर पीतर । का ना शक्षण एक उनके कर दिला आदम के किस्यार और के गयी हा, (क्षकी और साथ से उनका कर (साम के जरक) क्या कि तैया परित, और क्या संकार क्या रेकिस की लेक्स के संकारी जेंगा। असी सार विकास का असे हमा का कर सार कर स रामा प्रकारमा १८६६ प्रकारण सम्प्राचन १८०८ वर्षा के भोषिक १ के असर १००० करके १,000 के 6 क्रिकेट १,000 के के के ही कि ৰেলু পুৰুত নিতুৰি <u>উল্লেখ্য কি নি</u>মালৈ মুক্তি কা কুললে, বছতি এইটোৰ কেল্ডেখনত আধান কৰা কৰিছে কৰিছে নিয়া ল' এই মি स्तरित्य क्षेत्र के प्रतिकृति है। प्रतिकृति का प्रतिकृति का प्रतिकृति का स्वास्त्र के स्वास्त्र के स्वास्त्र के स्व सर्वेतिय क्षेत्र का क्षित्र के किस्तान के का का का का का अपने का प्रतिकृति का स्वास्त्र के कि की देव साम में होता परिकृति का सर्वोत्तर कुर्बे कुर्वेति कुर्वेति के किस्तान का स्वास्त्र के किस्तान का का सम्बद्ध का सम्बद्ध के सम्बद्ध के स 1.7 yr. ./

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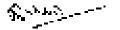
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- নুটি বিভাগত (এই সুন্ধান্ত কৰে ই দ্ৰুত) ক'লৈ চিন্দু কি প্ৰতিবিধিক কৰা চুক্ত শিকিকা স্থান কৰা কৰে। দুৰ্ঘান কৰি বিভাগত সংখ্যালৈ কোনো কেন্দ্ৰিয়া ইচিন্দ্ৰ কৰা প্ৰতিবৃত্তি হৈছে এই এনে 10% জিলাভাগত বিভাগত কৰি কৰিছে সেৱা নামান .to
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- ্তি কৰা বিশ্ব শিল্প কৰিব নিৰ্দাৰ কৰিবলৈ সংক্ৰমণ কৰিবলৈ কৰিবলৈ কৰিবলৈ আৰু প্ৰতিষ্ঠান কৰিবলৈ কৰিবলৈ
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- কোৰে বিধানস্থানিয়া সুক্ষাৰ প্ৰতিষ্ঠিত নামি কৈ চেত্ৰসূত্ৰী এক প্ৰদুষ্ঠ নিশ্ব নামে কাৰ্যনি কৰিছিল। বিধানিয়া চাই আৰু আহ্নাস্থানিয়া কৰিছিল কৰিছিল। বিধান কৰিছিল। বিধান হয় কৰিছিল কৰিছিল। বিধানিয়া কৰিছিল কৰিছিল। বিধানিয়া কৰিছিল কৰিছিল। বিধানিয়া কৰিছিল কৰিছিল। বিধানিয়া বিধান কৰিছিল। বিধানিয়া বিধানিয়া কৰিছিল। বিধানিয়া সংগ্ৰামিয়া কৰিছিল কৰিছিল। বিধানিয়া কৰিছিল। বিধানিয়া কৰিছিল I۲
- ු ය. අතර දීරුදීම කළකා ලබාදීම සහ දීම සහවාය දී (අතල කිසෙන් ලබාදී මිටිදී) සිය සහවී දී රජය සම්ප්ර මේ අතර මේ කිය පරමණ සේ දේවීමේදී අතුම් මේ සිය ස්වීඩ විදියක් සහව අතුම දීම සිය ද වැඩි දී දීම අතුනකු වා දේවීම වැඩි වේ දීම සම්ප්රතික කළ පරමණ සිය ද වෙන සම්ප්රතික කළේ වන එම සිය සිය සමාන දීම වන දීම දීමේදීම අතුක්කයා දීම සහවා දීම් සම්ප්රතික කියිමක ද දීම
- ্ব প্ৰতিষ্ঠান কৰিছিল। এই এই বাব কৰিছিল কৰিছিল কৰিছিল। এই কৰিছিল কৰিছিল কৰিছিল ইনিক্টা কৰিছিল কৰিছিল। ১৯০ সংগ্ৰহণ কৰিছিল কৰিছিল। ১৯ মুখ্য বাব বাবে প্ৰতিষ্ঠানী কৰিছিল। এই এই কৰিছিল কৰিছিল কৰিছিল। এই কৰিছিল এই কৰিছিল। এই কৰিছিল। ১৯ মুখ্য বাবে কৰিছিল। এই সংগ্ৰামণ কৰিছিল কৰিছিল। এই কৰিছিল। Υ., ر دروالاه

:: ORDERHN-APPEAL !:

m/s Planeer Industries, 2-A, Jintan Jéyognagar, Surendranagar filed below listed appeals against Orders-in-Original (bereinafter referred to as impugned orders) passed by the Asst. Commissioner, Central GST and Central Excise. Surendranagar Division, Bhavaggar Commissionerate (bereinafter referred to as flower adjudicating authority).

¦ SI. Ho	11	Ontor in Original No. 5 Date]]]
	V2/74/BVR/2018-19	274/R/2017 gated 9.3.2018	
j 2.	V2/15/BVR/2019	30/R/2018-19 dated 21.2.2019	

- 1.1 Stace issue involved in both the above appeals is common, both appeals are taken up orgether for decision vide only common order.
- 2. The facts of the case are that the Appellant was engaged is manufacture. or iPiber Aluminum Bobbirs Dynamically Balancec^a thereinafter referred to as "said product") and holding Central Excise Registration No. SNR #I/CH/84/4/92. The appellant filed classification lists classifying their final product under Ch. 8448.00 of the Central Eucise Tarriff Act, 1985. The said classification lists were provisionally assessed under Rule 1738 read with Rule 98 of the Central Excise. Rula, 1944 by the then Assistant Collector of Central Excise Division II. Rajkod vide order issued from F.Nn. VC/SNR /8487/CU-1/85 dated 21, 94, 1992 and 22.07.1993 classifying the product under Ch. No. 7516.90. The Appealant was asked to execute Rona and furnish Bank Guarantee of 25% of Band amount to cown differential duty amount. However, the Appellant refused to execute Bend/Bank Gijanantee and hence. Show Cause Notice No. CD0/SNR-Id/Deniand/PI/93 dated 14.10.1993 was issued to the Approlant for the period. from April, 1993 to Sept, 1993 amounting to Rs. 6.73,748/- and Show Cause. Notice No. (FX/SNR III/Demana/PI/93 cated 19-11/1993 for October, 1993) amounting to Rs. 1,83,2817-.
- 2.1 The above two Show Cause Notices were adjudicated by the Asst. Cullector, Central Excise Division II. Rejko, vide Order in Original No. 113 to 1457CL D793 dated 20.11.9993 who finally approved the said classification lists classifying the said product under Cb. No. 7616.90 and confirmed Central Excise duty of Rs. 8.57,0297. Under Section IIIA of the Central Excise Act. 1944 (hereinafter referred to as "Act).
- 2.2 Being aggrieved, the appellant fixed appeal defore the Commissioner (Aggr<u>eals).</u> Central Excise, Ahmedapad, who classified the sand product under Ch.



No. 3923 and progred to forestar assessment accordingly vide Order-In-Appeal. No. 388/96(223-AIID)CE/CONVECT (AHS Lockel 16,08,1996). The Assistant Commissioner, Cristical Exciso (Season G. (Se)) is vide Order in Original No. 130 to 131/1996 dated 13.12.1996 and 655 if excessioners of the said product of Ch. No. 3923.90 and reladjudicated Season Mobiles dated 14.10.1993 and 19.11.1993 and confirmed densité of Cestual Chaire, duty of Rs. 8,57,0297- under Section 114 of the Act.

- 2-3 Bring aggiteves, the Appellant and the Dryantment proforms appeals before the Cummissioner (Appellant, Control excise, Ahmedabad, who vide Order in Appeal No. 78 & 79/2002/Control(A)/Raj dated 14,02,2002 dismissed the appeal of the Appellant for two procedures and allowed the appeal of the Department.
- 2.4 Being aggrieved, the Appellant filed appeal before the Honfilm CESTAT, Mumbal, which was decided vice Order No. 360/2002-Blatted 27.08.2002 by way of remand to the Appellate Authority to exemple the issue on merit in remand proceedings, the Commissioner (/ pocals), Control Excise, Rajkot vide Order in Appeal No. 75 & 75A/28 & 28A/64R)/Commisjap/MM/Raj dated 30.01.2006 allowed the appeal of the Appellant by observing that norther the Appellant nor the Department had filed aponal against Coder-in-Appeal No. 388/96(223-AHp)CF/COMMR(A)/ AHD dated (6.35.1996 and hence, the safe Order-in-Appeal attained finality. Pursuant Latter enter, the Appellant filed refund claim of Ro. 8,57.029/-, which was rejected by the Appellant filed refund claim of Ro. 8,57.029/-, which was rejected by the Appellant No. 243/R/2007 dated 30.11.2007.
- The Department challenged the said Order-m-Appeal dated 30.1.2006 before the Hor/bld 6LSTAT. Abandabad, which was decided vide Order No. A/150/WZ8/AHD/2008 dated 29.6; 2008 by way of remard to the Appellate Authority for fresh decision. In named proceedings, Commissioner (Appeals). Central Excise, Ahmedabad vide Order-In-Appeal No. 41 to 42/2008(BVR)/KC/Commissioner/Al/Aho bated 15.05.2006 allowed the appeal of the Department by classifying the product unlies Ch. No. 7616.90 and rejected the appeal of the Appealant.
- 2.6 The Appeliant chattenged rejection of refund claim wide Order-in-Original dated 30.11.2007 before the Commissioner (Appeals). Central Excise, Ahmedanad, who rejected appeal of the Appellant vide Order in-Appeal No. 46/2008/BVR)/KC/ControlAt/Ahd dated 7.5.2008.



 $(C_{i_1}, i_2, i_3, \dots, \ldots)$

- 7.7 Reing aggrished with above two Chdors-in Appeal dated 7.5.2008. The Appellant fitted appeals before the Honfole CESTAT. Ahmedahad, which allowed both the appeals by classifying the product under Ch. No. 3923.95 acong with consequential refund vide Order No. A/10751-10755/2017 dated 7.4.2017. Consequency, the Appellant filexi refund claim of Ks. 8.57,0297, before the lower adjudicating authority.
- 2.8 The Department challenged the Order passed by the Hon'ble CFSTAT before the Hon'old Supremo Court but the same was dismissed by the Apex Court vide Order dated 22.5.2618 or increasing grounds.
- 2.9 Show Cause Notice No. V/18-2/0/Reb/17 18 dated 5.1.2018 was issued on the Apprellant milling them to show cause as 15 why said product should not be re-assessed under Ch. No. 3923 as per CaSTAT's Order dated 7.4.2017; Why refund claim of Rs. 8,57,0297, should not be no appropriated against duty bayable after re-assessment under Ch. No. 3923 and why extra duty amounting to Rs. 25,83.0687, satsing after re-assessment under Ch. No. 3923 should not be recovered from them under Section 11 of the Act
- 2.90 The above said Snow Cause Notice was adjudicated vide the impugned order listed at St. No. i of table above, which re-assessed the said product under Cir. No. 3923 and re-assessed ring payable as per CFSTAT's Order to Rs. 25,83,0687-t sanctioned refund of Rs. 8.57,0297- under Section 11 of the Art and ordered appropriation against duty payablet confirmed duty demand of remaining differential duty of Rs. 17,26,0397- under ersowhile Rule 1738 of Central Excise Rules, 1944 read with Soction 11 of the Art.
- 3. Show Cause Notice dated 30.12.1993 was issued to the Appellant for an period from April,1991 to March, 1993 for domain of Central Excise duty or Rs. 31,65,651/- under Section 11A of the Aut. The said Show Cause Notice was adjudicated by the Jt. Commissioner vide Order-in-Edgine. No. BHV-EXCUS-0X0-JC-14-2015. dated 128.1,2016 who confirmed Central Excise duty of Rs. 31,65,651/- under Section 11A of the Ant. Reing appriedra, the Appellant filed appeal before the Commissioner(Aspeals), Central Eau'se, Ra)kot who dismissed the appeal. The Appellant preferred appeal before the Hon'ble CESTAT, Abhitedabad, who allowed the appeal of the Appellant vide Order No. A/11729/2018 dated 30.7.2018. The Appellant Riled reform application before the lower adjudicating authority for refused of pre-deposit of Rs. 5,54.070/-.
- 3.1 Show Cause Notice No. V/18-27/Rut/19 (9 deced 28.9.20)8 was assed to

Control of



the Appellant calling free of the resonance to the why sata product should not be re-assessed under Ca. 86. $1977 \times 1000 \times 1000$

- 3.7 The above said thorrows mutility was adjudicated vide the impugned under listed at 91. No. 2 of table 190 in the object re-assessed the said product under Ch. No. 3923 as per CESTATIS index ideal 30.7.2018 and relassessed duty payable to Rs. 55,76,6777-1 subjected translate of differential duty of Rs. 55.78,8777-1 in terms of heatwhole kide of the Central Excise Rule, 1944 read with Section 11A of the Administrative advantage of pre-deposit of Rs. 5,54,0707-1 and instand appropriation agains: Their duty Section 2.
- 4. Being aggreed with the impagree laters, the Appellant has preferred appeals on the various grounds as e^{-1} and e^{-1} as $2e^{-1}$.
- (i) The Adjusticating authorisy found of the every test their was reflerovational assessment. Had in both provisional assessment. Had in both provisional assessment would not have assessment was provisional. The instant framed in the SCN and impugned under is for responsement of the pain product. It is to expedited that the classification is now settled. The question of resources ment those arise only if the classification is open to examination. Therefore, in is one open to examination. Therefore, in it is one open to examination. Therefore, in it is one open to examination. Therefore, in it is one open to examination the finalized assessment in fact if its the characteristic make make distinguish the second or the proceedings colorisation into Y tour sets order.
- That the Department had its and new SCAP in the year 1993 as referred in para 19 of the SCA. Pad the asset experis been provisional, the stage for issuing notice would not have anson. I first those passes were issued during the period when the classification of the modern was radial dispute. The proposal in the said show cause notices was to change the disputeing from Chapter 84 to Chapter 76. At that stage, Chapter 79 was introduced in the horizon. As per the final passesment, the chaduces were assessed under Chapter 76, Consequent upon the mail assessment, born the radials were decided under OIO dated 26-11-91; that take there is that assessment or classification like, the question of classification being provisional and themselves, subject to reassessment does not alree.
- (iii) That SCSs wond issued considering the classification lists which



Page 6 of 12

provisionally approved and domandod duty under Chapter 76. The present proceedings directly relate to chose two show cause notices, in the said two notices, there was no demand under Chapter 39. Under the circumstances, the SCRs connot be applied under Chapter 39.

- (iv)—It is not permissible to go beyond the show cause notices. The show cause notices dated 14,10,1993, 19,11,1993 and 26,11,1993 never had any proposal or demand under Chapter 39. Therefore, the hiptogred order confirming demand under Chapter 39 is beyond the show cause notice and, therefore not lengule.
- (v) That when the appellace authority approved the classification different from what was in issue, it is not permissible to demand duty for the loss uperiod. Therefore, curstion of existing demand under chapter 39 dues out arise. Such approval of classification ender different head than involved in the proceedings would not now the dissessment.
- (vi) That when the Appellant had fixed appear, it is not permissible to raise demand in excess of the impugned order in operat and their appeal connectional into higher liability than assessed.
- (vit) That the extra duty demanded in the notice is sought to be recovered under Serving 31 of the Act which is for recovery of duty. The recovery of duty can arise if there is assessed duty payable but not paid. Serving 11 proceedings are different and distinct from Section 11A proceedings beasmuch as section 11A gives jurisdiction to the department to demand duty legally basable in a given fact. Section 11A notice reposers assessment and, therefore, the question of payment of duty prices. Section 11, on the other hand, is to respect of recovery of confirmed duty. Therefore, for any action under Section 11 primarily there should be a confirmed assessed duty payable which aligning an be recovered.
- (ix) The present show cause course seeks action under Section 11 implying that there is confirmed only payable. The proximitary question, therefore, arises as its where is the assessment order under which the confirmed liability has arisen, anyone, the show cause notice does not show any confirmed assessment order, wherein the duty sought to be recovered is confirmed. In the absence of confirmed assessed duty, question of conovery does not arise,
- IX) That funder Motification No. 14792 setted 01-03-92, as amended, the effective rate of duty in respect of all goods failing under Chapter 19.26 was 30% and as see: St. No. 37 of the said Notification, all goods falling under Chapter 39.01.

on 39.15 and no dresh is $m_{Z} \approx 0.0035$ on $Z/S \approx Z/A/I.$ Since all the constitions of the collification are satisfied. The Arthritishop of the exemption.

(XI) That the Tool order of Journal Journal AJJ2017 is give in respect of one appear esisting out of Color in a position indicated NV AGA 2008. The said in a Principle in a against Order in-Original No. 245/R/2007. Under the bard in a more trained application was rejected. The refund application is for Standay Jane sequent which is also now in these appear proceedings. This refund topy which was sought to be imported under show cause notice dated 14-07-2003, named upon the disastication of the goods. The Tribunal's process management is consequent. His said, therefore, the refund is required to be sangtuined.

totti. When the question of recurrent is said that a, the question of adjustment of refund does not appear.

(xiii). The impugated order gradus carpaid as implied by the Appellant, interest thereon has not deep granted. Since is recovered magazing, it must be granted.

Appellant and reterated the groupes of anti-topolals and submitted copies of SCNs to Orders in Original or Disminishappess to CESTAT's Order to Hombte Supreme Court Codes; shall CCCCAT's order that because the Hombte Apex Court did not topolal or with the order; that refund arising unit of CESTAT's order needs to be give; the there is all no demand of SCN has been decided by the Department to-late. There is also shall see SCN dated 5.1.2018 issued for demand for the period from 1993 no. 1997-93 and 1993-94 is time barred; that the assessment of these globs for the period from April, 1993 to October, 1993 and 1993-92 and 1997-93 is time? Apost period from April, 1993 to October, 1993, and 1993-93 may please be allowed as one argal position.

Findings:

- I have carefully game times; the facts of the case, the impugated orders, the appeal memoranda and vocation as well as area submissions made by the Appellant. The issue to be decided in the present appeals is whether, in the racts or the cases, confirmation of chity demonstrated appropriation of refund is correct, legal and proper or not.
- 6. On going through the records, I find that the Appellant had filed classification lists in the years 1991, 1997 and 1993 classifying their product.



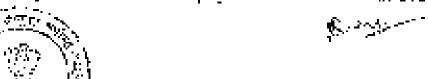
20ge a of 12.

'Fiber Alendoum Boboins Dynamically Balanced' under Ch. No. 8448. The Department provisionally assessed the sald product under Ch. No. 7616.90 and asked the Appellant to execute Bond and famish 25% Bank Guarantee to coverdifferential Central Excise duty. The Apsellant refused to furnish Bond/Bû, then the Department issued three Show Cause Nutices proposing classification of product under Ch. No. 7616.90 and demanding differential Contrat Excise duty. I find that Iwn Show Cause Natices dated 14,10,1993 and dated 19,11,1993 for the perfold Aprill, 1993 to Octobor. 1993 were adjudicated vide Ordon in Original No. [43:445/C; /D790 dated 26:11:1993 and she Show Cause Notice dates. 30.12.1993 for the period April, 1991 to Warch, 1993 was adjudicated vide. Order-tr-Original No. RHV FXC:IS-603-UC-14-2015 dated 28.1.2016 classifying the product under Ch. No. 7616.90 and conforming Central Except duty demonded in the respective SCNs. The classification dispute was decided by the Horible. (FSTAT, Ahmadahad vide Order No. A/10754-10765/2017 dated 7.4.2017, which held that product "Fiber Aluminum Boobins Dynamically Balanced" is elastifiable. under Cn. No. 3923.90. The Her/ble Susreme Court vide judgement dated. 22.1.2018 upheld the order of CESTAT. Heroof, the LESTAT's order detect 7.4.2017 attained finality on 22.4.2018. Besod on the classification decided by: the Horrible CESTAT, two Show Couse Notines were issued to the Apprelant on 5.142078 and on 28.952098 for re-assessing the safe product under Ch. No.: 3923.90 and for recuvery of differential duty physids by the Appellant and also for appropriating refund claims filled by the Appellant. These two Show Causa. MoUKes were decided by the lower adjusticating authority vide the impagned. orders, which confirmed Central Excist auty and appropriated sanctioned refund. of $9s,\ 8,57,029/$ - and $8s,\ 5.54.076/$ - respectively from the confirmed demand. The Appellant has concessed these orders on the ground that when one Humble. CESTAT pecking plass/scation different from what was the view of the Exportment on the Issue, it is not pormissible for the Department to demand. duty for the past period and hence, question of raising demand under chapter 39° does not arise, that it is not permissible to go beyond the impograd Show (Jause) Nutices; that those SCNs were issued considering that the classification lists. were wovslocatte മുവരാനാ മാറി domandes ർഡെ കാ ഉടങ്കിലെ dassification. under Chapter (6) that the Show Cause Horices order had any proposal or comand under Chapter 39; that the impugned crooks confining demand upden Character 39 is beyond the subject of Sorow Cause Notices and therefore two tenable.

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7. I have gone through Show Cause Notices doors 5.1,2018 and dated 28.9.2018 adjudicated vide the impagned orders. I find that both Show Cause

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- The Appellant has contended that the Show Cause Notices dasort 14.10.1993, dated 19.11.1993 and dates 28.11.1993 had not proposed. ulassification under Chapter 19 and energions, são impugnos orders conforming. cemand Ender Chapter 39 is beyond the scope of Show Cause McDices and not tenable. I find that the said three Show Cause Notices had proposed classification of the product of the Appellant under 7616.90 but the Honfble. CESTAT, by allowing the appeals of the Appellant, decided the classification of their product under 3923.93 as submitted by the Appellant land the Orders of the Hodible CESTAT has now attained mainty because the Appellant accepted. that Order of CESTAT. Under the circumstance, it reports he said that the impugned argors travelled beyond scope of Show Cause Notices, since the improgred orders have unby imprevented the orders bassed by the Order of CESTAT duly upheld by the Horible Apex Court and the Department is duty. bound to re-assess the product under 3923.40 and thus, the contention of the Appollant is without merits.
- 51. In Mew of above, I do not find infirmity in the impugned orders and hence, uphold the impugned orders and reject apposts
- 12. अपीलकर्ता दुवारा क्षेत्रं की भई अमीरदे कर निष्टास उपरोक्त तरीके से किया जाता है :
- 12. The appeals filed by the Appellant is disposed off as above.



्रिक्टिक्टिक्टिक्ट (कुटार सतीय)

प्रधान आय्वत (अपीरन्स)

াহিবেল ১০ট

មួយនៅ (១៤៣)

By R.P.A.D.

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To, M/s Proneer Industries, 2 A, Jintae Udyognagar, Sureedranagar, तेजा हैं; के पायक्तियर इंड्स्ट्रोल, ःए, जितास उदयोगनकर.

सरंज्यमगा |

951:-

- प्रधान मुख्य आदुक्त, क्ष्मतु २६ सेटः ६८ एए केटलीय उत्पाद शुलक, गुजरातः क्षेत्र,अहमताबाद को जानकारी वेतु।
- 2) आयुक्त, परंतु एवं रोज्ञ कर उपं केन्द्रीय उत्पाद शुल्क, भावनगर आयुक्तालयः भावनगर को अध्यक्षक कार्यवाही हेत्।
- 3) राहात्मक आगुक्त, यस्तु एवं सेटा कर एवं केन्द्रीय इत्याद शुक्क, सुरेन्द्रनगर अण्डल को आवश्यक कार्यक्षी हेत्।
- ्र4) नाई प्रवहना।

